WAXHAW, NORTH CAROLINA

UNIFIED DEVELOPMENT ORDINANCE

Town of Waxhaw
316 N. Church Street
Waxhaw, NC 28173
www.waxhaw.com

Adopted: September 9, 2004
Amended: June 1, 2016

Zoning Table of Uses (Amended 6-1-16)*

USE	SUPPLEMENTAL REGULATIONS	R-1	R-2	R-3	R-4	RM-1	RM-2	OIS	C-1	C-2	C-3	C-4	I-1	I-2
ABC Store											X			
Accessory Structure (accessory to principal use)	9.20, 11.3.80	XS	XS	XS	XS	XS	XS	XS	XS	XS	XS	XS	XS	XS
Adult Care Center (See Day Care Center)														
Adult Establishment	11.3.1													CS
Air Conditioning Supply and Service (See Electric, Heating,...Supplies and Sales)														
Amusement Park (Outdoors)	11.3.2										CS		CS	CS
Animal Grooming Establishment	11.3.3									CS	CS	CS	CS	XS
Animal Hospital (no outdoor runs)	11.3.4								XS	XS	XS		XS	XS
Animal Hospital (with outdoor runs)	11.3.4									CS	CS		CS	XS
Animal Kennel	11.3.4									CS			CS	CS
Animal Shelter	11.3.4													CS
Animal Supply Store									X	X	X	X	X	X
Antique Store								X	X	X	X	X		
Apparel Store (See Clothing, Footwear, and Apparel Store)														
Appliance Sales and Repair (Indoor Storage)									X	X	X	C		
Appliance Sales and Repair (Outdoor Storage)	11.3.5													CS
Art Gallery								X	X	X	X	X		
Art Supply Store								X	X	X	X	X		
Auditorium, Assembly Hall as the principal use											C	C	C	C
Auto, Truck, Boat, Motorcycle Sales	11.3.22, 11.3.44										CS		CS	XS
Automobile Body Shop	11.3.6, 11.3.22												CS	XS
Automobile Broker										C			X	X
Automobile Club								X	X	X	X	X		
Automobile Detailing Shops	11.3.7, 11.3.22										CS	C	XS	XS
Automobile Parking Lot and Structures (Principal Use)									X	X	X	C	X	
Automobile Parts and Repair Store	11.3.6												XS	X
Automobile Parts and Supply Store	11.3.8									XS	XS	XS	XS	XS
Automobile Repair Shop	11.3.6, 11.3.22										CS	C	CS	CS
Automobile Salvage Yards (See Junkyard and Automobile Salvage)														
Automobile Service Station	11.3.9, 11.3.22									CS	CS	C		
Automobile Towing and Wrecker Service	11.3.22												CS	XS
Automobile Wash (Self-Serve)	11.3.10									CS	CS		CS	XS
Automobile Wash (Automatic)	11.3.11, 11.3.22									CS	CS		CS	XS

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Bait & Tackle Shop										X	X			
Bakery (Retail)	11.3.67								XS	XS	XS	XS	XS	XS
Banks, Savings and Loan, Credit Union (See Financial Institution)														
Bank Teller Machines, Outdoor (Principal or Accessory Use)	11.3.22, 11.3.78								XS	XS	XS	XS		
Barn, Horse	11.3.14	CS	CS	CS	CS									
Barber/Beauty Shop	11.3.13							XS	X	X	X	X		
Beauty Supply and Cosmetics Store									X	X	X	X		
Bed and Breakfast Inn	11.3.15	CS	CS	CS	CS	CS	CS	XS	XS	XS	XS	CS		
Bicycle Sales/Service	11.3.22								CS	XS	XS	XS		
Billiard Parlor (See Pool Hall)														
Blueprint and Drafting Service									X	X	X	X		
Boat Sales (See Auto, Truck, Boat...Sales)														
Book Store									X	X	X	X		
Bowling Lanes											C		X	X
Building and Home Materials Center	11.3.16, 11.3.22										CS		XS	
Bus Passenger Station	11.3.22									XS	XS			
Cabinet and Woodwork Shops	11.3.67											XS	XS	XS
Camera and Photography Supply Store									X	X	X	X		
Camping and Recreational Vehicle Park	11.3.17, 11.3.22												CS	CS
Candy and Nut Store								C	X	X	X	X		
Car Wash (See Automobile Wash)														
Card Shop (See Gift, Novelty, and Souvenir Shop)														
Carpet Store (See Floor Covering Store)														
Catalogue Sales Store									X	X	X			
Catering Establishment								X	X	X	X	X		
Cemetery/Columbarium (Accessory Use)	11.3.18	XS	XS	XS	XS	XS	XS	XS	XS	XS	XS			
Cemetery/Columbarium (Principal Use)	11.3.18	XS	XS	XS	XS	XS	XS	XS	XS	XS	XS			
Child (day) Care Facilities (see Day Care Center)														
China and Tableware Shop								X	X	X	X	X		
Church/House of Worship	11.3.19	XS	XS	XS	XS	XS	XS	XS	XS	XS	XS	XS		
Circuses, carnivals, exhibit shows, trade shows, races, stage shows, religious events, arts and crafts shows, etc.	11.3.22										CS	CS	CS	CS
Cleaning and Maintenance Service, Building											X		X	X
Clock and Watch Sales and Repair Shop								X	X	X	X	X		

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Cloth Store (See Sewing, Cloth, and Notions Store)														
Clothing, Footwear, and Apparel Store								X	X	X	X	X		
Clubs, Entertainment	11.3.22										CS		CS	
Coin and Stamp Shop								X	X	X	X	X		
Cold Storage Plants													C	C
College/University											C		X	X
Commercial Vehicle Storage and/or Operations Center	11.3.68													CS
Community Center	11.3.20								CS	CS	XS	XS		
Community Garden	11.3.82	XS	XS	XS	XS	XS		XS	XS	XS	XS	XS	XS	XS
Computer and Data Processing Sales and Service							XS			X	X	C		
Computer Store (See Office Equipment and Computer Store														
Conference / Convention Center										C	C		C	C
Consignment Shop (See Second Hand and Consignment Shops														
Continuing Care Facility	11.3.23					CS		XS	XS	XS	XS			
Contractor's Office (no outside storage)							CS		X	X	X	X		
Contractors' Storage and Equipment Yard	11.3.22, 11.3.24													C S
Convenience Store (With Retail Fuel Sales)	11.3.22, 11.3.25									CS	CS	CS		
Convenience Store (Without Retail Fuel Sales)	11.3.25								CS	CS	CS	CS		
Copying Service (See Photocopying Service)														
Correctional Facility, Jails, Penal Institutions	11.3.26													CS
Cosmetics Store (See Beauty Supply and Cosmetics Store)														
Costume Rental Store (See Formal Wear and Costume Rental Store)														
Country Club		C	C	C	C	C				C	C			
Craft Shop (See Hobby, Toy, and Craft Shop)							C							
Craft Studio								X	X	X	X	X		
Crematoria													C	C
Dance School (See School for the Arts)														
Dairy, Ice Cream & Coffee Shops	11.3.21								XS	XS	XS	XS		
Day Care Center, Principal Use or Separate Use	11.3.31	CS	CS	CS	CS	CS		XS	XS	XS	XS	XS	XS	
Day Care Center, in Single Family Structure and up to 8 Children/Persons	11.3.27	XS	XS	XS	XS	XS	XS	XS	XS	XS	XS	XS	XS	
Day Care Center, in Single Family Structure from 9 to 12 Children/Persons	11.3.28	XS	XS	XS	XS	XS	XS	XS	XS	XS	XS	XS	XS	
Day Care Center, Located in Church or School, up to 50 Children/Persons	11.3.29	CS	CS	CS	CS	CS	CS	XS	XS	XS	XS	XS	XS	
Day Care Center, Located in Church or School, over 50 Children/Persons	11.3.30	CS	CS	CS	CS	CS	CS	XS	XS	XS	XS	XS	XS	
Department Store							CS				X	X		

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Detective Agency								X	X	X	X	X		
Discotheque (See Lounge)														
Distribution Center, Product													X	X
Doctors' and Dentists' Office								X	X	X	X	X		
Drapery and Linen Shop								X	X	X	X	X		
Drug Store (See Pharmacy)														
Dry Cleaning and Laundry Plant (Principal Use)													X	X
Dry Cleaning Service Outlet	11.3.33								XS	XS	XS	XS		
Duplex (See Dwelling, Two-family)														
Dwelling, Accessory	11.3.80	XS	XS	XS	XS	XS								
Dwelling, Manufactured (See Manufactured Home)							XS							
Dwelling, Single-Family (Site-built or Modular)		X	X	X	X	X		X				C		
Dwelling, Two-Family	11.3.32; 11.3.51				XS	XS	X	XS				CS		
Dwelling, Multi-Family	11.3.74; 11.3.51					XS	XS					CS		
Dwelling, Multi-Family Conversion	11.3.51						XS					CS		
Electronic Gaming Operations	11.3.34									CS				
Electric, Heating, Air Conditioning, Ventilating, Plumbing Sales and Service	11.3.35										CS	CS	XS	XS
Employment Agency									X	X	X	X		
Engineering, Architect or Surveying Service								X	X	X	X	X		
Equestrian Facilities	11.3.22, 11.3.36	CS	CS	CS	CS									
Event Center	11.3.85	CS	CS	CS	CS	CS	CS	CS	XS	XS	XS	XS		
Exterminators Office (See Pest Control)														
Fairground														C
Family Care Home	11.3.38	XS	XS	XS	XS									
Farm Equipment Sales	11.3.39												CS	CS
Farm Supply Store											C		X	X
Farmers' Market	11.3.81	XS	XS	XS	XS	XS		XS	XS	XS	XS	XS	XS	XS
Finance Company							XS	X	X	X	X	X		
Financial Institution	11.3.22							XS	XS	XS	XS	XS		
Firing Range, Indoors													C	C
Fitness Center (See Recreation Center, Indoors)														
Flea Market (Indoor)	11.3.76									CS	CS	CS	CS	
Flea Market (Outdoor)	11.3.22, 11.3.76												CS	CS
Floor Covering Store									X	X	X	X		

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Floral and Christmas Items Store								X	X	X	X	X		
Florist, Retail								C	X	X	X	X		
Florist, Wholesale											X		X	X
Food Store									X	X	X	C		
Formal Wear and Costume Rental Store								C	X	X	X	X		
Fortune Teller													C	
Fraternal and Service Organization Meeting Facilities (Non-Profit and Not-for-Profit)	11.3.41							CS	XS	XS	XS	CS		
Fuel Oil Sales (See Petroleum Distributor)														
Funeral Homes										C	C	C		
Furniture Repair Shop											C	C	X	X
Furniture Store (Retail)									X	X	X	X		
Furrier											C			
Fur Storage														X
Game Room/Video Arcade	11.3.42									CS	CS			
Garden Supply and Seed Store	11.3.22										XS	XS	XS	
Gas Station (See "Automobile Service Station")														
Gift, Novelty and Souvenir Store								X	X	X	X	X		
Glass and Mirror Shop											X	X	X	
Glass Contractor													X	
Golf Course (Public or Private)		C	C	C	C									
Grain Elevator														C
Grocery Store (See Food Store)														
Group Care Facility									C	C	C			
Gun and Ammunition Sales Shop										X	X	C	X	X
Gunsmith											X		X	
Hardware Store (See "Building and Home Materials Center")														
Heating Supplies and Sales (See Electric, Heating...Supplies and Sales)														
Hobby, Toy, and Craft Shop								X	X	X	X	X		
Home Center	11.3.22										CS		XS	
Home Decorating Center									X	X	X	X	X	
Home Electronics and Appliance Sales and Repair											X	X		
Home Improvement Store (See Home Center)														
Hospitals											C		C	

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Hotel/Motel	11.3.43									CS	CS	CS		
Home for Aged	11.3.60								CS	CS	CS			
Home Occupation	11.3.59	XS	XS	XS	XS	XS						C		
Independent Living Center	11.3.60						XS		CS	CS	CS			
Industrial Equipment, Sales, Supplies, and Repair	11.3.44												CS	XS
Insurance Agency (Principal Use)								C	X	X	X	X		
Interior Decorator								C	X	X	X	X		
Jewelry Sales (Principal Use) and Repair								X	X	X	X	X		
Key Shop and Locksmith											X	C	X	
Laboratories - Dental, Medical, Optical, and Research	11.3.46										XS	C	XS	XS
Landfill, Demolition(Principal Use)	11.3.69													CS
Laundromat									X	X	X	C		
Laundromat Plant (See Dry Cleaning and Laundry Plant)														
Lawn and Garden Service											X		X	
Leather Goods Shop (See Luggage and Leather Goods Shop)														
Library, Public								X	X	X	X	X		
Life Care Facility (See Continuing Care Facility)														
Linen Shop								X	X	X	X	X		
Liquor Store (See ABC Store)														
Locksmith (See Keyshop and Locksmith)														
Lounge (Principal Use)	11.3.47										CS		CS	
Luggage and Leather Goods Shop								X	X	X	X	X		
Lumber and Building Materials Yard	11.3.22												CS	XS
Machine Shop	11.3.67												XS	XS
Maintenance Service (See Cleaning and Maintenance Service)														
Manufactured Goods, Class 1	11.3.67												XS	XS
Manufactured Goods, Class 2	11.3.73													CS
Manufactured Home Sales	11.3.22												XS	XS
Manufactured Homes (See MH-1 Overlay)														
Manufacturing Machinery Sales and Service													X	X
Martial Arts School									X	X	X	C		
Medical Center									X	X	X	C		
Medical Supply Shop										X	X	C		

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Meeting Facility	11.3.86							XS	XS	XS	XS	XS	XS	
Membership Warehouse Club	11.3.22										CS		XS	
Message and Errand Service										X	X	X		
Mini-Mart (no gas sales)	11.3.25								CS	XS	XS			
Mini-Warehouse	11.3.48												XS	XS
Mirror Shop (See Glass and Mirror Shop)														
Mixed Use	11.3.51							C				CS		
Mobile Home (See Manufactured Home)														
Modular Home (See Dwelling, Single-Family)														
Monument Sales (Principal Use)	11.3.49										XS		XS	
Monument Sales (Accessory Use)										X	X			
Motel (See Hotel/Motel)														
Moving and Storage Facilities													C	X
Multi-Tenant Development, Class I									C	C	C	C	X	X
Multi-Tenant Development, Class II									C	C	C	C	X	X
Museum								X	X	X	X	X		
Music School								C	X	X	X	X		
Music Store Sales and Service									X	X	X	X		
Nail Salon (See Tanning and Nail Salon)														
News Stand (Principal Use)									X	X	X	X		
Notions Store (See Sewing Cloth and Notion's Store)														
Novelty and Souvenir Store (See Gift, Novelty and Souvenir Store)														
Nursery (Horticultural), Greenhouses	11.3.22										CS		XS	
Nursing Home	11.3.60								CS	CS	CS			
Office Equipment and Computer Store									X	X	X	X		
Offices								X	X	X	X	X		
Optician and Optical Supply Store								C	X	X	X	X		
Paint, and Wallpaper Store (See Home Decorating Center)														
Park, Active		CS	CS	CS	CS	CS		CS	XS	XS	XS	XS	XS	
Park, Passive		XS	XS	XS	XS	XS	CS	XS	XS	XS	XS	XS	XS	XS
Parking Lot - Principal Use (See Automobile Parking Lot)							XS							
Pawn Shop										C	C			
Personnel Agency (See Employment Agency)														

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Pest Control Service													X	X
Pet Stores	11.3.52								XS	XS	XS	XS		
Pharmacy									X	X	X	C		
Photocopy Service								C	X	X	X	X		
Photofinish Laboratory											X		X	X
Photographic Studio								X	X	X	X	X		
Picture Frame Shop								X	X	X	X	X		
Plumbing, Sales and Supplies (See Electric, Heating...Sales and Service)														
Pool Hall (not allowed per Town Ordinance)														
Post Office									X	X	X	X		
Postal Store and Contract Station									X	X	X	X		
Printing and Publishing													X	X
Produce Stand, Temporary (Accessory Use)	11.3.53									XS		XS		
Produce Stand (Principal Use)	11.3.54									CS	CS			
Prosthetics and Medical Equipment Rental (See Rental Center)														
Prototype Design and Development	11.3.79							CS		CS	CS	CS	CS	CS
Public Safety Station	11.3.56							XS	XS	XS	XS	XS	XS	XS
Public Utility Facility	11.3.37	XS	XS	XS	XS	XS		XS	XS	XS	XS	CS	XS	XS
Public Utility Transmission Lines		X	X	X	X	X	XS	X	X	X	X	C	X	X
Racetrack, Outdoor	11.3.22, 11.3.40						X							CS
Racetrack, Indoor											C		X	X
Radio Shop (See Home Electronics, and Appliance Sales)														
Radio and Television Stations											C		X	X
Railroad Terminal and Yards														C
Real Estate Agency								X	X	X	X	X		
Recreation Facility, Indoor	11.3.57							CS	CS	XS	XS	CS	XS	
Recreation Facility, Outdoor	11.3.22, 11.3.57							CS	CS	XS	XS	CS	XS	
Recreational Uses, Accessory	11.3.57	XS	XS	XS	XS	XS		XS	XS	XS	XS	XS		
Recreational Vehicle Sales	11.3.22						XS				CS		XS	XS
Recycling Deposit Station (Principal Use)	11.3.58												CS	XS
Recycling Processing Facility, (Indoors)													X	X
Recycling Station, Accessory													X	X
Repair & Servicing of Industrial Equipment/Machinery													X	X

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Repair & Service Establishments over 10,000 sq. ft. in size													X	X
Rental Center, (no outdoor storage)									X	X	X		X	
Rental Center, (with outdoor storage)	11.3.71												CS	XS
Restaurant (Principal Use, Eating & Drinking Establishment)									X	X	X	X		
Restaurant, Drive-in	11.3.22									CS	CS			
Restaurant, Drive-Through	11.3.22, 11.3.61									CS	CS			
Restaurant, Fast Food	11.3.22, 11.3.61									CS	CS			
Restaurants, Within Other Facilities	11.3.62								XS	XS	XS	XS		
Roofing Repair and Installation	11.3.63												XS	XS
Rooming and Boarding House		C	C	C	C							C		
School, Kindergarten, Elementary and Junior High	11.3.22, 11.3.55	CS	CS	CS	CS	CS		CS	CS	CS	CS			
School-Senior High	11.3.22, 11.3.55	CS	CS	CS	CS	CS	CS	CS	CS	CS	CS			
School, Vocational	11.3.22						CS	CS	CS	CS	CS	CS		
School for the Arts	11.3.22							CS	CS	CS	CS	CS		
Seasonal Outdoor Sales	11.3.64	XS	XS	XS	XS	XS		XS	XS	XS	XS	XS	XS	XS
Second-Hand and Consignment Shops (no outside storage)							XS	X	X	X	X	X		
Seed Store (See Garden Supply and Seed Store)														
Self Enclosed Indoor Storage	11.3.87										XS		XS	XS
Septic Tank Cleaning Service													C	C
Service Station (See Automobile Service Station)														
Sewing, Cloth, and Notions Store								X	X	X	X	X		
Shoe Repair Shop								C	X	X	X	X		
Shopping Center	11.3.22, 11.3.65							CS	CS	CS	CS			
Sign and Banner Shop									X	X	X	X		
Sign Painting/Fabrication Shop	11.3.67												XS	XS
Skating Rink, Indoor and Outdoor (See Recreation Facility, Indoor and Outdoor)														
Solid Waste Vehicle and Septic Tank Vehicle Storage Facility													C	C
Sporting Goods and Apparel Shop									X	X	X	X		
Stadium	11.3.22, 11.3.66	CS	CS	CS	CS									
Stamp Shop (See Coin and Stamp Shop)														
Stationery Shop								X	X	X	X	X		
Stock or Security Brokerage Firm								X	X	X	X	X		
Subdivision Sales Office	11.3.83	XS	XS	XS	XS	XS								

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Supermarket (See Food Store)							XS							
Swim Clubs	11.3.57	CS	CS	CS	CS	CS		CS	CS	CS	CS			
Swimming Pool Sales, Service and Supplies							CS				C		X	X
Tailor and Alteration Shop								X	X	X	X	X		
Tanning and Nail Salon (Principal Use)									X	X	X	X		
Tattoo Parlor										C	C			
Tavern (See Lounge)														
Tax Preparation Service								X	X	X	X	X		
Taxidermist													X	X
Television Sales and Repair (See Home Electronics, and Appliance Sales)														
Telecommunications Towers	11.3.75	CS	CS	CS	CS	CS		CS	CS	CS	CS		CS	CS
Temporary Automobile Parking Lot for Subdivision Sales Office	11.3.84	XS	XS	XS	XS	XS	CS							
Temporary Construction Trailer/Structures	11.3.70	XS	XS	XS	XS	XS	XS	XS	XS	XS	XS	XS	XS	XS
Textile Machinery Sales and Service							XS						X	X
Theater, Indoor Movie										C	C	C		
Theater, Outdoor Movie	11.3.22										CS			
Tire Recap or Repair Facility	11.3.38													CS
Tobacco Shop								X	X	X	X	X		
Toy Shop (See Hobby, Toy, and Craft Shop)														
Trading Stamp Redemption Store											X			
Trading and Conference Center											C			
Travel Agency								X	X	X	X	X		
Trophy and Plaque Shop									X	X	X	X		
Truck Terminal														C
Truck and Utility Trailer Rental Facility (Principal Use)														C
Truck Washing Facility														C
Upholstery Shop											X	X	X	
Variety Store									X	X	X	X		
Vending Company Supply House													X	X
Veterinary Office (See Animal Hospital)														
Video Arcade (See Game Room)														
Video Rental Shop (Principal Use)									X	X	X	X		
Warehouse (Excluding Wholesales Sales Operations and Mini-Warehouses)													X	X

NOTES
X - Permitted Use
XS - Permitted Use With Supp. Regs.
C - Conditional Use
CS - Conditional Use With Supp. Regs.
* Reference Sect. 21 Downtown
** No designation indicates use is not permitted **

Zoning Table of Uses (Amended 6-1-16)*

USE	SUPPLEMENTAL REGULATIONS	R-1	R-2	R-3	R-4	RM-1	RM-2	OIS	C-1	C-2	C-3	C-4	I-1	I-2
Watch Repair and Sales (See Clock and Watch Sales and Repair)														
Welding Shop	11.3.67												CS	XS
Wholesale Sales Operation										CS	CS		XS	XS
Wrecker Service (See Automobile/Vehicle Towing Service)														

NOTES
X - Permitted Use
XS - Permitted Use With Supp. Regs.
C - Conditional Use
CS - Conditional Use With Supp. Regs.
* Reference Sect. 21 Downtown
** No designation indicates use is not permitted **

Amendments to the UDO

Section	Case No.	Date Adopted	Sub-Section	Title	Changes Incorporated
1		***Preamble***			
	TA-2011-017	11/22/2011			Reformatted Section
2		***Title***			
	TA-2011-017	11/22/2011			Reformatted Section
3		***Jurisdiction***			
	TA-2011-017	11/22/2011			Reformatted Section
4		***Primary Districts Established***			
	TA-2008-012	1/13/2009	4.1.11	C-4 Central Business	Expanded district description to allow for mixed uses and added a neighborhood meeting requirement for developments in C4
	TA-2009-014	11/10/2009	4	Conditional Zoning Districts	Added "CD" districts to the primary zoning districts table.
	TA-2010-008	9/14/2010	4.1.8 & 4.1.11	C-1 Neighborhood Business & C4- Central Business	Added provision for conditional zoning
	TA-2011-010	7/26/2011	4.1.7	OIS - Office, Institutional and Specialty	Added 5000 sq.ft. cap to single retail establishment
	TA-2011-012	7/26/2011	4.1.11	C4- Central Business	Allow for exceptions to the CUP requirements in C4. Additionally change will remove any hurdles to the addition of awnings in the C4
	TA-2011-017	8/23/2011			Reformatted Section
	TA-2011-019	1/24/2012	4.1.11	C-4 Central Business	Added an exception for recipients of the Façade Improvement Program grant and clarified the language regarding the conditional use permit requirements
	TA-000501-2013	5/28/2013	4.1.8	C-1 Neighborhood Business	Modify building size requirements and reduce lot coverage in C1.
	TA-001313-2013	11/12/2013	4.1 & 4.1.17	Downtown Code Zoning Districts	Added Downtown Code zoning districts and descriptions
5		***Conditional Use Districts***			
	TA-2009-014	11/10/2009	5.1	Conditional Zoning Districts	Added conditional zoning district language
	TA-2011-017	8/23/2011			Reformatted Section
6		***Overlay Districts Established***			
		10/14/2008	6.5	Flood Damage Prevention Ordinance	New version superseeded old version
	TA-2010-008	9/14/2010	6		Added provision for conditional zoning
	TA-2011-014	8/23/2011	6.2	Historic Overlay District	Removed entire section
	TA-2011-017	8/23/2011			Reformatted Section
	TA-001587-2013	11/25/2013	6.5	Flood Damage Prevention Ordinance	Change filling requirements
7		***Official Maps Adopted - District Boundaries***			
	TA-2011-017	8/23/2011			Reformatted Section
8		***Definitions***			
	TA-2009-002	4/14/2009			Added definitions for channel letter signs and push through signs
		6/9/2009			Modified definitions of restaurant, lounge, and pylon signs
	TA-2009-017	10/21/2009			Added definition for model home (display home; home portrait model)
	TA-2009-013	10/21/2009			Added definition for Electronic Gaming Operations
	TA-2009-016	11/10/2009			Modified definition of auto parts and supply store
	TA-2009-021	12/8/2009			Added definitions for consumer service office, personal care services, tree(island), vehicular use area (VUA)
	TA-2009-022	1/12/2010			Added definition for Beauty Salon
	TA-2010-002	6/22/2010			Added definition for Dwelling, Multi-family conversion, Mixed Use, Equestrian Facility
	TA-2010-004	2/8/2011			Added definition for Tree Bank
	TA-2011-004	5/10/2011			Modified definition of electronic message board and sign, changeable copy. Added definition for light emitting diodes, and sign, electronic message board
	TA-2011-013	8/23/2011			Added a definition for traditional storefront building, prototype and prototype design and development
	TA-2011-017	8/23/2011			Reformatted Section
	TA-2012-003	3/12/2012			Added a definition for accessory dwelling unit
	TA-2012-001	3/27/2012			Added a definition for V-shaped signs
	TA-2012-005	6/26/2012			Added a definition for Community Garden and Farm Products and amended the definition for Farmers' Market
	TA-2012-008	6/26/2012			Added a definition for Subdivision Sales Office
	TA-2012-010	7/24/2012			Amended the definition for Park, Recreational Facility, Indoor and Recreational Facility, Outdoor. Added a definition for Park, Passive.
	TA-2012-012	9/25/2012			Added a definition for Museum.
	TA-000117-2012	1/8/2013			Corrected typos for the definition of daycare and added "persons" to definition title
	TA-000698-2013	9/24/2013			Amended B&B definition, added Events Center, Convention Center, Meeting Facility definitions
	TA-001097-2013	9/24/2013			Amended/added definitions that pertain to signs
	TA-001313-2013	11/12/2013			Amended/added definitinos that pertain to the Downtown Code
	TA-002067-2014	5/27/2014		Murals	Amended definition of mural
	TA-002436-2014	7/22/2014		Daycares	Amended definitions of daycares
	TA-002477-2014	8/12/2014		Church/House of Worship	Amended definition of church/house of worship
	TA-003167-2015	6/9/2015		UDO Clean-up	Various

9		***General Provisions***			
	TA-2008-005	4/8/2008	9.22	Union County Public Schools Zoning Regulations	New sub-section
	TA-2008-006	9/30/2008	9.8	Buffers, Screening, and Landscaping	New version superseeded old version
	TA-2008-011	2/10/2009	9.21	Tree Preservation	New version superseeded old version
	TA-2008-009	2/10/2009	9.23	Architectural Standards	New sub-section
	TA-2009-005	5/12/2009	9.23	Architectural Standards	Removed Architectural Standards from Section 9 and Moved to Section 20
	TA-2009-021	12/8/2009	9.8.1.E.8	Buffers and Screening	Modified to require screening for parking areas for 5 or more vehicles
	TA-2009-021	12/8/2009	9.8.2.D	Parking Lot Landscaping	Added requirements for parking lot landscaping
	TA-2009-021	12/8/2009	9.21.8.A.1.C	Tree Preservation and protection	Added text regarding increased internal tree save when parking is above the maximum allowed per the ordinance
	TA-2010-001	4/27/2010	9.21.2	Tree Preservation and Protection	Removed the C4 exemption from the ordinance
	TA-2010-009	9/14/2010	9.13	Curb, Gutter, and Sidewalk Requirements	Added language requiring sidewalks to be located in the street right-of-way
	TA-2012-004	4/24/2012	9.22.3(E)	Union County Public Schools Zoning Regulations	Added in regulations for temporary signs on Union County Public Schools' property.
	TA-2010-008	9/14/2010	9.8.1-D , 9.8.3-A, 9.15	Buffers , Screening and Landscaping - General Requirements; Ownership of Buffers; Telecommunication Towers	Added provision for conditional zoning
	TA-2011-004	2/8/2011	9.8.2.E	Street Trees	Updated to make this street tree section match the one in section 9.21.10.G.1. Added provisions for large,medium and small maturing, and planting in ROW
	TA-2011-004	2/8/2011	9.21	Tree Preservation	Update for next generation trees. Added options for off-site mitigation and tree replacement fee.
	TA-2011-009	6/28/2011	9.20	Accessory Structures	Allow for exceptions to the accessory structure setback requirements.
	TA-2011-016	11/22/2011	9.21.10	Tree Planting Mitigation	Added tree mitigation requirements for understory trees
	TA-2011-017	8/23/2011			Reformatted Section
	TA-2012-003	3/13/2012	9.11.2	One Principal Building	Added a cross reference to the supplemental regulations for accessory dwelling units
	TA-2012-006	4/24/2012	9.8	Buffers and Screening	Amended the language to reflect the adoption of Conditional Zoning
	TA-2012-009	6/26/2012	9.2	Accessory Structures	Amended the language to allow for accessory structures in the front yard in certain situations
	TA-000114-2012	12/11/2012	9.4	Access to Property	Remove requirement that development be limited to residential and add requirement for 20' access way
	TA-000117-2012	1/8/2013	9.21.8	Tree Preservation and protection	Corrected typo
	TA-00018-2012	1/22/2013	9.8.2, 9.10.4, 9.20.4	General Provisions, Building Setback Exceptions, Accessory Structures	Language pertaining to fences was removed and added to Section 9.19
	TA-00018-2012	1/22/2013	9.19	Fences and Walls	Added new section for fencing
	TA-00018-2012	1/22/2013	9.20.5	Accessory Structures	Added language regarding fencing for kennels
10		***Non-Conforming Situations***			
	TA-2011-007	5/10/2011	10	Nonconforming	Updated to include non-conforming signs.
	TA-2011-017	8/23/2011			Reformatted Section
	TA-001097-2013	9/24/2013	10.8	Non-conforming Signs	Rewrite non-conforming section for signs
11		***Schedule of District Regulations***			
	TA-2008-013	1/13/2009	11.3.1	Adult Establishement Supp. Regs	Corretion to text to make it consistent with the Table of Uses
	TA-2008-013	1/13/2009	11.3.54	Home Occupation Supp. Regs	Added regulations
	TA-2009-008	6/9/2009	11.3.1	Adult Establishement Supp. Regs	Updated Adult Estblishment Regulations to include: definitions, distance reqs, prohibition of sleeping quarters, restruction of uses on same property or builiding, and signs
	TA-2009-013	10/21/2009	11.3.32	Electronic Gaming Supp. Regs.	Added regulations
	TA-2009-016	11/10/2009	11.3.8	Auto Parts and Supply Store Supp. Regs	Modified Regulations
	TA-2009-020	11/10/2009	11.3.62	Outdoor Seasonal Sales	Added Regulations
	TA-2010-005	6/22/2010	11.3.6	Automobile Repair Shops	Modified Regulations
	TA-2010-002	6/22/2010	11.2	Lot Dimension Requirements	Limit C4 height restriction to 3 stories
	TA-2010-002	6/22/2010	11.3.50	Multi-family in the C4 District	Added regulations
	TA-2010-003	6/22/2010	11.3.35	Equestrian Facilities	Added regulations
	TA-2010-006	9/14/2010	11.3.59	Home Occupation Supp. Regs	In the RM-1 and RM-2 zoning districts, home occupations shall only be allowed on lots containing single-family residential dwellings.

	TA-2011-001	2/8/2011	11.3.53	Produce Stand (accessory use)	Removed regulation requiring that all produce sold shall be grown on a lot under the same ownership as the lot upon which the produce stand is located.
	TA-2011-013	8/23/2011	11.3.55	Prototype Design and Development	Added regulations for a new use
	TA-2011-015	8/23/2011	11.3.64	Seasonal Outdoor Sales	Revised language to exclude certain situations from having to obtain a zoning use permit
	TA-2011-017	8/23/2011			Reformatted Section
	TA-2012-003	3/13/2012	11.3.80	Accessory Dwelling Units	Added supplemental regulations for accessory dwelling units
	TA-2012-006	4/24/2012	11.3.77	Planned Residential Developments	Amended the language to reflect the adoption of Conditional Zoning
	TA-2012-005	6/26/2012	11.3.81 & 11.3.82	Community Garden & Farmers' Market	Added supplemental regulations for community gardens and farmers' markets
	TA-2012-008	6/26/2012	11.3.83 & 11.3.84	Subdivision Sales Office & Temporary Automobile Parking Lot for Subdivision Sales Office	Added supplemental regulations for subdivision sales offices and associated automobile parking lots
	TA-2012-010	7/24/2012	11.3.42 & 11.3.57	Golf Course (miniature) and Golf Driving Ranges Recreational Facility; Country Club; Swim Club	Removed 11.3.42 and made the section "Reserved". Amended 11.3.57 so that it would reflect all Recreational Facilities, both indoor and out.
	TA-000117-2012	1/8/2013	11.3.36	Public Utility Facility	Corrected typo
	TA-00018-2012	1/22/2013	11.3.4	Animal Shelter, Animal Kennels, Animal Hospital	Added language to regulate chain link fencing
	TA-00018-2012	1/22/2013	11.3.75	Communication Towers; Telecommunication Towers	Added language to regulate chain link fencing
	TA-000459-2013	3/26/2013	11.3.81&82	Farmer's Market and Community Garden	Added language to encourage development of expanded farmer's markets and add provisions for community gardens.
	TA-000483-2013	5/14/2013	11.3.77	Planned Residential Developments	Modify for uniform minimum size requirements, setbacks and uses. Allow for the ability to modify setbacks on a case by case basis.
	TA-000501-2013	5/28/2013	11.2	C1 Neighborhood Business District	Amend building size requirements and reduce lot coverage maximum.
	TA-000698-2013	9/24/2013	11.3.85 & 86	Events Center & Meeting Facilities	Added supplemental regulations for Events Center & Meeting Facility
	TA-001313-2013	11/12/2013	11.1 & 11.2	Downtown Code	Amend Zoning Table of Uses & Lot Development Requirements to reference the Downtown Code
	TA-001991-2014	3/25/2014	11.3.61	Fast Food	Modify distance separation requirements for fast food or drive through restaurants
	TA-002436-2014	7/22/2014	11.3.27-28	Daycares	Add provision for daycare centers up to 8 persons, and between 9 & 12 persons
	TA-003036-2015	2/24/2015	11.3.77.A.1-3	PRD	Modify acreage requirement for a PRD from 50 to 20
	TA-003167-2015	6/9/2015	11.3.64	UDO Clean-up	Correct reference
	TA-004117-2016	4/26/2016	11.3.77	PRD	Remove minimum acreage for PRDs
	TA-004193-2016	4/26/2016	11.3.87	Self Enclosed Indoor Storage	Added sup. Reg. for indoor storage
	TA-004236-2016	4/26/2016	11.3.61	Fast Food	Reduce distance between fast food and res. Use
12		***Off Street Parking and Loading***			
	TA-2007-006	3/11/2008		Off-Street Parking	Total update of the section, superceede old version
	TA-2009-021	12/8/2009		Off-Street Parking	Total update of the section, superceede old version
	TA-2010-009	9/14/2010	12.11.A.1	Standards for Pedestrian Facilities	Added language requiring sidewalks to be located in the street right-of-way
	TA-2011-017	8/23/2011			Reformatted Section
	TA-2012-008	6/26/2012	12.4.D	Off-Street Parking	Added parking requirements for subdivision sales offices
	TA-001096-2013	7/30/2013	12.12	Exterior Lighting	Added provisions for Outdoor Sport Fields and Performance Areas
13		***Signs***			
		11/1/2007		Signs	Total update of the section, superceede old version
	TA-2008-008	9/30/2008	13.1.12.2.2	Wall Sign Illumination	Allow for externally lit signs
	TA-2009-002	4/14/2009		Signs	Re-formatted section numbering
	TA-2009-002	4/14/2009	13.12.B.h	Wall Sign Internal Illumination	Allow for internally lit signs only channel letter and push through type signs
	TA-2009-002	4/14/2009	13.14.A.9 &10	On-Premise Ground Signs Illumination	Allow for externally lit signs and internally lit signs only channel letter and push through type signs
	TA-2009-009	6/9/2009	13.11.R & 13.17	Signs that Do Not Require a Permit and Union County Public School Signs	Added regs for off premise Farmers Market Signs and Special regs for Union County Public Schools
	TA-2009-011	8/11/2009	13.9.G	Architectural Compatibility	Added text to require all signs to be architechurally compatible with the buildings referenced by the sign or its immediate environs as determined by the ZA.
	TA-2009-017	10/21/2009	13.16	Portable signs for model homes in a residential zoning district	Added text to allow for model home portable signs
	TA-2009-017	10/21/2009	Table 13.1.17.1	Portable signs for model homes in a residential zoning district	Added provision in table.
	TA-2009-020	11/10/2009	13.16	Temporary Signs that require a permit	Added Outdoor Seasonal Sales
	TA-2010-008	9/14/2010	13.10; 13.12-B; 13.14	Prohibited Signs; Wall Signs; On-Premise Signs	Add provision for conditional zoning.
	TA-2010-011	11/16/2010	13.16.A.1; Tables 13.1.17.2 to 13.1.17.4	Temporary Signs that require a permit; District summary tables	Allow temporary portable signs for businesses in all commercial districts
	TA-2010-012	1/25/2011	13.10.5 & 13.14.5	Prohibited Signs; On-Premise Ground Signs	Allow off-premise signs for combined developments
	TA-2011-004	5/10/2011	13.10, 13.12, 13.14	Prohibited Signs; Permanent Signs that Require a Permit; On-Premise Ground Signs	Updated ordinance to allow for electronic LED gasoline price signs
	TA-2011-007	5/10/2011	13.19 & 13.20	Nonconforming signs & Nonconforming and or Prohibited sign schedule removal	Remove Section 13.20 and refer non-conforming signs in section 13.19 to section 10.

	TA-2011-011	7/26/2011	13.11	Signs that Do Not Require a Permit	Added text to allow for signage within outdoor recreation facilities / ballfields.
	TA-2011-017	8/23/2011			Reformatted Section
	TA-2011-018	11/22/2011	13.10, 13.12, 13.13	Off-Premise Signs for Landlocked Businesses	Added provision for landlocked businesses to have signs that are visible from a public right-of-way
	TA-2012-001	3/27/2012	13.8 & 13.10	Computation of Area for Multi-faced Signs & Prohibited Signs	Changed the way multi-faced sign area is computed from inches to degrees and removed the sign distances in the prohibited sign section
	TA-2012-002	3/27/2012	13.16.2.C	Planned Development Flexibility Option	Revised the requirements for a Master Sign Program
	TA-2012-004	4/24/2012	13.11	Signs That Do Not Require a Permit	Added in regulations for temporary signs for public, private and charter schools
	TA-000117-2012	1/8/2013	13.13.2	Off-Premise Ground Signs	Corrected typo
	TA-001097-2013	9/24/2103	13	Signs	Rewrite of entire sign ordinance
	TA-001645-2013	5/27/2014	13.12	Ballfield Signs	Add provisions for ballfield signage
	TA-002067-2014	5/27/2014	13.9.10	Murals	Amend provisions for murals
	TA-002276-2014	6/24/2014	13.8, 13.9	Non-Profit Special Event Banners	Add provisions for non-profit & special event banners
	TA-002446-2014	7/22/2014	13.9.5	Drive-Thru Menu Boards	Increase the height of drive-thru menu boards to 6 ft.
	TA-003167-2015	6/9/2015	13.7.2	UDO Clean-up	Seasonal Outdoor Sales Signs
14		***Conditional Use Permits***			
	TA-2009-001	3/10/2009	14.4.B	Conditional Use Permits	Removed requirement for stating the nature of the public hearing, date, time and location on the sign posting
		10/21/2009	14.7	Effect of Approval	Removed the following text from the first sentence "develop any other use listed as a 'permitted use' for the general zoning district in which it is located"
	TA-2010-008	9/14/2010	14.1	Conditional Use Permits - Procedure	Increased submittal time from 25 days to 45 days prior to Planning Board meeting
	TA-2010-008	9/14/2010	14.7	Conditional Use Permits - Effect of Approval	Changed CUP validity from one year to two years.
	TA-2011-017	8/23/2011			Reformatted Section
	TA-2012-006	4/24/2012	14.7	Effect of Approval	Amended the language to be consistent with NC General Statutes
	TA-2012-013	9/25/2012	14.6	Board of Commissioners Action	Amended the language to allow for more flexibility in scheduling a public hearing after the Planning Board has made their recommendation.
	TA-003167-2015	6/9/2015	14.5	UDO Clean-up	Planning Board Recommendation
15		***Board of Adjustment***			
	TA-2008-010	11/12/2008	15.2 & 15.7	Powers of the Board of Adjustment & Appeals from Decisions of the Administrator	Updated text to comply with language in the state statute
	TA-2011-017	8/23/2011			Reformatted Section
	TA-001996-2014	6/24/2014	15	Board of Adjustment	Amend entire section
16		***Amendment to Unified Development Ordinance***			
	TA-2009-001	3/10/2009	16.5	Amendments to the UDO	Added text to require the posting of a sign on the subject property for zoning map amendments
	TA-2009-018	10/21/2009	16.2	Amendment Initiation	Added Planning Staff and Any person having subsantial interest in the UDO for TA changes and added text for a third party with owner's written consent for map amendments.
	TA-2009-018	10/21/2009	16.3	Procedure for Submission and Consideration of Applications for Amendment	Added item D stipulating payment of applicable fee
	TA-2009-018	11/10/2009	16	Amendment to Unified Development Ordinance	Added regulations for conditional zoning and reorganization of the section.
	TA-2011-017	8/23/2011			Reformatted Section
	TA-2012-006	4/24/2012	16.3	Protest Petitions	Revised the language to reflect the NC General Statutes
	TA-001313-2013	11/12/2013	16.1	Downtown Code	Added the Downtown Code zoning districts
	TA-003167-2015	6/9/2015		Clean Up	PB review and recommendation - applicant consent
	TA-3098-2015	3/24/2015	16.1&2	12 Month Limitation Revision	Waive 12 month resubmittal requirement
17		***Administration***			
	TA-2009-005	5/12/2009	17		Changed title from "Encorcement" to "Administration"
	TA-2009-005	5/12/2009	17.5	Penalty for Violations	Added this subsection, previously Section 19 of UDO
	TA-2009-005	5/12/2009	17.6	Effects Upon Outstanding Building Permits	Added this subsection, previously Section 20 if UDO
	TA-2009-005	5/12/2009	17.7	Interpretation, Purpose, Conflict	Added this subsection, previously Section 21 of UDO
	TA-2009-005	5/12/2009	17.8	Validity	Added this subsection, previously Section 22 of UDO
	TA-2011-008	6/28/2011	17.5	Penalty for Violations	Clarified this section regarding penalties for violating the ordinance.
	TA-2011-017	8/23/2011			Reformatted Section
	TA-2012-006	4/24/2012	17.4	Early Vesting of Development Rights Upon Approval of a Site Plan	Amended the language to reflect the adoption of Conditional Zoning
18		***Subdivision Regulations***			
	TA-2009-003	4/14/2009	18.9.4.f	Lot Dimensions	Added text to explicitly state the requirement that address numbers must be placed on the building unless otherwise authorized by the Zoning Administrator.
	TA-2009-003	4/14/2009	18.10.4.b	Traffic Control Devices	Added language to require the installation of mast arms for new and existing roadway intersections were signalization is required.
	TA-2009-007	6/24/2009			Added Proof Roll requirement
	TA-2009-012	10/21/2009	18.4.1	Improvement Guarantees	Added maintenance bond requirement. Changed reference to Town Commission to Zoning Administrator

	TA-2009-012	4/27/2010	18.4.1.d	Improvement Guarantees - Maintenance of Dedicated Areas until Acceptance	Updated 90% to 80% and modified the language stipulating the security amount required.
	TA-2010-009	9/14/2010	18.9.1.6	Sidewalks	Added language requiring sidewalks to be located in the street right-of-way
	TA-2011-017	8/23/2011			Reformatted Section
	TA-2012-006	4/24/2012	18.9	Minimum Standards of Design	Amended the language to reflect the adoption of Conditional Zoning
	TA-2012-011	7/24/2012	18.5.2	Certifications Required from Subdivider	Removed the requirement to having a notary public's seal on a final plat.
19		***Historic Preservation***			
	TA-2009-004	5/12/2009	19		Changed title from "Penalty for Violations" to Historic Preservation"
	TA-2011-017	8/23/2011			Reformatted Section
	TA-000117-2012	1/8/2013	19.6	Designation of Landmarks	Corrected typo
20		***Architectural Standards***			
	TA-2009-005	5/12/2009	20		Changed title from "Effects on Outstanding Building Permits" to "Architectural Standards"
		12/8/2009	20.5	Streetscape for non-residential & multifamily	Add clause saying only applies to parking lots & not to on-street parking.
	TA-2011-017	8/23/2011			Reformatted Section
	TA-00018-2012	1/22/2013	20.3.1, 20.4.1	General Building Requirements, Site & Building Elements	Removed language regarding fencing and added it to Section 9.19
21		***Downtown Code***			
	TA-2009-005	5/12/2009	21		Changed title from "Interpretation, Purpose, Conflict" to "Reserved"
	TA-2011-017	8/23/2011			Reformatted Section
	TA-001313-2013	11/12/2013	21	Downtown Code	Added Section 21 Downtown Code
	TA-002279-2014	6/24/2014	21	Downtown Code Clean Up	Fixed typos and clarified regulations
	TA-002436-2014	7/22/2014	21	Daycares	Change use table and supplemental regulations for daycares
	TA-003167-2015	6/9/2015	21	UDO Clean-up	Various
	TA-003547-2015	8/25/2015	21.7.4	Streetscreens	Change requirements for vegetative streetscreens
	TA-003717-2015	8/25/2015	21.7.3.A	Food and Beverage Parking	Change to Parking Requirements for restaurants
	TA-004180-2016	3/22/2016	21.8.3	Street Regulating Plan	Allow for street sections to vary
22		***Reserved***			
	TA-2009-005	5/12/2009	22		Changed title from "Validity" to "Reserved"
	TA-2011-017	8/23/2011			Reformatted Section
23		***Effective Date***			
	TA-2011-017	8/23/2011			Reformatted Section
	Case No.	**Date Adopted**		**Title**	
Table of Uses					
	TA-2008-007	9/8/2008		Allow non-retail uses at the street level in the C-4 district	
	TA-2008-013	1/13/2009		Correct crematoria use from "XC" to "C"	
	TA-2008-013	1/13/2009		Expanded permited and conditional uses in the C-4 district to allow for mixed use	
	TA-2009-013	10/21/2009		Added Electroinic Gaming Operations to C2 with a "CS" designation	
	TA-2009-018	10/21/2009		Offices as a permitted use "X" in the OIS district	
	TA-2009-018	10/21/2009		Accessory structures added as a permitted use in R1 "XS" and listed 9.20 as the supp reg reference.	
	TA-2009-018	10/21/2009		Family Care homes changed from "C" to "X" per General Statute 168-22(a).	
	TA-2009-016	11/10/2009		Updated Automobile Parts & Supply store supp regs to 11.3.8	
	TA-2009-020	11/10/2009		Added Seasonal Outdoor Sales to Table of Uses	
	TA-2009-022	1/12/2010		Modified Baber/Beauty Shop to be permitted "X" use in OIS zoning district	
	TA-2010-002	6/22/2010		Added Dwelling, Multi-Family Conversion and Mixed Use as "C" in the C4 zoning district	
	TA-2010-003	6/22/2010		Added Equestrian Facility as a "CS" in the R-1 Single Family residential zoning district	
	TA-2010-010	9/14/2010		Allow equestrian facilities and horse barns as a conditional use "C" in the R1, R2, R3, and R4 districts	
	TA-2010-006	9/14/2010		Allow Home Occupations as a permited use with supp. regs "XS" in the RM-1 and RM-2 zoning districts	
	TA-2010-008	9/14/2010		Added provision for conditional zoning	
	TA-2011-003	3/8/2011		Changed "Tanning and Nail Salons" from "C" to "X" in C4	
	TA-2011-005	5/10/2011		Allow "clothing, footwear, & apparel" and "second-hand & consignment shops" as permitted uses in OIS	
	TA-2011-013	8/23/2011		Added a Prototype Design and Development use to the table	
	TA-2011-017	8/23/2011		Reformatted Section	
	TA-2012-003	3/13/2012		Added a Dwelling Unit, Accessory use to the table	
	TA-2012-005	6/26/2012		Added a Community Garden use. Amended the Farmers' Market use.	
	TA-2012-007	6/26/2012		Amended the Museum use.	
	TA-2012-008	6/26/2012		Added a Subdivision Sales Office and a Temporary Automobile Parking Lot for Subdivision Sales Office.	
	TA-2012-010	7/24/2012		Removed Golf Course, Miniature and Golf Driving Range and Health Club, Spa, and Gymansium use	
	TA-2012-011	7/24/2012		Added Park, Active and Park Passive use. Amended Recreational Facility, Indoor, Recreational Facility,	
	TA-2012-012	7/24/2012		Outdoor, and Saking Rink, Indoor.	
	TA-000117-2012	1/8/2013		Added correct supplemental regulation reference for outdoor recreation facility	
	TA-000698-2013	9/24/2013		Added/amended B&B, Events Center, Convention Center, Meeting Facility	
	TA-001313-2013	11/12/2013		Added reference to the Downtown Code	
	TA-002436-2014	7/22/2014		Changed daycare related uses	
	TA-004193-2016	4/26/2016		Added Self Enclosed Indoor Storage use	

Comprehensive Plan					
		9/8/2009		Update to the Comprehensive Plan based on public / commissioners comments at the original public hearing when adopted in April 2009	

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THE WAXHAW UNIFIED DEVELOPMENT ORDINANCE
AN ORDINANCE PROVIDING FOR THE ZONING OF
WAXHAW, NORTH CAROLINA
AS RECOMMENDED BY THE WAXHAW PLANNING BOARD, AUGUST 26, 2004

SECTION 1
PREAMBLE

In pursuance of authority conferred by Article 19, Parts 1, 2, and3, of Chapter 160A of the General Statutes of North Carolina and for the purpose of promoting the public health, safety and general welfare; promoting the orderly growth of the jurisdiction; lessening congestion in the roads and streets; securing safety from fire, panic and other dangers; providing adequate light and air; preventing the overcrowding of land; avoiding undue concentration population; and facilitating the adequate provision of transportation, water, sewage, schools, parks and other public requirements; all in accordance with a comprehensive plan; NOW THEREFORE,

The Board of Commissioners of the Town of Waxhaw do ordain as follows:

SECTION 2
TITLE

This Ordinance shall be known as "The Unified Development Ordinance for the Town of Waxhaw, North Carolina", and may be referred to as "The Unified Development Ordinance" or “UDO.”

SECTION 3

JURISDICTION

The regulations set forth in this Ordinance shall apply to all property within the Town Limits of the Town of Waxhaw and within the various Zoning Districts as designated on the Official Zoning Map as established in Section 7 herein.

SECTION 4
PRIMARY DISTRICTS ESTABLISHED

4.1 GENERAL PURPOSE

The Town of Waxhaw, North Carolina is hereby divided into PRIMARY ZONING DISTRICTS as designated herein and as shown on the Official Zoning Map. All land lying within the jurisdiction of this Unified Development Ordinance shall be designated by one of the following PRIMARY ZONING DISTRICT symbols and shall be subject to the requirements of said district for the purposes stated elsewhere herein; furthermore, it shall be expressly forbidden for any land area to be designated by more than one PRIMARY ZONING DISTRICT. The below listed PRIMARY ZONING DISTRICTS may hereafter be referred to as "DISTRICTS".

SYMBOL	PRIMARY ZONING DISTRICTS
R1 CU-R1 CD-R1	Single-family Residential Conditional Use Single-family Residential Conditional District Single-family Residential
R2 CU-R2 CD-R2	Single-family Residential Conditional Use Single-family Residential Conditional District Single-family Residential
R3 CU-R3 CD-R3	Single-family Residential Conditional Use Single-family Residential Conditional District Single-family Residential
R4 CU-R4 CD-R4	Single-family Residential Conditional Use Single-family Residential Conditional District Single-family Residential
RM1 CU-RM1 CD-RM1	Multi-family Residential Conditional Use Multi-family Residential Conditional District Multi-family Residential
RM2 CU-RM2 CD-RM2	Multi-family Residential Conditional Use Multi-family Residential Conditional District Multi-family Residential
OIS CU-OIS CD-OIS	Office, Institutional & Specialty Conditional Use Office, Institutional & Specialty Conditional District Office, Institutional & Specialty
C1 CU-C1 CD-C1	Neighborhood Commercial Conditional Use Neighborhood Commercial Conditional District Neighborhood Commercial

SYMBOL	PRIMARY ZONING DISTRICTS
C2 CU-C2 CD-C2	Highway Commercial Conditional Use Highway Commercial Conditional District Highway Commercial
C3 CU-C3 CD-C3	General Commercial Conditional Use General Commercial Conditional District General Commercial
C4 CU-C4 CD-C4	Central Business District (CBD) Conditional Use Central Business District (CBD) Conditional District Central Business District (CBD)
I1 CU-I1 CD-I1	Light Industrial and Service Conditional Use Light Industrial and Service Conditional District Light Industrial and Service
I2 CU-I2 CD-I2	Heavy Industrial Conditional Use Heavy Industrial Conditional District Heavy Industrial
CPUD CU-CPUD CD-CPUD	Commercial Planned Unit Development Conditional Use Commercial Planned Unit Development Conditional District Planned Unit Development
IPUD CU-IPUD CD-IPUD	Industrial Planned Unit Development Conditional Use Industrial Planned Unit Development Conditional District Industrial Planned Unit Development
TND CU-TND CD-TND	Traditional Neighborhood Development Conditional Use Traditional Neighborhood Development Conditional District Traditional Neighborhood Development
UN CD-UN	Urban Neighborhood Conditional District Urban Neighborhood
NMX CD-NMX	Neighborhood Mixed Use Conditional District Neighborhood Mixed Use
MS CD-MS	Main Street Conditional District Main Street
TC CD-TC	Town Center Conditional District Town Center
OS CD-MS	Open Space Conditional District Open Space

* Conditional Use zoning (referred to as CU) will not be applied to any new zoning requests upon the adoption date (11/10/2009) of this amendment. All parcels zoned CU prior to the amendment adoption date may go through the conditional use process or the owner/applicant can apply for a Conditional District (referred to as CD) rezoning.

It should be noted that there is a Conditional Use District (referred to as CU) and a Conditional Zoning District (referred to as CD), which corresponds to each of the other primary districts authorized in this Ordinance. It is recognized that certain types of zoning districts would be inappropriate at particular locations in the absence of special conditions.

1. R1-Single Family Residential

The purpose of the R-1, Single Family Residential District is to provide for the residential use of land developed in a very low-density pattern. The principal structure of the R-1 zoning district is the single-family detached dwelling.

2. R-2, Single Family Residential

The purpose of the R-2, Single Family Residential District is to provide for the residential use of land developed in a low-density pattern. The principal structure of the R-2 zoning district is the single-family detached dwelling.

3. R-3 Single Family Residential

The purpose of the R-3, Single Family Residential District is to provide for the residential use of land developed in a medium density pattern. The principal structure of the R-3 zoning district is the single-family detached dwelling.

4. R-4 Single Family Residential

The purpose of the R-4, Single Family Residential District is to provide for the residential use of land developed in a high density pattern. The principal structure of the R-4 zoning district is the single-family detached dwelling.

5. RM-1, Multi-Family Residential

The purpose of the RM-1, Multi-family Residential District is to provide for the residential use of land developed in a medium to high-density pattern. The principal structure of the RM-1 zoning district is the single-family attached dwelling, the two-family dwelling and the multi-family dwelling. The availability of land zoned for RM-1 purposes is to encourage development at higher densities utilizing cluster development techniques, condominium ownership agreements, garden court dwellings and conventional two-family and multi-family dwelling arrangements.

6. RM-2, Multi-Family Residential

The purpose of the RM-2, Multi-Family Residential District is to provide for the residential use of land developed in a high density pattern. The principal structure of the RM-2 zoning district is the single-family attached dwelling, the two-family dwelling and the multi-family dwelling. The availability of land zoned for RM-2 purposed is to encourage development at a high density utilizing cluster development techniques, condominium ownership agreements, garden court dwellings, zero lot line arrangements and conventional two-family and multi-family dwelling arrangements.

7. OIS, Office, Institutional and Specialty

The purpose of OIS, office, institutional and specialty is to provide for the office and institutional use of land developed in various densities and the adaptive reuse of larger housing stock into specialty ships serving adjacent neighborhoods and business districts. The principal structure of the OIS zoning district is the office and institutional building including the adaptive reuse of former residential, commercial and industrial buildings previously existing within the community. No single retail establishment shall have a gross floor area exceeding 5,000 square feet in the OIS district, except through the issuance of a conditional use permit or through the approval of conditional zoning. The outdoor overnight storage of plants, nursery items, building materials, and other bulk goods visible from any public street shall not be allowed in the OIS district.

8. C-1, Neighborhood Business

The purpose of the C-1, neighborhood business district is to provide for the commercial use of land developed in harmony with surrounding residential zoning districts. Commercial development should be environmentally and aesthetically compatible with surrounding residential uses. The requirements of the C-1 zoning district should ensure harmony with surrounding residential uses and not impair the existing and/or future residential development. All establishments developed in the C-1 classification should be scaled to meet the convenience shopping needs of the immediate area and should not be scaled to detract from the C-4 zoning district. A building containing a single use shall not exceed 12,000 square feet gross floor area and in no case may any single use contained in a multi-tenant building have more than 8,000 square feet gross floor area. No multi-tenant building shall exceed 24,000 square feet gross floor area. Any increase of the above maximum size limits shall require the issuance of a conditional use permit or approval of conditional zoning. Outdoor overnight storage visible from any public street shall not be allowed in the C-1 district.

9. C-2, Highway Commercial

The purpose of the C-2, highway commercial district is to provide for the commercial use of land developed for the ease of access, visibility and convenience to arterial and collector streets and their surrounding land uses. Commercial development should be compatible with highway activity and enhance the quality of service available to traveler, commuter and nearby resident alike. The requirements of the C-2 zoning district should ensure that safety and compatibility are major considerations in the commercial development of the C2 zoning district. All establishments developed under the C-2 classification should be scaled to meet the convenience needs of the motorist and should not be scaled to detract from the C-3 and C-4 zoning districts. The outdoor overnight storage of plants, nursery items, building materials and other bulk goods visible from any public street shall not be allowed in the C-2 district. No building used for retail purposed shall have a footprint that exceeds 62,500 square feet.

10. C-3, General Commercial

The purposed of the C-3, General Commercial District is to provide for the commercial use of land developed as an agglomeration of business activity sufficiently separated from residential zoning districts by either transitional zoning districts such as C-1, C-2 and /or OIS; or by sufficient buffering and screening measures. Commercial development should be compatible with arterial and collector street systems and accessibility. The requirements of the C-3 zoning district should ensure the proper site development of commercial activities and should ensure the proper separation of commercial activities from residential zoning districts. Establishments developed under the C-3 classification are encouraged to promote the agglomeration of commercial activity and enhancement of strong business orientation within the C-3 zoning district. The outdoor overnight storage of plants, nursery items, building materials, and other bulk goods visible from any public street shall not be allowed in the C-3 district. No building used for retail purposes shall have a footprint that exceeds 62,500 square feet.

11. C-4, Central Business

The purpose of the C-4, Central Business District is to encourage land uses which are characteristic of main streets and pedestrian districts and that are solely intended for application in the central core of the Town. The district will allow a mixture of complementary land use types, which may include housing, retail, offices, commercial service, and civic uses. The C-4 district is intended to be a predominantly pedestrian area, while also catering to bicycle traffic with shops and store fronts close to the road. The district shall be designed at a pedestrian scale with wide walkways, street trees and limited off-street parking. Development should be compatible with the fabric of surrounding uses and pre-existing development to promote an active live, work, play setting. The C-4 zoning district should be considered vital to all members of the community and enhanced to ensure continual significance in the local economy. It is to be expected that the C-4, Central Business District, will be expanded over time through the zoning change process with the Future Land Use Plan to be used as a guide for the limitation of that district. The district shall not be applied to outlying commercial areas.

The outdoor overnight storage of plants, nursery items, building materials and other bulk goods visible from any public street shall not be allowed in the C-4 district.

No building shall be erected, have structural alterations to the exterior, or have design changes to the façade (except for addition of awnings and repainting a painted surface) without first having been issued a conditional use permit by the Board of Commissioners as prescribed in section 14 of the UDO or approval from the Board of Commissioners for conditional zoning as prescribed in Section 16.2 of the UDO. This requirement does not include demolition. The property owners shall make and are encouraged to maintain the structure by making necessary improvements. Additionally, any property or structure deemed a local historic landmark by Town Ordinance or awarded a grant by the Waxhaw Historic Preservation Commission through the Downtown Waxhaw Façade Improvement Program is not required to receive a conditional use permit from the Waxhaw Board of Commissioners but may need to obtain a Certificate of

Appropriateness as outlined in Section 19 of this Ordinance for design changes to the façade.

The addition of awnings or the repainting of a painted surface shall require the issuance of a zoning use permit by the Zoning Administrator. If the Zoning Administrator determines that the proposed changes are not compatible with the surrounding environs and denies the zoning use permit, the applicant may choose to seek approval from the Board of Commissioners through the conditional use permit process.

Public Planning Requirements in the C-4 district

The C-4 district is the central core for the Town of Waxhaw. It is important that development within the district is harmonious and provide quality retail, office, residential, and civic uses. To achieve a desirable built environment a collaborative planning approach will be utilized to bring decision makers and community members together to provide input for the plan.

Before a development proposal within the C-4 district can be recommended by the planning staff and approved by the appropriate governing boards, the applicant must facilitate a neighborhood meeting. The purpose of the neighborhood meeting is to:

A. Ensure that the applicants pursue early and effective citizen participation in conjunction with the proposal, giving the project proponent the opportunity to understand and try to mitigate any real and perceived impact their proposal may have on the surrounding area.
B. Ensure the citizens and property owners of the Town have an adequate opportunity to learn about the proposal that may affect them and to work with project proponents to resolve concerns at an early stage of the application process. Accordingly, the issues identified may be addressed by the applicant before preparing formal plans for the application.

The following requirements apply:

1. All meetings shall be held in the Town of Waxhaw jurisdiction.
2. The applicant will be responsible for notifying property owners within 300 feet of the proposed development, as measured from the outermost boundary of the parcel on which the proposed project is to be located. The notice shall include the date, time and location of the meeting and a brief description of the project, zoning of the property, site and vicinity maps. The notice shall be sent at least 10 days but not more than 25 days prior to the neighborhood meeting. Proof of mailings shall be provided to the Town of Waxhaw either by turning in a notarized photocopy of the postmarked envelopes to be mailed or sending the notices certified mail and providing copies of the return receipts to the Town.
3. At a minimum, the following shall be covered in the meeting:
    a. Introduction of the neighborhood meeting organizer (i.e. developer, property owner, etc.);

b. Description of the proposed project;
c. Existing Features Analysis (slopes, trees, wetlands, natural design constraints) ; and
d. Explanation of how comments made at the neighborhood meeting are used.

4. The applicant shall provide appropriate professionals, such as landscape architects, architects, engineers, etc. to be available during the neighborhood meeting.

5. The applicant shall provide to the Town a written summary of the neighborhood meeting. The summary shall include:
   a. A copy of the mailed notice of the neighborhood meeting (list of persons and addresses);
   b. An attendance roster or listing of participants;
   c. A summary of concerns, issues, and problems voiced at the meeting along with the applicant's responses thereto; and
   d. A summary of proposed modifications, or site plan revisions, based on the feedback / concerns from the meeting. The summary document will be available for public review through the Town.

Town staff will attend the neighborhood meetings to observe and answer questions specific to Waxhaw's planning and approval process.

12. I-1, Light Industrial and Service

The purpose of the I-1, Light Industrial and Service District is to provide for the industrial and service related use of land developed around a general theme of manufacturing, fabricating, processing and servicing at a moderate scale. Industrial and service development should be of compatible nature to surrounding activities including residential, commercial, institutional and governmental; and, should be compatible with arterial and collector street systems and accessibility. The requirements of the I-1 Zoning District should encourage the proper site development of industrial and service activities and should ensure the proper separation of industrial and service activities from residential uses and Zoning Districts. Establishments developed under the I-1 classification are encouraged to promote the agglomeration of industrial and service activity and enhancement of strong industrial and service orientation within the I-1 Zoning District.

13. I-2, Heavy Industrial

The purpose of the I-2, Heavy Industrial District is to provide for the industrial use of land developed around a general theme of manufacturing, fabricating and processing at an intensive scale. Industrial development should be compatible with arterial and collector street systems and accessibility. The requirements of the I-2 Zoning District should encourage the proper site development of industrial activities and should ensure the proper Zoning Districts. Establishments developed under the I-2 classification are

encouraged to promote agglomeration of industrial activity and enhancement of a strong industrial orientation within the I-2 Zoning District.

14. CPUD Commercial Planned Unit Development

The purpose of the CPUD zoning district is to accommodate commercially oriented planned unit developments. Bulk, height and dimensional regulations are eased in the CPUD district, in contrast to other commercial (C) zoning districts, to accommodate innovative developments that are planned in a cohesive manner.

15. IPUD Industrial Planned Unit Development

The purpose of the IPUD zoning district is to accommodate industrial parks and similar multi-tenant industrial developments in a campus type setting. Bulk, height and dimensional regulations are eased in the IPUD district, in contrast to other industrial (I) zoning districts, to accommodate innovative developments that are planned in a cohesive manner.

16. TND Traditional Neighborhood Development

The purpose of the TND zone is to create traditional neighborhood developments as alternatives to conventional subdivisions. TND's tend to be much more pedestrian oriented than other developments with interconnected streets, a mixture of housing units that are in close proximity to each other, and neighborhoods with identifiable centers. Block lengths in TND's tend to be small. On-street parking is allowed. Accordingly, conventional street design standards are modified. TND's may only be created in an area that has first been zoned to a TND district.

17. Downtown Code Zoning Districts

The districts in this Downtown Code have been established along a continuum of development intensity that ranges from rural to urban development. This Downtown Code regulates only the development at the urban end of this continuum, and can be further described as follows:

A. **Urban Neighborhood (UN):** The Urban Neighborhood District consists of predominately medium density residential urban fabric. It may have a wide range of building types: single, sideyard, and townhouses. Setbacks and landscaping are variable. Streets with curbs and sidewalks define medium-sized blocks.

B. **Neighborhood Mixed Use (NMX):** The Neighborhood Mixed Use District consists of higher density, mixed use buildings that accommodate retail, offices, townhouses and apartments. It has a tight network of streets, with wide sidewalks, steady street tree planting and buildings set close to the sidewalks.

C. **Main Street (MS):** The Main Street District consists of historic, mixed use buildings that accommodate retail, offices, townhouses and apartments. It has a tight network of streets, with wide sidewalks, steady street tree planting and buildings set close to the sidewalks. The Main Street District is intended to be similar to the

Town Center District, but with building heights that fit the architectural scale of historic Waxhaw.

D. **Town Center (TC):** The Town Center District consists of larger mixed-use buildings that accommodate retail, offices, townhouses and apartments. It has a tight network of streets with wide sidewalks, steady street tree planting and buildings set close to the sidewalk.

E. **Open Space (OS):** The Open Space District consists of active and passive recreational areas and natural topography. Development in Open Space Zones shall be limited to Park Facilities and features only, and shall be approved by Conditional Use Permit only.

SECTION 5
CONDITIONAL ZONING AND CONDITIONAL USE DISTRICTS

It will be noticed that a Conditional Zoning District (bearing the designation CD) and a Conditional Use District (bearing the designation CU) corresponds to each of the other primary districts authorized in this Ordinance.

5.1 CONDITIONAL ZONING DISTRICTS

1. Purpose

Conditional zoning districts provide for those situations where a particular use, properly planned, may be appropriate for a particular site, but where the general district has insufficient standards to mitigate the site-specific impact on surrounding areas. Uses which may be considered for a conditional zoning district are restricted to those uses permitted in the corresponding general zoning district. Conditional Zoning Districts are established on an individualized basis, only in response to a petition by the owners of all the property to be included. Zoning of a conditional zoning district is not intended for securing early or speculative reclassification of property.

2. General Requirements

A. Application

Rezoning to a conditional zoning district shall only be considered upon written request or written consent of all the owners of the property being rezoned.

B. Minimum Standards

With a conditional zoning district, all standards and requirements of the corresponding general zoning district shall be met, except to the extent that the conditions imposed are more restrictive than those standards.

3. Uses within the District

Conditional zoning districts shall be “parallel” to general districts. Uses allowed in the corresponding general district shall be permitted in CD districts, provided that they meet all additional conditions associated with the conditional zoning district.

4. Conditions

In approving an application for a rezoning request to a conditional zoning district the Board of Commissioners, upon receiving comments and/or recommendations from the Planning Board, Staff, and public, may specify the location on the property of the proposed Use, the number of units per square footage, the location and extent of supporting facilities such as parking lots, driveways, and access streets, the location and extent of buffer areas and other special purpose areas, the timing of development, the location and extent of rights-of-way and other areas to be dedicated for public

purposes, public dedications, and other such matters as the Applicant and the Board of Commissioners find appropriate. The Applicant will have a reasonable opportunity to consider and respond to any additional requirements prior to approval or denial of the application by the Board of Commissioners. In no instance shall any of these conditions be less restrictive than any requirements that would pertain to that particular development found elsewhere in a similar general zoning district**. All conditions must be mutually agreed upon by both the Board of Commissioners and the applicant for the rezoning to take effect, otherwise the proposed rezoning is invalid and the existing zoning shall remain in effect.**

5. Non-compliance to District Conditions

Any violation of a use or condition included in the approval of a Conditional Zoning District shall be treated the same as any other violation of this Ordinance and shall be subject to the same remedies and penalties as any such violation. Any violation of such a condition shall be deemed to be the same type of violation as the use of a property for a use not permitted under the District Regulations, for the reason that any Use permitted in a Conditional Zoning District is permitted only subject to the specified conditions.

6. Procedure

Information on and procedures for conditional zoning districts can be found in Section 16.2.

5.2 CONDITIONAL USE DISTRICTS

1. Purpose

It is recognized that certain types of Zoning Districts would be inappropriate at particular locations in the absences of special conditions. Where the applicant for rezoning desires property to be rezoned to such a District in such situations, the Conditional District is a means by which such special conditions can be imposed in the furtherance of the purpose of this Ordinance.

2. General Requirements

A. Application

Rezoning to a Conditional Use District is subject to the limitations set forth in Section 5.2.7. Conditional use permit applications for property with existing Conditional Use zoning will continue to be considered in accordance with the terms and provisions of this UDO.

B. Minimum Standards

Within a Conditional Use District, all standards and requirements of the corresponding Zoning District shall be met, except to the extent that the conditions imposed are more restrictive than those standards.

3. Uses within the District

Within a Conditional Use District, only those uses listed as permitted or conditional uses in the corresponding Zoning District shall be allowed. No use, however, shall be allowed except pursuant to a Conditional Use Permit authorized by the Board of Commissioners as provided herein.

4. Conditions

In addition to the limitation of the Use or Uses that may be authorized, any Conditional Use Permit issued as part of the Conditional Use zoning process may further specify the location on the property of the proposed Use, the number of dwelling units, the location and extent of supporting facilities such as parking lots, driveways, and access streets, the location and extent of buffer areas and other special purpose areas, the timing of development, the location and extent of rights-of-way and other areas to be dedicated for public purposes, and other such matters as the applicant may propose or the Board of Commissioners finds appropriate. The applicant will have a reasonable opportunity to consider and respond to any additional requirements prior to approval or denial of the application by the Board of Commissioners. In no instance shall any of these conditions be less restrictive than any requirements that would pertain to that particular development found elsewhere in a similar general zoning district.

5. Non-compliance to District Conditions

Any violation of a Use or condition included in the approval of conditional Use District shall be treated the same as any other violation of this Ordinance and shall be subject to the same remedies and penalties as any such violation. Any violation of such a condition shall be deemed to be the same type of violation as the use of a property for a Use not permitted under the District Regulations, for the reason that any Use permitted in a Conditional Use District is permitted only subject to the specified conditions.

6. Procedure

Information on and procedures for conditional use permits can be found in Section 14.

7. New Conditional Use Zoning Districts

Conditional Use zoning (referred to as CU) will not be applied to any new zoning requests upon the adoption date (11/10/2009) of this amendment. All parcels zoned CU prior to the amendment adoption date may go through the conditional use process or the owner/applicant may apply for a Conditional District (referred to as CD) rezoning.

SECTION 6
OVERLAY DISTRICTS ESTABLISHED

In addition to the Primary, Conditional Use, and Conditional Zoning Districts the following three Overlay Districts are hereby established with the designations, purposes and requirements as listed below.

6.1 MH-1: MANUFACTURED HOME OVERLAY DISTRICT

The purpose of the MH-1 Manufactured Home Overlay District is to provide for the principal use of land developed in harmony with the Primary or Underlying Zoning District regulations however, permitting the substitution of Manufactured Homes as a Principal Use type provided the specific design and/or installation regulations appearing in this section are met. No MH-1 Manufactured Home Overlay District shall consist of less than ten (10) existing contiguous lots or one hundred twenty thousand (120,000) square feet of unsubdivided land, excluding public right of way.

1. Permitted Uses

The following uses are permitted subject to obtaining a Zoning Permit from the Administrator:

All uses permitted in the underlying Primary Zoning District.

Manufactured Homes - Type 1 (permanent installation only)

2. District Requirements

All dimensional and other requirements of the underlying Principal Zoning District shall be complied with in addition to the following specific requirements:

Manufactured Homes placed in the MH-1 District as new or replacement units must meet or exceed the following standards:

A. Be occupied only as a single family dwelling;

B. Have the towing apparatus, wheels, axles, and transporting lights removed or concealed.

C. Have the longest axis oriented parallel or within a twenty (20) degree deflection of being parallel to the lot frontage.

D. Be anchored to a permanent foundation of concrete block and/or brick interior piers, or of reinforced concrete in full compliance with applicable building codes for permanent structures.

E. Have a continuous, permanent masonry foundation or masonry curtain wall constructed in accordance with the standards of the North Carolina Uniform

Residential Building Code for One- and Two- Family Dwellings, unpierced except for required ventilation and access, installed under the perimeter;

F. Have exterior siding, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction, consisting of one or more of the following: 1) vinyl or aluminum lap siding (whose reflectivity does not exceed that of flat white paint): 2) cedar or other wood siding; 3) wood grain, weather resistant press board siding: 4) stucco siding; or 5) brick or stone siding:

G. Have a roof pitch minimum vertical rise of three and one-half (3-1/2) feet for each twelve (12) feet of horizontal run;

H. Have a roof finished with a Class C or better roofing material that is commonly used in standard residential construction;

I. Is provided with a permanent front porch of at least 32 square feet in area constructed within 12 inches of the floor elevation and fully underpinned by permanent masonry to completely conceal the area beneath the porch and unit.

6.2 RESERVED

6.3 WP: WATERSHED PROTECTION OVERLAY DISTRICT

The purpose of the WP, Watershed Protection Overlay District is to provide for the Principal Use of land developed in harmony with the watersheds supply surface water to the area reservoirs.

1. Lot Area and Coverage Requirements

The minimum lot area within the WP Overlay Zoning District shall be 40,000 square feet or as required by the Primary Zoning District regulations whichever is greater. Maximum Lot Coverage permitted is twenty (20) percent.

6.4 TP: THOROUGHFARE PROTECTION OVERLAY DISTRICT

The purpose of the TP, Thoroughfare Protection Overlay Zoning District is to provide for the protection and preservation of thoroughfare streets to avoid undue congestion and significant deterioration of service levels.

1. Lot Width Requirements

The minimum Lot Width of all lots located wholly or in part within the TP Overlay Zoning District shall be 150 feet.

2. Parking Facility Setback

All Parking Facilities located within and/or serving Development and/or uses within the TP Overlay Zoning District shall provide a landscaped buffer setback 20 linear feet in width along the entire thoroughfare right-of-way, exclusive of driveway(s). The buffer setback shall be parallel to the street right-of-way. The entire buffer area shall be planted and maintained landscaping with permanent plantings.

3. Front Building Setback Line

All buildings located within the TP Overlay Zoning District shall be setback a minimum of 50 linear feet or as specified in the Primary Zoning District regulations, whichever is greater, as measured perpendicular to adjacent thoroughfare right-of-way lines.

6.5 FLOOD DAMAGE PREVENTION ORDINANCE

ARTICLE 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

SECTION A. STATUTORY AUTHORIZATION.

Municipal: The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Article 19 of Chapter 160A; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare.

Therefore, the Board of Commissioners for the Town of Waxhaw, North Carolina, does ordain as follows:

SECTION B. FINDINGS OF FACT.

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

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

SECTION C. STATEMENT OF PURPOSE.

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

(1) Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;

(2) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;

(3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;

(4) Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and

(5) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

SECTION D. OBJECTIVES.

The objectives of this ordinance are to:

(1) Protect human life, safety, and health;

(2) Minimize expenditure of public money for costly flood control projects;

(3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) Minimize prolonged business losses and interruptions;

(5) Minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;

(6) Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and

(7) Ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

ARTICLE 2. DEFINITIONS

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

"Accessory Structure (Appurtenant 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. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

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

"Appeal" A request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance.

"Area of Shallow Flooding" A designated Zone AO on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

"Area of Special Flood Hazard" see "Special Flood Hazard Area (SFHA)".

"Base Flood" The flood having a one (1) percent chance of being equaled or exceeded in any given year.

"Base Flood Elevation (BFE)" A determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a "Special Flood Hazard Area", it may be obtained from engineering studies available from a Federal, State, or other source using FEMA approved engineering methodologies. This elevation, when combined with the "Freeboard", establishes the "Regulatory Flood Protection Elevation".

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

"Building" see "Structure".

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

"Development" Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

"Disposal" As defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

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

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

"Existing Manufactured Home Park or Manufactured Home Subdivision" A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the initial effective date of the floodplain management regulations adopted by the community.

"Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:
(1) The overflow of inland or tidal waters; and/or
(2) The unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Boundary and Floodway Map (FBFM)" An official map of a community, issued by the Federal Emergency Management Agency, on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

"Flood Hazard Boundary Map (FHBM)" An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.

"Flood Insurance" The insurance coverage provided under the National Flood Insurance Program.

"Flood Insurance Rate Map (FIRM)" An official map of a community, issued by the Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

"Flood Insurance Study (FIS)" An examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

"Flood Prone Area" see "Floodplain"

"Flood Zone" A geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

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

"Floodplain Administrator" The Director of Engineering charged with the duty to administer and enforce the floodplain management regulations.

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

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

"Floodplain Management Regulations" This ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power. This term describes Federal, State or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

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

"Floodway" The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

"Freeboard" The height added to the Base Flood Elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge openings, and the hydrological effect of urbanization of the watershed. The Base Flood Elevation (BFE) plus the freeboard establishes the "Regulatory Flood Protection Elevation".

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

"Hazardous Waste Management Facility" As defined in NCGS 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

"Highest Adjacent Grade(HAG)" The highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

"Historic Structure" means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
(b) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
(c) Individually listed on a local inventory of historic landmarks in communities with a "Certified Local Government (CLG) Program"; or
(d) Certified as contributing to the historical significance of a historic district designated by a community with a "Certified Local Government (CLG) Program".

Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

"Letter of Map Change (LOMC)" means an official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

(a) Letter of Map Amendment (LOMA): An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
(b) Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.
(c) Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.
(d) Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

"Lowest Adjacent Grade (LAG)" The elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

"Lowest Floor" The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is

not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

"Manufactured Home" A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "Manufactured home" does not include a "recreational vehicle".

"Manufactured Home Park or Subdivision" A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Market Value" The building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.

"Mean Sea Level" For purposes of this ordinance, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

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

"Non-Encroachment Area" The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

"Post-FIRM" Construction or other development for which the "start of construction" occurred on or after the effective date of the initial Flood Insurance Rate Map.

"Pre-FIRM" Construction or other development for which the "start of construction" occurred before the effective date of the initial Flood Insurance Rate Map.

"Principally above Ground" That at least 51% of the actual cash value of the structure is above ground.

"Recreational Vehicle (RV)" A vehicle, which is:

(a) Built on a single chassis;
(b) 400 square feet or less when measured at the largest horizontal projection;
(c) Designed to be self-propelled or permanently towable by a light duty truck; and
(d) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Reference Level" Is the bottom of the lowest horizontal structural member of the lowest floor for structures within all Special Flood Hazard Areas.

"Regulatory Flood Protection Elevation" The "Base Flood Elevation" plus the "Freeboard". In "Special Flood Hazard Areas" where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two (2) feet of freeboard. In "Special Flood Hazard Areas" where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade.

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

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

"Salvage Yard" Any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

"Solid Waste Disposal Facility" Any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a) (35).

"Solid Waste Disposal Site" As defined in NCGS 130A-290(a) (36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

"Special Flood Hazard Area (SFHA)" The land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year, as determined in Article 3, Section B of this ordinance.

"Start of Construction" Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

"Structure" A walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

"Substantial Damage" Damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of "substantial improvement".

"Substantial Improvement" Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

(a) Any correction of existing violations of State or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or

(b) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

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

"Variance" Is a grant of relief from the requirements of this ordinance.

"Violation" The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Articles 4 and 5 is presumed to be in violation until such time as that documentation is provided.

"Water Surface Elevation (WSE)" The height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

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

ARTICLE 3. GENERAL PROVISIONS

SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES.

This ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction of the Town of Waxhaw.

SECTION B. BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its FIS dated October 16, 2008 for Union County and associated DFIRM panels, including any digital data developed as part of the Flood Insurance Study, which are adopted by reference and declared a part of this ordinance. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of The Town of Waxhaw are also adopted by reference and declared a part of this ordinance.

SECTION C. ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of Article 3, Section B of this ordinance.

SECTION D. COMPLIANCE.

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

SECTION E. ABROGATION AND GREATER RESTRICTIONS.

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

SECTION F. INTERPRETATION.

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

(a) considered as minimum requirements;

(b) liberally construed in favor of the governing body; and

(c) deemed neither to limit nor repeal any other powers granted under State statutes.

SECTION G. WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man- made or natural causes. This ordinance does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the Town of Waxhaw or

by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

SECTION H. PENALTIES FOR VIOLATION.

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall be enforced in accordance with Article 4 (D), hereof, and Section 17 of the Waxhaw Unified Development Ordinance, as amended.

ARTICLE 4. ADMINISTRATION

SECTION A. DESIGNATION OF FLOODPLAIN ADMINISTRATOR.

The Director of Engineering, or designee, hereinafter referred to as the "Floodplain Administrator", is hereby appointed to administer and implement the provisions of this ordinance.

SECTION B. FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS.

(1) Application Requirements. Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:

(a) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:

(i) The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;

(ii) The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Article 3, Section B, or a statement that the entire lot is within the Special Flood Hazard Area;

(iii) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Article 3, Section B;

(iv) The boundary of the floodway(s) or non-encroachment area(s) as determined in Article 3, Section B;

(v) The Base Flood Elevation (BFE) where provided as set forth in Article 3, Section B; Article 4, Section C; or Article 5, Section D;

(vi) The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and

(vii) The certification of the plot plan by a registered land surveyor or professional engineer.

(b) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:

(i) Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;

(ii) Elevation in relation to mean sea level to which any non-residential structure in Zone AE, A or AO will be floodproofed; and

(iii) Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed.

(c) If floodproofing, a floodproofing Certificate (FEMA Form 81-65) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.

(d) A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:

(i) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and

(ii) Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Article 5, Section B (4) (c) when solid foundation perimeter walls are used in Zones A, AO, AE, and A1-30.

(e) Usage details of any enclosed areas below the lowest floor.

(f) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.

(g) Certification that all other Local, State and Federal permits required prior to floodplain development permit issuance have been received.

(h) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Article 5, Section B, subsections (6) and (7) of this ordinance are met.

(i) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

(2) Permit Requirements. The Floodplain Development Permit shall include, but not be limited to:

(a) A description of the development to be permitted under the floodplain development permit.

(b) The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Article 3, Section B.

(c) The Regulatory Flood Protection Elevation required for the reference level and all attendant utilities. (d) The Regulatory Flood Protection Elevation required for the protection of all public utilities.

(e) All certification submittal requirements with timelines.

(f) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.

(g) The flood openings requirements, if in Zone A, AO, AE or A1-30.

(h) Limitations on use of enclosed areas below the lowest floor (if applicable), i.e., parking, building access and limited storage only.

(3) Certification Requirements.

(a) Elevation Certificates

(i) An Elevation Certificate (FEMA Form 81-31) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to mean sea level. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder

prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.

(ii) An Elevation Certificate (FEMA Form 81-31) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to mean sea level. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.

(iii) A final as-built Elevation Certificate (FEMA Form 81-31) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

(b) Floodproofing Certificate

If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form 81-65), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

(c) If a manufactured home is placed within Zone A, AO, AE, or A1-30 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of Article 5, Section B(3)(b).

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

(e) Certification Exemptions. The following structures, if located within Zone A, AO, AE or A1-30, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:

(i) Recreational Vehicles meeting requirements of Article 5, Section B (6) (a); (ii) Temporary Structures meeting requirements of Article 5, Section B (7); and

(iii) Accessory Structures less than 150 square feet meeting requirements of Article 5, Section B (8).

(4) Determinations for existing buildings and structures. For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

(a) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;

(b) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;

(c) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and

(d) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this ordinance is required.

SECTION C. <u>DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.</u>

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

(1) Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this ordinance have been satisfied.

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

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

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

(5) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Article 5, Section F are met.

(6) Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of Article 4, Section B(3).

(7) Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Article 4, Section B(3).

(8) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of Article
4, Section B (3).

(9) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Article 4, Section B(3) and Article 5, Section B(2).

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

(11) When Base Flood Elevation (BFE) data have not been provided in accordance with the provisions of Article 3, Section B, obtain, review, and reasonably utilize any BFE data, along with floodway data or non-encroachment area data available from a Federal, State, or other source, including data developed pursuant to Article 5, Section D (2) (b), in order to administer the provisions of this ordinance.

(12) When Base Flood Elevation (BFE) data are provided but no floodway or non-encroachment area data have been provided in accordance with the provisions of Article 3, Section B, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of this ordinance.

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

(14) Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.

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

(16) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.

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

(18) Make periodic inspections throughout the Special Flood Hazard Areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on

any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

(19) Follow through with corrective procedures of Article 4, Section D.

(20) Review, provide input, and make recommendations for variance requests.

(21) Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and other official flood maps and studies adopted in accordance with the provisions of Article 3, Section B of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.

(22) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).

SECTION D. <u>CORRECTIVE PROCEDURES.</u>

(1) Violations to be Corrected: When the Floodplain Administrator finds violations of applicable State and local laws; it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.

(2) Actions in Event of Failure to Take Corrective Action: If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:

(a) That the building or property is in violation of the floodplain management regulations;

(b) That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

(c) That following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.

(3) Order to Take Corrective Action: If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less

than sixty (60) calendar days, nor more than (120) calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.

(4) Appeal: Any owner who has received an order to take corrective action may appeal the order to the Board of Adjustment in accordance with Section 15 of the Waxhaw Unified Development Ordinance, as amended. In the absence of an appeal, the order of the Floodplain Administrator shall be final.

(5) Failure to Comply with Order: If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the Board of Adjustment following an appeal, the owner shall be subject to the penalties set forth in Article 3, Section H hereof.

SECTION E. <u>VARIANCE PROCEDURES.</u>

(1) The Board of Adjustment as established by the Town of Waxhaw shall hear and decide requests for variances from the requirements of this ordinance and Section 15 of the Waxhaw Unified Development Ordinance, as amended.

(2) Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.

(3) Variances may be issued for:

(a) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;

(b) Functionally dependent facilities if determined to meet the definition as stated in Article 2 of this ordinance, provided provisions of Article 4, Section E(9)(b), (c), and (e) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or

(c) Any other type of development provided it meets the requirements of this Section.

(4) In passing upon variances, the Board of Adjustment shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, Section 15 of the Waxhaw Unified Development Ordinance and:

(a) The danger that materials may be swept onto other lands to the injury of others;

(b) The danger to life and property due to flooding or erosion damage;

(c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(d) The importance of the services provided by the proposed facility to the community;

(e) The necessity to the facility of a waterfront location as defined under Article 2 of this ordinance as a functionally dependent facility, where applicable;

(f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(g) The compatibility of the proposed use with existing and anticipated development;

(h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(i) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(j) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

(k) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

(5) A written report addressing each of the above factors shall be submitted with the application for a variance.

(6) Upon consideration of the factors listed above and the purposes of this ordinance, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this ordinance and the Waxhaw Unified Development Ordinance.

(7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE will result in increased

premium rates for flood insurance up to $25 per $100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

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

(9) Conditions for Variances:

(a) Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.

(b) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.

(c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(d) Variances shall only be issued prior to development permit approval. (e) Variances shall only be issued upon:

(i) A showing of good and sufficient cause;

(ii) A determination that failure to grant the variance would result in exceptional hardship; and

(iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(10) A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.

(a) The use serves a critical need in the community.

(b) No feasible location exists for the use outside the Special Flood Hazard Area.

(c) The reference level of any structure is elevated or floodproofed to at least the Regulatory Flood Protection Elevation.

(d) The use complies with all other applicable Federal, State and local laws.

(e) The Town of Waxhaw has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

ARTICLE 5. PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A. GENERAL STANDARDS.

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

(1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.

(2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.

(4) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the Regulatory Flood Protection Elevation. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches.

(5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.

(7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(8) Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this ordinance, shall meet the requirements of “new construction” as contained in this ordinance.

(9) Nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the Regulatory Flood Protection Elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.

(10) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the Regulatory Flood Protection Elevation and certified in accordance with the provisions of Article 4, Section B(3).

(11) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.

(12) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(13) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(14) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

(15) When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.

(16) When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple Base Flood Elevations (BFEs), the provisions for the more restrictive flood hazard risk zone and the highest BFE shall apply.

SECTION B. <u>SPECIFIC STANDARDS</u>

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data have been provided, as set forth in Article 3, Section B, or Article 5, Section D, the following provisions, in addition to the provisions of Article 5, Section A, are required:

(1) Residential Construction. New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than two feet above the Regulatory Flood Protection Elevation, as defined in Article 2 of this ordinance.

(2) Non-Residential Construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than one foot above the Regulatory Flood Protection Elevation, as defined in Article 2 of this ordinance. Structures located in A, AE, AO, and A1-30 Zones may be flood proofed to the Regulatory Flood Protection Elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Regulatory Flood Protection Elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with Article 5, Section G (2). A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Article 4, Section B (3), along with the operational plan and the inspection and maintenance plan.

(3) Manufactured Homes.

(a) New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than two feet above the Regulatory Flood Protection Elevation, as defined in Article 2 of this ordinance.

(b) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for
Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.

(c) All enclosures or skirting below the lowest floor shall meet the requirements of Article 5, Section B (4).

(d) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.

(4) Elevated Buildings. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:

(a) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;

(b) Shall be constructed entirely of flood resistant materials at least to the Regulatory Flood Protection
Elevation; and

(c) Shall include, in Zones A, AO, AE, and A1-30, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:

(i) A minimum of two flood openings on different sides of each enclosed area subject to flooding;

(ii) The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;

(iii) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;

(iv) The bottom of all required flood openings shall be no higher than one (1) foot above the adjacent grade; (v) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and

(vi) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

(5) Additions/Improvements.

(a) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

(i) Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.

(ii) A substantial improvement, the existing structure and the addition and/or improvements must comply with the standards for new construction.

(b) Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.

(c) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

(i) Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.

(ii) A substantial improvement, the existing structure and the addition and/or improvements must comply with the standards for new construction.

(6) Recreational Vehicles. Recreational vehicles shall either:

(a) be on site for fewer than 180 consecutive days; or

(b) be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions)

(c) Permanent Placement. Recreational vehicles that do not meet the limitations of Temporary placement shall meet all the requirements for new construction.

(7) Temporary Non-Residential Structures. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

(a) A specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) year;

(b) The name, address, and phone number of the individual responsible for the removal of the temporary structure;

(c) The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);

(d) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and

(e) Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.

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

(a) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);

(b) Accessory structures shall not be temperature-controlled;

(c) Accessory structures shall be designed to have low flood damage potential;

(d) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

(e) Accessory structures shall be firmly anchored in accordance with the provisions of Article 5, Section A (1);

(f) All service facilities such as electrical shall be installed in accordance with the provisions of Article 5, Section A (4); and

(g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Regulatory Flood Protection Elevation in conformance with the provisions of Article 5, Section B (4) (c).

An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with Article 4, Section B (3).

(9) Tanks. When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

(a) Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;

(b) Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be attached to an elevated to or above the design flood elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;

(c) Above-ground tanks not elevated. Above-ground tanks that do not meet the elevation requirements of Section B (2) of this ordinance shall be permitted in flood hazard areas provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.

(d) Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:

(i) at or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and

(ii) anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

(10) Other Development. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

(a) Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Article 5, Section F of this ordinance.

(b) Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Article 5, Section F of this ordinance

(c) Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Article 5, Section F of this ordinance.

SECTION C. RESERVED

SECTION D. STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Article 3, Section B, where no Base Flood Elevation (BFE) data have been provided by FEMA, the following provisions, in addition to the provisions of Article 5, Section A, shall apply:

(1) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(2) The BFE used in determining the Regulatory Flood Protection Elevation shall be determined based on the following criteria:

(a) When Base Flood Elevation (BFE) data are available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in Article 5, Sections A and B.

(b) When floodway or non-encroachment data are available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of Article 5, Sections B and F.

(c) All subdivision, manufactured home park and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such BFE data shall be adopted

by reference in accordance with the provisions of Article 3, Section B and utilized in implementing this ordinance.

(d) When Base Flood Elevation (BFE) data are not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Article 2. All other applicable provisions of Article 5, Section B shall also apply.

SECTION E. STANDARDS FOR RIVERINE FLOODPLAINS WITH BASE FLOOD ELEVATIONS BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS

Along rivers and streams where Base Flood Elevation (BFE) data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

(1) Standards of Article 5, Sections A and B; and

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

SECTION F. <u>FLOODWAYS AND NON-ENCROACHMENT AREAS</u>

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Article 3, Section B. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to the standards outlined in Article 5, Sections A and B, shall apply to all development within such areas:

(1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed and certified by a registered professional civil engineer, in accordance with standard engineering practice that the proposed encroachment would not result in any (0.00 feet) increase in the flood levels during the occurrence of the base flood and/or future base flood (if applicable). The certification and technical data shall be presented to the Floodplain Administrator for any change which would cause a rise in the base flood and/or future base flood elevation (if applicable) and will require notification of adjoining property owners and a Conditional Letter of Map Revision (CLOMR) from FEMA. If approved

and constructed, as-built plans must be submitted by the property owner and approved by FEMA and a letter of map revision (LOMR) issued. A certificate of occupancy will not be issued without the above stated letter of map revision.

(2) If Article 5, Section F (1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.

(3) Construction of any vehicular parking lot in association with an Active Park or Passive Park shall be allowed provided that a permit is obtained from the Floodplain Administrator demonstrating that (i) no fill is added to the floodway or non-encroachment area and (ii) there are no obstructions to the floodway or non-encroachment area. Any parking area authorized under this section does not have to be paved but must otherwise comply with other town regulations.

(4) No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:

(a) The anchoring and the elevation standards of Article 5, Section B (3); and

(b) The no encroachment standard of Article 5, Section F (1).

SECTION G. <u>STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AO)</u>

Located within the Special Flood Hazard Areas established in Article 3, Section B, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Article 5, Sections A and B, all new construction and substantial improvements shall meet the following requirements:

(1) The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of four (4) feet, above the highest adjacent grade; or at least four (4) feet above the highest adjacent grade if no depth number is specified.

(2) Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Article 5, Section G (1) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with Article 4, Section B (3) and Article 5, Section B (2).

(3) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

ARTICLE 6. LEGAL STATUS PROVISIONS

SECTION A. EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION ORDINANCE.

This ordinance in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted December 28, 1998 as amended, and currently located in Section 6.5 of UDO, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of the Town of Waxhaw located in Section 6.5 which are not reenacted herein are repealed.

SECTION B. EFFECT UPON OUTSTANDING FLOODPLAIN DEVELOPMENT PERMITS.

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

SECTION C. SEVERABILITY.

If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

SECTION D. EFFECTIVE DATE.

This ordinance shall become effective upon adoption.

SECTION E. ADOPTION CERTIFICATION.

I hereby certify that this is a true and correct copy of the flood damage prevention ordinance as adopted by the Board of Commissioners of Waxhaw, North Carolina, on the 25th day of November, 2013.

WITNESS my hand and the official seal of , this the day of _, 2013_.

_____ _____

Town Clerk Mayor

6.6 AO: AIRPORT OVERLAY DISTRICT

1. Purpose

The Airport Overlay (AO) District is intended to protect the airport environ from the encroachment of incompatible land uses which present hazards to users' of the airport as well as to persons residing or working in the airport vicinity. It is the intent of this Ordinance to restrain influences which are adverse to the airport property and safe conduct of aircraft in the vicinity of the Monroe Regional Airport, to prevent creation of conditions hazardous to aircraft operation, to prevent conflict with land development which may result in loss of life and property, and to encourage development which is compatible with airport use characteristics within the intent and purpose of zoning. To this end, AO designation, when overlaid to a basic district classification, is intended to coordinate the purpose and intent of the Ordinance with other regulations duly established by Waxhaw, whose primary intent is to further the purposes set out above.

2. Applicability

The Airport Overlay District is not intended to be utilized as a district classification, but as a designation that identifies areas subject to regulations that are supplementary to the regulations .of the district to which such designation is attached, appended, or overlaid. Regulations which apply to areas designated on the zoning map as being within such appended or overlaid designation must be determined by joint reference to the regulations of both the basic district classification and the overlay classification.

3. Definitions

The following definitions shall apply to this Section 6.6. For purposes of this section, where there is a conflict between these definitions and those found in Section 8.2, the definitions listed herein shall apply:

AIRPORT: Monroe Regional Airport

AIRPORT ELEVATION: The highest point of the airport's useable landing area measured in feet above mean sea level (679.0 feet).

APPROACH SURFACE: A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section 6.6.5 of this Ordinance.

APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL ZONES: These zones are set forth in Section 6.6.4 of this Ordinance.

CONICAL SURFACE: A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of four thousand (4,000) feet.

HAZARD TO NAVIGATION: An obstruction determined to have a substantial adverse effect on the safety and efficient utilization of the navigable airspace.

HEIGHT: For the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the zoning map, the datum shall be a mean sea level elevation unless otherwise specified.

HORIZONTAL SURFACE: A horizontal plane one hundred fifty (150) feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

LARGER THAN UTILITY RUNWAY: A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet-powered aircraft.

NONCONFORMING USE: Any pre-existing structure, object of natural growth, or use of land, which is inconsistent with the provisions of the Ordinance or an amendment thereto.

NONPRECISION INSTRUMENT RUNWAY: A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.

OBSTRUCTION: Any structure, growth, or other object, including a mobile object, which exceeds a limiting height after set forth in Section 6.6.5 of this Ordinance.

PERSON: An individual, firm, partnership, corporation, company, association, joint stock association or government entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.

PRECISION INSTRUMENT RUNWAY: A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

PRIMARY SURFACE: A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends two-hundred (200) feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width, of the primary surface is set forth in Section 6.6.4 of this Ordinance. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

RUNWAY: A defined area on an airport-prepared for landing and takeoff of aircraft along its length.

STRUCTURE: An object, including a mobile object, constructed or installed by man, including by without limitation, buildings, towers, cranes, smokestacks, earth formations, and overhead transmission lines.

TRANSITIONAL SURFACES: These surfaces extend outward at 90-degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the aides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured from the edge of the approach surface and at 90-degree angles to the extended runway centerline.

TREE: Any object of natural growth.

UTILITY RUNWAY: A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.

VISUAL RUNWAY: A runway intended solely for the operation of aircraft using visual approach procedures.

4. Airport Zones Established

In order to carry out the provisions of this Ordinance, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the Monroe Regional Airport. Such zones are shown on the Official Zoning Map of Waxhaw. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and are defined as follows:

Nonprecision Instrument Runway Approach Zone (AO-AN): The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide: The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

Horizontal Zone (AO-H): The horizontal zone is established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

Conical Zone (AO-C): The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward there, from a horizontal distance of 4,000 feet.

Precision Instrument Runway Approach Zone (AO-A): The inner edge of this approach zone coincides with the width of the primary surface and is one-thousand (1,000) feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

Transitional Zone (AO-T): The transitional zones are the areas beneath the transitional surfaces.

5. Airport Zone Height Limitations

Except as otherwise provided in this Ordinance, no structure shall be erected, altered or maintained, and no trees shall be allowed to grow in any zone created by this Ordinance to a height in excess of the applicable height limitations herein established for each zone in questions as follows:

Precision Instrument Runway Approach Zone (AO-AP)

Sloes fifty (50) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of ten-thousand (10,000) feet along the extended runway centerline; thence, slopes upward forty (40) feet horizontally for each foot vertically to an additional horizontal distance of forty-thousand (40,000) feet along the extended runway centerline.

Nonprecision Instrument Runway Approach Zone (AO-AN):

Slopes thirty-four (34) feet outward for each foot upward beginning at the end of the horizontal distance of ten thousand (10,000) feet along the extended runway centerline.

Transitional Zones (AO-T):

Slopes seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface, and extending to a height of 150 feet above the airport elevation (or 829 feet above mean sea level). In addition to the, foregoing there are established height limits sloping seven feet outward for each foot upward beginning at the sides of and the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the side of and the same elevation as the approach surface, and extending a horizontal

Horizontal Zone (AO-H)

Established at 150 feet above the airport elevation or at a height of 829 feet above mean sea level.

Excepted Height Limitations
Nothing in this Ordinance shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 100 feet above the surface of the land.

Conical Zone (AO-C):
Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation or at a height of 1,029 feet above sea level.

6. Use Restrictions

Notwithstanding any other provisions of this Ordinance, no use may be made of land or water within any zone established by this Ordinance in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

7. Nonconforming Uses

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

B. Marking and Lighting: Notwithstanding the preceding provision of this Ordinance, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Monroe Regional Airport Authority to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated and maintained at the expense of the Monroe Regional Airport Authority.

8. Permits

A. Future Uses: Except as specifically provided in 1, 2, and 3 hereunder, no material change shall be made in toe use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit therefore shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to

permit it, to be determined whether the resulting use, structure or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this Ordinance shall be granted unless a variance has been approved in accordance with Section 6.6.8(c) and 15.3.

1. In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than one-hundred (100) feet of vertical height above the ground except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones.
2. In areas lying within the limits of the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than one-hundred (100) feet of vertical height above the ground, except when such tree or structure would extend above the height limits prescribed for such approach zones.
3. In areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than one-hundred (100) feet above the ground, except when, such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limits prescribed for such transition zones.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration of any structure, or growth of any tree in excess of any of the height limits established by this Ordinance except as set forth in Section 6.6.5.

Existing Uses: No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become greater hazard to air navigation than it was on the effective date of this Ordinance, or any amendments thereto, or than it is when the application for a permit is made. Except as indicated, all applications for such permit shall be granted.

B. Nonconforming Uses Abandoned or Destroyed: Whenever the Administrator determines that a nonconforming tree or structure has been abandoned or more than 60% torn down, physically deteriorated or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the regulations of this Ordinance.

C. Variances: Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in compliance with the regulations prescribed in this Ordinance may apply to the Board of Adjustment for a variance from such regulations. The application for a variance shall be accompanied by a

determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances **shall** be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief, if granted, will not be contrary to the public interest, will not create hazard to air navigation, will do substantial justice and will be in accordance with the spirit of this Ordinance. Additionally, the Board of Adjustment may consider no application for a variance to the requirements of this Ordinance unless a copy of this application has been furnished to the Director of the Monroe Regional Airport for advice as to the aeronautical effects of the variance. If the Airport Director does not respond within thirty days after receipt, the Board of Adjustment may act on its own to grant or deny said application.

D. Obstruction Marking and Lighting: Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Ordinance and be reasonable in circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Board of Adjustment, this condition may be modified to require the owner to permit the Monroe Regional Airport Authority at its own expense, to install, operate, and maintain the necessary markings and lights.

9. Enforcement

It shall be the duty of the Administrator to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Administrator upon a form published for that purpose. Applications required by the Ordinance to be submitted to the Administrator shall be promptly considered and granted or denied. The Administrator shall forthwith transmit applications for action by the Board of Adjustment.

SECTION 7
OFFICIAL MAPS ADOPTED – DISTRICT BOUNDARIES ESTABLISHED

The boundaries of the Districts are shown upon the Maps accompanying this Ordinance and made a part hereof. The Zoning Maps and all the notations and other information shown thereon are thereby made a part of this Ordinance the same as if such information set forth on the Maps were all fully described and set out herein. The Zoning Maps properly attested are on file in the office of the Town Clerk.

In the creation, by this Ordinance, of the respective Districts, the Board of Commissioners of the Town of Waxhaw has given due and careful consideration to the peculiar suitability of each and every District for the particular regulations applied thereto, and the necessary, proper, and comprehensive groupings and arrangements of various Uses and densities of population in accordance with a well-considered comprehensive plan for the physical development of the Town.

The boundaries of such Districts as are shown upon the Maps adopted by this Ordinance are hereby adopted and provisions of this Ordinance governing the Use of land and Buildings, the height of Buildings, Building site areas, the size of yards about Buildings, and other matters as hereinafter set forth, are hereby established and declared to be in effect upon all land included within the boundaries of each and every District shown upon said Maps.

7.1 INTERPRETATION OF DISTRICT BOUNDARIES

Where uncertainty exists at to boundaries of any District shown on said Maps the following rules shall apply:

1. Where such District boundaries are indicated as approximately following street lines, railroad lines, lot lines, creeks, and other features shown on the Map such lines shall be construed to be such boundaries.

2. Where such District boundaries are indicated on the Map to be a certain distance from a certain feature (such as a state distance shall be the determining factor in establishing the District boundary.

3. Where such District boundary is not indicated by a feature and is not the result of a stated dimension, the boundary shall be determined by use of the scale appearing on the same Map.

4. In case any further uncertainty exists, the Board of Adjustment shall interpret the intent of the Map as to the location of such boundary.

SECTION 8
DEFINITIONS

8.1 GENERAL PURPOSE

For the purpose of interpreting this Ordinance, certain words and terms are herein defined. The following rules of construction shall be used in interpreting words contained in this Ordinance. Words not specifically defined shall assume their everyday dictionary definitions. Where a word or words may be interpreted in more than one manner, the more restrictive meaning shall be employed.

1. The word "person" includes a firm, association, organization, partnership, corporation, trust, and company as well as an individual.

2. The word "lot" includes the word "plot" or "parcel".

3. The words "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied".

4. The word "Zoning Map", or "Waxhaw Zoning Map", or "Official Zoning Map" shall mean the Official Zoning Map of Waxhaw, North Carolina, as amended.

5. Any word denoting gender includes the female and the male.

6. The term "Board of Commissioners" or “Town Board” or “Town Commission” shall mean the "Board of Commissioners of Waxhaw, North Carolina".

7. The term "Planning Board" shall mean the "Planning Board of Waxhaw, North Carolina".

8. The term "Board of Adjustment" shall mean the "Board of Adjustment of Waxhaw, North Carolina".

9. The term "Administrator" shall mean the "Unified Development Ordinance Administrator of Waxhaw, North Carolina" or a person(s) so designated to perform some or all of the tasks of the Administrator.

10. The term "Street" shall mean "Road".

11. In the event of a conflict between the text of these regulations and any caption, figure, illustration, or table, the text of these regulations shall control.

12. In the event of any conflict in limitations, requirements, or standards applying to an individual use or structure, the more stringent or restrictive provision shall apply.

13. The words "shall", "must", and "will", are mandatory in nature, implying an obligation or duty to comply with the particular provision.

14. The word "may" is permissive in nature, except when the context of the particular use is negative. In such cases it shall be construed as being mandatory.

15. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise.

16. Words used in the masculine gender include the feminine gender.

17. Any reference to an Article or Section shall mean an Article or Section of this Ordinance, unless otherwise specified.

18. The terms "Residential zone (district)", "Office zone (district)", "Commercial zone (district)", or "Industrial zone (district)" shall also be deemed to respectively mean the Residential, Office, Commercial, or Industrial portions of a Planned Unit Development or a Planned Residential Development.

19. Additional definitions pertaining to the Airport Overlay District (AO) are found in Section 6.6. Additional definitions pertaining to the FP Flood Hazard District are found in Section 6.5. Additional definitions regarding Tree Preservation standards are also contained in Section 9. Additional definitions pertaining to vested right regulations are found in Section 17. Where conflicts arise between those definitions and any definitions contained herein, the definitions contained in those sections shall control as applied to those particular sections.

20. Words used in the present tense include the future tense.

21. The word "structure" shall include the word "building".

8.2 DEFINITIONS

ABC Store - A retail establishment at which liquors are sold to the general public and which is run under the auspices of the local Alcohol and Beverage Control (ABC) Board.

Accessory Building - A detached subordinate Building, the Use of which is incidental to that of the Principal Structure and located on the same Lot therewith.

Accessory Structure - A detached subordinate Structure, the Use of which is incidental to that of the Principal Structure and located on the same lot therewith.

Administrator, Unified Development Ordinance – The person(s) appointed by the Waxhaw Board of Commissioners to administer and enforce this Ordinance. Among other things, such person shall have the authority to approve zoning permits, issue notices of violation, and approve final plats as called for under this Ordinance. This person may also be referred to as the "Administrator."

Adult Establishment - See definition as per North Carolina General Statute 14-202.10, as may be amended.

Alley – A dedicated way that affords secondary access to the side or rear of abutting property. Side yards abutting alleys will meet the same requirements as street side yards or corner lots. Alleys may be considered for planned residential developments.

Alteration - A change in the size, configuration, or location of a structure; or a change in the use of a structure or lot from a previously approved or legally existing size, configuration, location, or use.

Amusement Park, Outdoors - A permanent, outdoor, pedestrian-oriented facility containing structures and facilities which house devices for entertainment, including rides, booths for the conduct of games, food and souvenir stands, and buildings for shows and entertainment.

Amusements, Indoor - Establishments that provide commercial recreation activities completely within an enclosed structure such as video arcades, shooting ranges, and bowling alleys.

Amusements, Outdoor - Establishments that provide commercial recreation activities primarily outdoors such as miniature golf establishments; go-cart facility; theme parks, carnivals, fairgrounds, and midways; paintball parks; and water rides.

Animal Hospital (Indoor) - A place where animals are given medical or surgical

treatment and the boarding of animals is incidental to the hospital use. All facilities associated with an animal hospital shall be located indoors.

Animal Kennel - A use or structure intended and used for the breeding or accommodation of small domestic animals for sale or for the training or overnight boarding of animals for persons other than the owner of the lot, but not including a veterinary clinic in which the overnight boarding of animals is necessary for or accessory to the testing and medical treatment of the physical disorders of animals.

Animal Shelter - A public, non-profit or not-for-profit facility at which dogs, cats, and other domesticated animals are kept (primarily outdoors) for purposes of distribution to the general public.

Animal Supply Store - A retail establishment whose business is limited to the sale of supplies (e.g., feeds and pharmaceuticals) and equipment (e.g., bridles, barbed wire) related to the keeping of horses and farm animals.

Animation - The movement, or the optical illusion of movement of any part of the sign structure, design or pictorial segment including the movement of any illumination of the flashing, scintillating or varying of light intensity. The automatic changing of all or any part of the facing of a sign shall be considered to be animation. Also included in this definition are signs having "chasing action" which is the action of a row of lights commonly used to create the appearance of motion.

Art Gallery - A commercial establishment where individual pieces of art are sold to the general public on a retail basis. Works of art may also be sold on an auction basis at such an establishment.

Artist Studio and Related Workshops – The assembly, fabrication, production or processing of goods that involve the work of artisans or craftsman including, but not limited to, potters, metal smiths, painters, glass blowers or woodsmen. The outside of the building is visually undifferentiated from an office building or a residentially-scaled garage.

Attic - the interior part of a building contained within a pitched roof structure.

Auction House - A facility that is used for the purpose of having auctions on a regularly established basis.

Automobile Body Shop - A business which primarily involves the painting and/or external repair of damaged vehicles.

Automobile Broker - A business dealing with the trading of automobiles without the use of a sales lot.

Automobile Club - An establishment that contracts out emergency auto services (e.g., fixing of flat tires, opening locked doors) to members through a network of independent automobile service stations. On-premise services including the sale of traveler's checks, travel guides, and travel agency services, may also be provided to club members and the general public.

Automobile Detailing Shop - An establishment primarily engaged in the hand cleaning and waxing of automobiles. Such activities may take place both indoors and outdoors. Such facilities are distinguished from "Automobile Washes" in that there is typically no automated equipment involved with the cleaning or waxing of vehicles.

Automobile Parts and Repair Store – A retail establishment primarily engaged in the selling of automobile and automotive parts. On-site repair and maintenance of vehicles and the retail sale of (pumped) automotive fuels may be provided.

Automobile Parts and Supply Store – A retail establishment engaged in the selling of automobile and automotive parts, supplies, and accessories. The sale of automotive fuels (in pumps) shall be prohibited. This type of retail service is one that provides limited repair such as, but not limited to, replacement of windshield wipers, testing of batteries, etc. In no case shall vehicles remain in the parking lot over night.

Automobile Repair Garage - A commercial establishment whose primary purpose involves the maintenance and servicing of vehicles. This use does not include automobile body shops. No nuisance or junk vehicles that are in violation of the Town of Waxhaw' Junk Vehicle Ordinance shall be allowed on premises.

Automobile Salvage Yard - See "Junk Yard and Automobile Salvage Yard".

Automobile Service Station/Gas Station - Establishment that primarily retails automotive fuels. These establishments may further provide services such as automotive maintenance repair, automotive oils, and/or replacement parts and accessories. Gas stations include structures that are specialized for selling gasoline with storage tanks, often underground or hidden. The sale of food and other items as well as car washes shall be incidental to the gas station.

Automotive Towing and Wrecker Service - An establishment primarily engaged in the towing of motor vehicles and vehicular storage associated with vehicle accidents and

violations. This shall not include vehicular salvaging operations or the sale of salvaged vehicular parts. This use is not to be construed as a junkyard or an automobile salvage yard.

Automobile Wash (i.e., self-service car washes) - A commercial establishment primarily engaged in the washing of automobiles, motorcycles, and pick-up and panel trucks. Such washing shall be done manually by the customer or by fully automated machines. (i.e., the use of fully automated devices that move the vehicle through a washing device shall not be permitted). Accessory self-vacuuming facilities shall be allowed.

Automobile Wash (i.e., automatic car wash) - A commercial establishment primarily engaged in the washing of automobiles, motorcycles, and pick-up and panel trucks using a combination of personnel and automated systems to wash the vehicle. The retail sale of fuels and related automotive goods may also be provided on-premises on an accessory basis.

Automobile Wrecker Service - See "Automobile Towing and Wrecker Service"

Awning - A protective cover over a door, entrance, window, or outdoor service area that is attached to or cantilevered from a building. An “awning” may also be referred to as a “canopy.” Permanent marquees and porticoes, which are designed as a continuous or integral part of the structure, shall not be considered awnings.

Bakery (Retail) - The use of a structure or building for the production of bakery products including, but not limited to, breads, cakes, pastries, and doughnuts. When identified in this Ordinance as a retail use, the bakery products produced is for the direct sale to the consumer with no wholesale production or sales. Wholesale bakeries, for the purpose of this Ordinance, are considered a "manufacturing" use.

Balloon - A nonporous bag of material filled with heated or non-heated air or gas so as to rise of float in the atmosphere.

Bank - See "Financial Institution"

Bank Teller Machine (i.e., ATM’s) - An outdoor self-service facility, normally accessible twenty- four hours daily, where patrons can access cash and certain other banking services. The machines may be housed outdoors or within its own enclosed booth.

Banner - A sign or outside advertising display having the character, letters, illustrations, ornamentation, symbols, color or visual representation applied to

cloth, paper, vinyl, fabric, plastic, or like kind of malleable material with or without frame. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

Bar- See "Lounge."

Bay Window - A window or series of windows forming a bay or recess in a room and projecting outward from the wall.

Beauty Shop (Beauty Salon) – An establishment that primarily provides hair care services (i.e. cuts, color, styling, etc.). Accessory services may include skin care, nail care, massage therapy and similar spa type services.

Bed and Breakfast Inn - A business of not more than 12 guest rooms that offers bed and breakfast accommodations to at least nine but not more than 23 persons per night for a period of less than one week, and that:

a. Does not serve food or drink to the general public for pay;
b. Serves only the breakfast meal, and that meal is served only to overnight guests of the business;
c. Includes the price of breakfast in the room rate; and
d. Is the permanent residence of the owner or the manager of the business.

Bicycle Lane - a dedicated lane for cycling within a vehicular Street, demarcated by striping.

Bicycle Lane, Protected - a dedicated lane for cycling within a vehicular Street, demarcated by striping and separated by either a planted buffer or barrier.

Bill Board - An off-premises sign owned by a person, corporation or other entity that engages in the business of selling the advertising space on that sign.

Book Store - A commercial establishment where books are the primary item sold. An establishment that sells books and meets the definition of "adult use", as herein defined, shall not be considered a "book store".

Building - Any Structure having a roof supported by walls or columns constructed or Used for residence, business, industry or other public or private purposes.

Building System - any utility, mechanical, electrical, structural, engross, or fire protection/safety system.

Building and Home Materials Center (i.e., hardware stores) - A retail establishment which may sell various household goods, paints, building and hardware products, household animal supplies, nursery and yard goods, and durable goods (e.g., lawn mowers, appliances, etc.) Such an establishment is commonly referred to as a "hardware store". Such establishment shall have a gross leasable area of no greater than fifteen-thousand (15,000) square feet. All retail stock (except plant materials) which is stored outdoors must be screened in accordance with Section 9.8.

Building Front - The linear length of building facing a street right-of-way or in the case of a planned unit development, a legal private access road.

Building Height - The vertical distance from the mean elevation of the finished grade along the front of the building to the highest point of a flat roof, or to the deck line of a mansard roof, or to the mean height level between eaves and ridges for gable, hip and gambrel roofs. Roof appurtenances such as sky lights; roof structures for elevators; stairways; tanks; heating, ventilating and air-conditioning equipment; or similar operating and/or maintenance equipment shall be excluded from this measurement. In computing the height of a building, the height of a basement, if below the grade from which the height is measured, shall not be included.

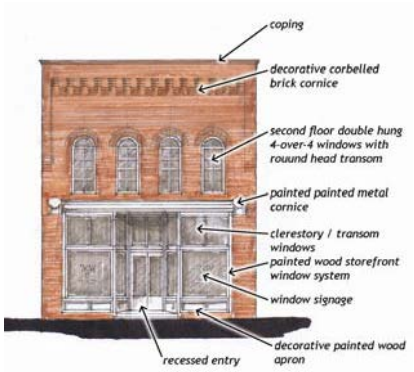
Building Line - A line perpendicular to the Lot Depth that establishes the horizontal distance between the Structure and the front property line excluding the outermost steps, uncovered porches, gutters, and similar features.

Build-to Line – An alignment established a certain distance from the curb line to a line along which the building shall be built.

Building Marker - A sign designating names of buildings and/or date of erection and other items such as architect, contractor, or others involved in a building's creation, cut into or attached to a building surface.

Building, Principal - A building in which is conducted the principal use on the lot on which said building is situated.

Building, Traditional Storefront – A building constructed for and designed to facilitate retail activity. Large expanses of glass in the ground-floor façade allow pedestrians to look into shops and see displayed merchandise. Some traditional storefront buildings have had façade changes to remove the large expanses of glass; however, this alteration does not prevent a building from being defined as a traditional storefront building. Traditional storefront buildings largely make up the building type found in the C-4 *Central Business District*.



Business Support Services - These establishments provide any of the following: document preparation, telephone answering, telemarketing, mailing (except direct mail advertising), court reporting, and steno typing. They may operate copy centers, which provide photocopying, duplicating, blueprinting, or other copying services besides printing. They may provide a range of support activities, including mailing services, document copying, facsimiles, word processing, on-site computer rental, tax preparation, legal services and office product sales.

By Right - characterizing a proposal or component of a proposal that may be approved administratively, without public hearing.

Caliper- The trunk diameter of a newly planted tree measured in accordance with A.A.N. (American Association of Nurserymen) standards.

Camping and Recreational Vehicle Park - Land containing two or more campsites which are located, established, or maintained for occupancy by people in temporary living quarters, such as tents, recreation vehicles, or travel trailers which are used for recreation or vacation purposes. A "manufactured home park" shall not be deemed a "camping and recreational vehicle park". The maximum length of stay at a camping and recreational vehicle park shall be thirty (30) days.

Canopy - A protective cover over a door, entrance, window, or outdoor service area that is attached to or cantilevered from a building. A “canopy” may also be referred to as an “awning.” Permanent marquees and porticoes, which are designed as a continuous or integral part of the structure, shall not be considered canopies.

Car Wash - See "Automobile Wash"

Carnival - A traveling enterprise offering outdoor amusements, games, rides and shows for entertainment purposes.

Catalogue Sales Store - A store where a large variety of household items are sold to the general public on a retail basis primarily through the use of in-store catalogues.

Catering Establishment - A facility at which a pre-arranged amount and type of food is prepared for consumption off-premises or in a meeting room on-premises. A catering establishment differs from a restaurant in that food is not offered for sale to the general public on a retail basis.

Cemetery/Columbarium - Property used for the interment of the dead, which use may include the commercial sale and location of burial lots, markers, crypts, or vaults for

use exclusively on the subject property. A cemetery shall not be used for the preparation or embalming of bodies or the cremation of bodies. Setback for cemeteries shall be measured from the nearest structure or gravesite. This definition shall be construed to include bona fide pet cemeteries. A cemetery may also include a columbarium.

Church/House of Worship - Any facility such as a church, temple, monastery, synagogues, or mosque used for worship by a non-profit organization and their customary related uses for education (pre-schools, religious education, etc.), recreation (gymnasiums, activity rooms, ball fields, etc.), housing (rectory, parsonage, elderly or disabled housing, etc.) and accessory uses such as cemeteries, mausoleums, offices, soup kitchens, and bookstores. Educational uses may also include the church/house of worship partnering with a college, university, or professional organization for a limited number of adult education classes, as part of a church affiliated community outreach program, for the purpose of assisting persons in securing employment, basic financial management or similar issues. When partnering with a college or university the partnering college or university may not offer any type of degree programs on site or any coursework for the purposes of achieving any type of degree to be granted from another institution.

Circus - A large enclosed area used especially for sports and animal performances that operates on an itinerant basis.

Civic Building - a building operated by not-for-profit organizations dedicated to arts, culture, education, recreation, government, and transit, or for use approved by the legislative body.

College/University - A private or public educational institution where students attend to earn associates, baccalaureate, masters or doctoral degrees. A college/university shall not be considered a "vocational school" or a "school for the arts".

Combined Development - Two or more establishments or businesses occupying a common building or adjoining buildings which are designed and developed in a coordinated manner and which share parking, driveways and other common facilities.

Commercial Message - Any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

Common Area - All areas, including private streets, conveyed to an owners' association in a townhouse development, residential development, or owned on a proportional undivided basis in a condominium.

Common Open Space - Land and/or water areas within the site designated for a particular development, not individually owned or dedicated for public use, which is designed and intended for the common use or enjoyment of the residents of the development but not including any lands occupied by streets, street rights-of-way, or off-street parking.

Common Open Space, Improved - Common open space which has been improved with recreational areas and amenities such as, but not limited to, ball fields, tennis courts, swimming pools, nature trails, clubhouses, etc.

Communication Services Outlet - A retail establishment that sells telephones, beepers, pagers, etc. and may also provide servicing of such goods.

Community Center - A building used for recreational, social, educational and cultural activities, usually owned and operated by a public or non-profit group or agency.

Community Garden - Land used for the cultivation of fruits, vegetables, plants, flowers or herbs by multiple users. Such land may include available public land.

Conditional Use - A use permitted in a particular zoning district by the Board of Commissioners after having held a public hearing and determined that such use in a specified location complies with certain findings of fact as specified in this Ordinance.

Conditional Use Permit - An authorization issued by the Board of Commissioners for a conditional use or for the rezoning of one or more properties to a Conditional Use District (CUD) and which may be subject to any specific restrictions or conditions on its size, location, construction, hours of operation, character of use, and other fair and reasonable conditions as specified by the Board of Commissioners.

Conference/Convention Center - A building or complex of buildings that is used as a conference center and may include auditoriums, meeting rooms, exhibition space, and banquet facilities.

Configuration - the form of a building, based on its massing, Private Frontage, and height.

Congregate Care Facility - Dependent or independent living facilities for the elderly; dormitories, orphanages, and similar uses, but not including group homes.

Construction Trailer - A structure standing on wheels towed or hauled by another vehicle and used for neither overnight nor year-round occupancy at the construction

site on a temporary basis for office and/or storage purposes.

Contiguous - Next to, abutting, or touching and having a boundary, or portion thereof, which is contiguous including properties traversed or separated by a road, stream, right-of-way or similar man-made or natural configuration. The term "contiguous" shall also mean "abutting" or "adjacent".

Continuing Care Facility - A residential complex that contains a variety of living facilities that may include independent living units (i.e., apartments, condominiums, cottages), assisted living (domiciliary care) facilities and/or nursing home beds. Residents of such a facility may either pay rent or purchase their living quarters. If the unit is occupant-owned, the unit normally reverts to the development owner upon the death of the resident or to a surviving spouse.

Contractors' Storage and Equipment Yard - A place where construction equipment used by building contractors is externally stored.

Consumer Service Offices – A use that provides services to a consumer (i.e. bank, power company, gas company, telecommunications company)

Convenience Store - A one story, retail store operating anytime between the hours of 6:00 AM and midnight containing less than three-thousand (3,000) square feet of gross floor area that is designed and stocked to sell primarily food (packaged and/or prepared on-site), beverages, and other household supplies to customers who purchase a relatively few items (in contrast to a "food store"). It is designed to attract and depends upon a large volume of stop-and-go traffic. Fuel may also be sold at such a facility; however, no more than four (4) vehicles may be accommodated simultaneously for fueling. Any such facility shall be deemed a "mini-mart" which can accommodate more than four (4) vehicles simultaneously for fueling.

Correctional Institution - Government establishments generally designed for the confinement, correction, and rehabilitation of offenders sentenced by a court.

Country Club - A land area and buildings containing recreational facilities, clubhouses and usual accessory uses, open to members and their guests that is privately operated. Uses at a country club frequently include golf courses, swimming pools (outdoors), and clubhouses. Meal service may be available, but is generally limited to members and their guests. A country club may be developed as a freestanding entity or as part of a residential community or planned residential development.

Craft Studio - An establishment where works of art are individually created on-

premises by no more than five artisans and which are sold at the same location to the general public. Artisans shall include sculptors, potters, wood and leather craftsmen, glass blowers, weavers, silversmiths, designers of ornamental and precious jewelry, screen printers, and airbrushes.

Crematorium - A facility designed for the cremation of human bodies.

Cul-de-sac - A street with a single common point of ingress and egress and with a turnaround at its end.

Cultural or Community Facility - Facilities designed to promote cultural advancement and serve the community such as live theater, dance, or music establishments; art galleries, studios and museums; exhibition, or similar facility; and libraries.

Curb - the edge of the vehicular pavement that may be raised or flush to a Swale. It usually incorporates the drainage system.

Curb Cut - A lowered, discontinued and/or cut-away opening in street curbing for the purposes of permitting ingress/egress to property abutting a street. The term curb cut shall be construed to include the term driveway cut.

D.B.H. (Diameter at Breast Height)- The trunk diameter of a tree measured at a point four and one-half feet (4 ½) feet above the ground.

Day Care Center - An establishment where attendant care is provided in a group setting on a regular basis to persons on a fee basis. Persons are normally left off at the facility and picked up at a designated time later that day. Such a facility may be a principal or accessory use, in accordance with the regulations of this Ordinance.

Day Care Center, Accessory - A day care center facility located on the premises of an office use, institutional use, commercial use, industrial use, or unified development for the primary purpose of care for the dependents of employees of such commercial, office, institutional, or industrial use. At least sixty-six (66) percent of the clients enrolled shall be dependents of employees of the establishment(s) to which the day care center is an accessory. In locating an accessory day care center, consideration shall be given to the safe access of clients entering and leaving the facility.

Day Care Center, in Single Family Structure and up to 5 children/persons - A detached single-family residence in which day care is regularly provided to less than six (6) children, handicapped persons, or senior citizens, unrelated by blood or marriage and who are not the legal wards or foster children of the attendant adult(s).

Persons who are related by blood or marriage or who are the legal wards or foster children of the attendant adult(s) shall not be counted as patrons of the "home day care center". This particular day care center" shall not be deemed a "family care home". It shall be deemed an accessory use to said residence. The principal use of the dwelling shall be the single-family residence.

Day Care Center, located in church or school, up to 50 children - A day care center run by a church or school where day care is provided to up to fifty (50) children, handicapped persons, or senior centers. (Enrollment limits are determined by State of North Carolina licensing requirements, as applicable.) The day care center may be located on the grounds of the church or school; located on a piece of property owner by the church or school which lies within five- hundred (500) linear feet of the lot containing the church or school; or, on another lot owned by the church or school where religious or educational activities are regularly conducted. An "institutional day care center" shall not be deemed a "family care home". A church or school day care center that provides care to more than fifty (50) clients shall be deemed a "community day care center". A pre-school operation shall not be deemed a "school or church day care center" provided its hours of operation are limited to no more than five (5) hours per day. After-school care programs shall also not be deemed a "school or church day care center" provided the after school care program is located in a public or private elementary or secondary school.

Day Care Center, located in church or school, over 50 children - A day care center run by a church or school where day care is provided to more than fifty (50) children, handicapped persons, or senior citizens. (Enrollment limits are determined by State of North Carolina licensing requirements, as applicable.) The day care center may be located on the grounds of the church or school; located on a piece of property owned by the church or school which lies within five-hundred (500) linear feet of the lot containing such church or school.

Dedication - A gift, by the owner, or a right to use of land for a specified purpose or purposes. Because a transfer of property rights is entailed, dedication must be made by written instrument, and is completed with an acceptance.

Density - the number of dwelling units or other unit of measure, such as square feet of building floor area within a standard measure of land area.

Density, Gross - A ratio expressed as the number of dwelling units per gross acre. The ratio is derived by dividing the total number of dwelling units by the total land area of the parcel(s) to be developed.

Design Speed - is the velocity at which a Street tends to be driven without the constraints of signage or enforcement. There are four ranges of speed: Very Low: (below 20 MPH); Low: (20-25 MPH); Moderate: (25-35 MPH); High: (above 35 MPH). Lane width is determined by desired Design Speed.

Development - The subdivision, occupancy, improvement and/or use of land for any purpose; and/or, construction, erection, alteration, and/or improvement of a building for any purposes, including the movement to or from of any building, structure or improvement. The term development shall not include the use of land for forest, agricultural or game preservation provided said land does not contain any structural improvements other than fencing and/or grading for water retention.

Development Plan - A detailed drawing(s) containing specific information regarding proposed development within the Town.

Disposition - the placement of a building on its Lot.

District - Any section of the zoning jurisdiction in which zoning regulations are uniform.

Doctor's Office - An office facility containing space for patient waiting rooms, treatment areas and laboratory space for up to two (2) medical doctors (M.D.'s), osteopaths, chiropractors, dentists, podiatrists, acupuncturists, psychologists, licensed nurse/midwife, licensed physical therapist, licensed nurse practitioner, licensed respiratory therapist or optometrist.

Drapery and Linen Shop - A retail establishment where draperies, curtains, towels, sheets, and other domestic items are sold on a retail basis.

Drive - a Street along the boundary between an Urbanized and a natural condition, usually along a waterfront, Park, or promontory. One side has the urban character of a Street, with Sidewalk and building, while the other has the qualities of a Road or parkway, with naturalistic planting and rural details.

Drive-In Service Window - A window or other opening in the wall of a principal or accessory building through which goods or services are provided directly to customers in motor vehicles by means that eliminate the need for such customers to exit their motor vehicles.

Drive-Thru/Drive-In Facility - A primary or accessory facility where goods or services may be obtained by motorists without leaving their vehicles. These facilities include drive-through bank teller windows, dry cleaners, fast-food restaurants, drive-through

coffee, photo stores, pharmacies, etc. Does not include: Automated Teller Machines (ATMs), gas stations or other vehicle services, which are separately defined.

Driveway - a vehicular lane within a Lot, often leading to a garage.

Driveway, Private - A roadway serving two (2) or fewer lots, building sites, or other division of land and not intended to be public ingress or egress.

Drugstore - See "Pharmacy".

Dry Cleaning and Laundry Plant – A commercial facility at which clothes are brought to be dry- cleaned and/or laundered from individual dry cleaning service outlets. Such a facility may be a freestanding use or may be combined with a dry cleaning service outlet.

Dry Cleaning & Laundry Services - Coin-operated laundries, dry cleaning pick-up stores without dry cleaning equipment, or dry cleaning stores that do not provide cleaning services to other collection stations or stores.

Dry Cleaning Service Outlet – An establishment engaged in providing laundry, dry cleaning, and other related services on a pick up and drop off basis to individual customers. The actual laundering and/or dry cleaning of clothes may take place at this facility. If laundering and/or dry cleaning of clothes from other service outlets take place, it shall be considered a “dry cleaning and laundry plant”.

Duplex - See "Dwelling, Two-family”.

Dwelling - A dwelling or that portion of a multi-family dwelling used or designed as a residence for a single family.

Dwelling, Accessory – An attached or detached dwelling that exists on the same lot but is secondary to the primary single-family residential structure on the lot. No more than one accessory dwelling is permitted on a single lot and shall conform to the requirements set forth in this Ordinance. The accessory dwelling unit shall be designed for year-round habitation, containing self-sufficient bathroom and kitchen facilities, connected to all required utilities, and designed for or used as a residence by one family.

Dwelling, Attached - A dwelling unit attached side-by-side to two or more other dwelling units by common vertical walls.

Dwelling, Detached - A dwelling unit not attached to another dwelling unit that is developed with open yards on at least three (3) sides.

Dwelling, Mixed Use - A structure which contains both a principal residential and nonresidential use.

Dwelling, Multi-Family - Three (3) or more dwelling units placed on top of another or side by side and sharing common walls, floors, and ceilings. Such units shall generally be developed in a unified manner and shall be located on one lot (unless the individual dwelling units are under condominium ownership).

Dwelling, Multi-Family Conversion – Three (3) or more dwelling units created on top of another or side by side and sharing common walls, floors, and ceilings within an existing structure.

Dwelling, Single-Family, Attached - A dwelling unit attached side-by-side to two or more other dwelling units by common vertical walls. Each dwelling unit shall be located on a separately deeded lot.

Dwelling, Single-Family, Detached - A detached dwelling unit designed for or occupied by one (1) family, but not to include manufactured homes as defined by this Ordinance.

Dwelling, Two-family - Two dwelling units, including modular homes, attached along and sharing one or more common walls and located on a single lot.

Dwelling Unit - A room or combination of rooms designed for year-round habitation, containing self-sufficient bathroom and kitchen facilities, connected to all required utilities, and designed for or used as a residence by one family. Unit located within motels or hotels or travel trailers shall not be included as "dwelling units".

Easement - A grant by the property owner of a strip of land for a specified purpose and use by the public, a corporation, or persons.

Effective Date of this Section - The effective date of this Section as originally adopted, or by the effective date of an amendment to it if the amendment makes a sign non-conforming.

Effective Turning Radius - the measurement of the inside Turning Radius taking parked cars into account. See Section 6.1.

Electronic Gaming Operations - 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 money, credit, merchandise or other items or allowance of value are redeemed by 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, cybercafés, sweepstakes entertainment business, or internet sweepstakes. This does not include any lottery approved by the State of North Carolina.

Electronic Message Board - A sign or portion thereof, where the message copy includes characters, letters or numbers displayed through electric current that can be changed or rearranged electronically without touching or physically altering the primary surface of the sign. Message copy may be changed in the field or from a remote location.

Elevation - an exterior wall of a building not along a Frontage Line.

Encroach -: to extend through the plane of a vertical or horizontal regulatory limit with a structural element, so that it extends into a Setback, into the Public Frontage, or above a height limit.

Encroachment - any structural element that breaks the plane of a vertical or horizontal regulatory limit, extending into a Setback, into the Public Frontage, or above a height limit.

Enfront - to place an element along a Frontage, as in "porches Enfront the street."

Equestrian Facility – See "Horse Stable" or "Riding Academy".

Event Center- A building that may contain a bed and breakfast, a meeting facility, on-site food preparation, and may be used for banquets, receptions, or similar events. The facility may make some or all services available to the general public in addition to guests.

Existing Building or Structure - any building or structure having a Certificate of Occupancy as of the effective date of this ordinance.

Facade - The entire building walls, including wall faces, parapets, fascia, windows, doors, and canopy of one complete elevation.

Fairground - An open area where outdoor fairs, circuses, or exhibitions are held.

Family - One (1) or more persons occupying a Dwelling Unit and living as a single household.

Family Care Home- A home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six resident persons with disabilities (per NCGS Section 168-21(1)), six unwed mothers and their neonates, or 6 battered spouses and their children. No family care home shall be located within one half mile of another family care home.

Farm Supply Store - An establishment where feed, seed, animal and agricultural supplies are primarily sold in bulk quantities.

Farmers' Market - A market on pre-established dates at which locally and regionally grown farm products are sold on a retail basis. Baked good items, hand-made crafts, and produce items not native to this region may also be sold but may not constitute a majority of total sales.

Farm Products - Fruits, vegetables, mushrooms, herbs, nuts, shell eggs, honey or other bee products, flowers, nursery stock, livestock food products (including meat, milk, cheese and other dairy products) and fish.

Fence - A physical barrier or enclosure consisting of wood, stone, brick, block, wire, metal or similar material used as a boundary or means of protection or confinement, but not including a hedge or other natural growth.

Festoon Lighting - A string of outdoor lights suspended between two or more points.

Finance Company - A commercial establishment primarily involved in the lending of money to individuals on a short-term basis.

Financial Institution - A commercial bank, mortgage bank, savings and loan association, or credit union, any of which are licensed, insured, and chartered by the United States of America or the State of North Carolina.

Flag - Any fabric, banner or bunting containing distinctive colors, patterns, or symbols, used as a symbol of government, political subdivision, or other entity.

Flea Market - An outdoor or indoor market held on pre-established dates where individual sellers offer goods for sale to the public. Such sellers may set up temporary stalls or tables for the sale of their products. Such sales may involve new and/or used items and may include the sale of fruits, vegetables and other edible items. The individual sellers at the flea market need not be the same each time the market is in operation. A flea market is different from a "farmers market" in that the

majority of goods sold at a flea market are non-edible.

Florist, Retail - A retail commercial establishment where flowers or ornamental plants are sold indoors.

Food Store - An establishment greater than three-thousand (3,000) square feet in area which may sell a wide variety of fresh produce, canned and packaged food items, small household goods and similar items which are consumed and used off premises. In addition, the store may contain a delicatessen section in which prepared foods are sold and may be consumed on premises in a specially designed sit-down area. Sales of grocery items are highly dependent on comparison-shopping. The sale of fuel at fuel stations shall not be permitted. A food store may be open twenty-four (24) hours a day.

Fortune Teller - A commercial establishment where people go to have their fortunes predicted through the use of astrology, card reading, numerology, etc. If located in a Residential (R) zoning district, it may only take place on a customary home occupation basis only.

Fraternal and Service Organization Meeting Facility (Non-Profit and Not-For-Profit) - A facility operated by an association of persons for activities which include, but are not limited to social, literary, political, educational, fraternal, charitable, or labor activities, but which are not operated for profit or to render a service which is customarily conducted as a business.

Frontage - the area between a building Facade and the vehicular lanes, inclusive of its built and planted components. Frontage is divided into Private Frontage and Public Frontage.

Frontage Line - a Lot line bordering a Public Frontage. Facades facing Frontage Lines define the public realm and are therefore more regulated than the Elevations facing other Lot Lines.

Frontage, Principal - On corner Lots, the Private Frontage designated to bear the address and Principal Entrance to the building, and the measure of minimum Lot width. Prescriptions for the first Layer pertain to both Frontages of a corner Lot. See Frontage.

Frontage, Private - the privately held Layer between the Frontage Line and the Principal Building Facade.

Frontage, Public - the area between the Curb of the vehicular lanes and the Frontage Line.

Frontage, Secondary - on corner Lots, the Private Frontage that is not the Principal Frontage. Its First Layer is regulated only as it affects the public realm.

Fuel Station - A fuel-dispensing pump, which may contain more than one fuel nozzle, designed to accommodate one or two vehicles at a time. If two vehicles are accommodated at the same time, fuel nozzles serving the two vehicles shall be located on opposite sides of the fuel pump.

Funeral Home - A facility used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation.

Game Room - A commercial facility providing recreational activities that typically include coin- operated amusement machines such as pinball machines, electronic video games and skeet ball machines. A facility shall be deemed a game room if it has eight (8) or more of such machines. If three (3) or more pool tables are provided, the facility shall also be deemed a "pool hall".

Garage Sale - See "Yard Sale"

Garden Supply and Seed Store - A retail establishment at which animal feed, crop seeds and related products are sold. The milling and grinding of feed or flour at such establishments shall be prohibited as shall the storage of milled products. The sale of agricultural chemicals shall be limited to general retail use (as distinguished from an "animal supply store" where large quantities of agricultural chemicals are sold for agricultural purposes).

Gas Station - See "Automobile Service Station"

General Commercial - A place of business providing the sale and display of goods or sale of services directly to the consumer, with goods available for immediate purchase and removal from the premises by the purchaser.

General Commercial, 10,000 SF to 25,000 SF - A use category allowing general commercial premises between 10,000 square feet and 25,000 square feet in gross leasable area to be available for the commercial sale of merchandise, and foods (fresh and prepared), but excluding manufacturing.

General Commercial, Greater than 25,000 SF - A use category allowing general commercial premises greater than 25,000 square feet in gross leasable area to be

available for the commercial sale of merchandise, and foods (fresh and prepared), but excluding manufacturing.

General Office - Buildings used primarily for conducting the affairs of a business, profession, service, industry, government, or like activity. This includes services that make available the knowledge and skills of their employees to sell expertise and perform professional, scientific, and technical services to others such as legal services; accounting, tax, bookkeeping, and payroll services; architectural, engineering, and related services; graphic, industrial, and interior design services; consulting services; research and development services; advertising, media, and photography services; real estate services; investment banking, securities, brokerages; insurance-related services; and counseling offices.

Glass Contractor -An establishment that provides mobile on-site glass repair and/or installation services.

Golf Course - A tract of land for playing golf, improved with tees, fairways, hazards and which may include clubhouses and shelters. A "golf course" may also include "par-3" facilities.

Golf Course, Miniature and Golf Driving Range - A commercial enterprise consisting of a golf course open to the general public where each hole is enclosed in a contained area.

Grade - The uppermost surface directly below the sign or immediately adjacent to the support. Where the uppermost surface has been artificially raised for landscaping or other purposes, grade shall be measured from the level of the nearest city or state street curb.

Grocery Store – See “Food Store.”

Gross Floor Area - The sum of the gross horizontal areas of each floor of the principal building, and any accessory building or structures measured from outside of the exterior walls or from the centerline of party walls. The term does not include any area used exclusively for the surface parking of motor vehicles or for building or equipment access, such as stairs, elevator shafts, and maintenance crawlspace. This term also excludes pedestrian walkways and common areas within enclosed shopping facilities.

Gross Leasable Area - The total floor area for which the tenant pays rent and which is designed for the tenant's occupancy and exclusive use.

Ground Covers - Low growing plants such as grasses, ivy, creeping bushes and similar decorative plantings. Where required by this Ordinance, ground covers shall have the capability of soil stabilization and erosion control.

Group Care Facility - A facility licensed by the State of North Carolina, or a battered spouses shelter or unwed mothers home, by whatever name it is called, other than a "Family Care Home", as herein defined) with support and supervisory personnel that provides room and board, personal care, or habilitation services in a family environment for not more than thirty (30) handicapped persons, unwed mothers with their neonates, and battered spouses with their children.

Group Home – See "Family Care Home."

Gunsmith - A commercial facility limited to the repair and servicing of guns and rifles.

Halfway House - A professionally managed and staffed place where up to 6 residents (not including staff or supervisors) are aided in readjusting to society following a period of imprisonment, hospitalization or institutionalized treatment related to a criminal offense. This definition does not include persons who are dangerous to others.

Handicapped Person - A person with a physical or mental impairment which substantially limits one or more of such person's major life activities; a person with a record of having such an impairment; or a person who is regarded as having such an impairment. This term does not include current, illegal use of or addiction to a controlled substance as defined in 21 U.S.C.§802.

Hardware Store - See "Building and Home Materials Center".

Heavy Equipment/Manufactured Home Rental/Sales - Establishments which may have showrooms or open lots for selling, renting or leasing heavy equipment such as buses, trucks, manufactured homes, RVs, boats or marine craft, construction equipment, farm equipment, industrial equipment, manufacturing machinery, or textile machinery.

Historic Building - Any building so designated by the Historic Preservation Commission as an historic property pursuant to the criteria established in Section 19 "Historic Preservation."

Holiday Decorations - Displays erected on a seasonal basis in observance of religious, national or state holidays, which are not intended to be permanent in nature, and which contain no advertising material or commercial message.

Home Center (i.e., home improvement store) - An establishment which may sell various household goods, tools and building materials, durable household goods (e.g., refrigerators, lawn care machines, washing machines), electronic equipment, household animal supplies, nursery products, etc. Retail stock (e.g., nursery items,

lumber goods,) may be kept outdoors. All such stock (except plant materials) shall be screened. At least seventy-five (75%) of all indoor floor-good space shall be for retail sales. Likely examples of such uses include "Lowe's", "Home Depot", etc.

Home Decorating Center - A commercial establishment that sells home decorating items (e.g., paint, carpet, wallpaper, tiles, etc.) and may also supply professional home decorating assistance.

Home for the Aged/Infirmed - A residential institution licensed by the State of North Carolina to provide basic living needs to seven or more elderly in-house residents. Congregate meals are served on-site to residents and 24-hour in-house services are provided.

Home Improvement Stores - See "Home Centers".

Home Occupation - A commercial activity that: (i) is conducted by a person on the same lot (in a residential district) where such a person resides, and (ii) is not so insubstantial or incidental or is not so commonly associated with the residential use as to be regarded as an accessory use, but that can be conducted without any significantly adverse impact on the surrounding neighborhood.

Without limiting the generality of the foregoing, in order to be regarded as having an insignificantly adverse impact on the surrounding neighborhood, a use must comply with the following criteria: (i) no goods, stock in trade, or other commodities may be displayed outside a fully enclosed structure, (ii) no on-premises retail sales of goods not produced on-site may occur, except that incidental retail sales may be permitted (for example hair products at a beauty shop), (iii) no more than two persons not a resident on the premises may be employed in connection with the purported home occupation, (iv) the use may not create objectionable noise, fumes, odor, dust or electrical interference, (v) not more than twenty-five percent of the total gross floor area of residential buildings plus other buildings housing the purported home occupation, or more than 1,000 square feet of gross floor area (whichever is less), may be used for home occupation purposes and (vi) only vehicles used primarily as passenger vehicles may be used in connection with the home occupation.

The following is a non-exhaustive list of examples of enterprises that may be home occupations if they meet the foregoing definitional criteria: (i) the office or studio of a physician, dentist, artist, musician, lawyer, architect, engineer, teacher, or similar professional, (ii) workshops, greenhouses, or kilns, (iii) dressmaking or hairdressing studios.

Without limiting the generality of the foregoing, automobile repair shops, body shops and garages shall not be regarded as home occupations.

Horse Stable – An establishment where more than two (2) horses are housed, bred, boarded, trained, or sold for financial compensation.

Hospital - An institution providing physical and mental health services primarily for human in- patient medical or surgical care for the sick or injured, including related facilities such as laboratories, out-patient services, training facilities, central service facilities, emergency services, nurses dormitories, and staff offices.

Hotel/Motel - Establishments providing lodging and short-term accommodations for travelers. They may offer a wide range of services including, overnight sleeping space, food services, convention hosting services, and/or laundry services. Entertainment and recreation activities may also be included. Extended-stay hotels are included in this category. This definition includes “inns.” For purposes of this ordinance, an "adult hotel or motel" shall not be considered a "hotel" and shall be governed as an "adult establishment".

Illumination, Indirect - Illumination that reflects light from an artificial light source intentionally directed upon a surface. This shall also include silhouettes of letters or symbols placed before a background of reflected light.

Illumination, Internal - Illumination provided from a source located inside or within the face of the sign

Industry, Heavy - A non-residential use that requires a National Pollutant Discharge Elimination System (NPDES) permit for an industrial or stormwater discharge or involves the use or storage of any hazardous materials or substances or that is used for the purpose of manufacturing, assembling, finishing, cleaning or developing a product or commodity. Typically the largest facilities in a community, these structures house complex operations, some of which might be continuous (operated 24 hours a day, seven days a week).

Industry, Light - A non-residential use that involves the manufacturing, assembling, finishing, cleaning or developing any product or commodity. Facilities typically do not generate visible impacts beyond that of a typical office building, but may rely on special power, water, or waste disposal systems for operation. Noise, odor, dust, and glare of each operation are completely confined within an enclosed building, insofar as practical. This includes medical and testing laboratories, facilities for scientific research, and the design, development, and testing of electrical, electronic, magnetic, optical, computer and telecommunications components in advance of product manufacturing, and the assembly of related products from parts produced off-site, where the

manufacturing activity is secondary to the research and development activities. Also included are laundry/dry cleaning plants as principal uses engaged primarily in high volume laundry and garment services, including: carpet and upholstery cleaners; diaper services; dry-cleaning and garment pressing; and commercial laundries. Examples may include the production of small consumer goods such as the manufacture of clothes, shoes, furniture, consumer electronics and home appliances. Micro-breweries and tasting rooms are also included.

Impervious Cover or Surface - Any structure, material, or ground cover consisting of but not limited to asphalt, concrete, stone, brick, terrazzo, roofing, ceramic tile or any other natural or man-made material that prevents the absorption of surface water into the soil.

Independent Living Center - An establishment that provides living facilities to seven or more persons with physical or mental disabilities (irrespective of age). Congregate meals may be provided at such facilities. However, residents are expected to provide other basic living services.

Individual Establishment or Business - A single establishment or business occupying one or more buildings designed to function as a single enterprise that does not share off-street parking, driveways, or other common facilities with an adjacent establishment or development.

Infrastructure - The whole system of improvements required for the use of undeveloped land to allow it to be used for its intended subdivided purpose. This includes but is not limited to public streets, street curb and gutter, sidewalks, public sewer, public water, storm water detention, drainage features, traffic control devices, street lighting, street signs, mailboxes, and landscaping.

Interior Decorator - A commercial establishment from where professional home interior decorating services are provided. The on-site retail sale of furniture and other home furnishings to the general public is generally not offered.

Junk/Salvage Yard - Any land or area Used, in whole or in part, for the storage, keeping, or accumulation of material, scrap metals, waste paper, rags, or other scrap materials, or used building materials, for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof.

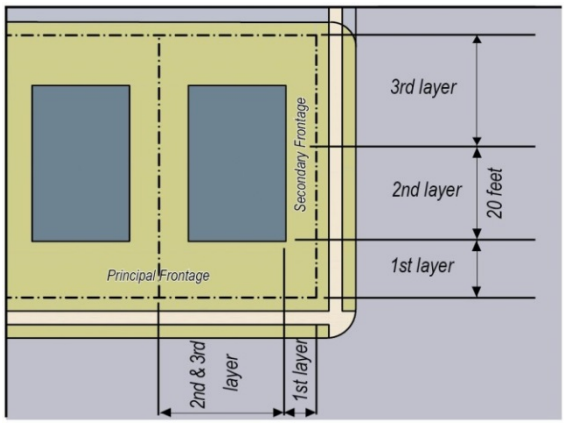
Landfill, Demolition - A landfill that is limited to receiving stumps, limbs, leaves, concrete, brick, wood, uncontaminated earth or other solid wastes meeting the standards of the State of North Carolina. A clean fill operation which is conducted to improve or re-contour land using only soil or a fill operation, as defined by N.C.G.S

130A-294(m), which consists of used asphalt or used asphalt mixed with dirt, sand, gravel, rock, concrete or similar non-hazardous materials shall not be construed to be such a landfill.

Landfill, Demolition (On-Site) - A demolition landfill which is located within the confines of property being developed or in use, and used only for the disposal of acceptable materials which are generated on the property being developed.

Landfill, Sanitary - A solid waste disposal facility designed to meet the minimum standards of the State of North Carolina wherein refuse as defined by State standards is disposed of by utilizing acceptable landfill engineering technology.

Layer - a range of depth of a Lot within which certain elements are permitted. **1st Layer –** distance from right-of-way to front of building; **2nd Layer –** 20 feet measured from Principal Frontage Line **3rd Layer –** remainder of lot.



Light Emitting Diodes (LED) – Electronic device that emits light when an electric current flows through it.

Light Manufacturing Workshop - The assembly, fabrication, production or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare, or health or safety hazards outside of the building and are visually undifferentiated from an office building or a residentially-scaled garage. These typically involve the work of artisans or craftsman.

Liner Building - a building specifically designed to mask a parking lot or a Parking Structure from a Public Way. Such building may be either detached or embedded in the parking structure.

Live-Work Units - An attached residential building type with a small commercial enterprise on the ground floor and a residential unit above or behind with a common tenant in both spaces (no dual occupancy).

Loading Space, Off-Street - An off-street space or berth on the same lot with a building or contiguous to a group of buildings for the temporary parking of commercial vehicles while loading or unloading merchandise or materials.

Lot - A portion of a subdivision or any other parcel of land intended as a unit for transfer or ownership or for development or both. The word "Lot" includes "plot", "parcel", or "tract".

Lot, Corner - A lot which occupies the interior angle at the intersection of two (2) street lines which make an angle of more than forty-five (45) degrees and less than one hundred thirty-five (135) degrees with each other. The street line forming the least frontage shall be deemed the front of the lot except where the two (2) street lines are equal; in which case, the owner shall be required to specify which is the front when requesting a building permit.

Lot Coverage - That portion of a lot occupied by buildings, structures and/or improvements, including paving and/or surface treatment materials (impervious paving materials, gravel, etc.).

Lot Depth - The distance along the perpendicular bisector of the Lot.

Lot, Interior - A lot other than a corner lot with only one frontage on a street.

Lot of Record - A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds of Union County prior to the adoption of this Ordinance, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this Ordinance.

Lot Line - A line of record bounding a lot that separates one lot from another lot or separates that lot from a public or private street or any other public space.

Lot Line, Front - The lot line separating a lot from a street right-of-way.

Lot, Line Interior - A lot line which does not have street frontage.

Lot Line, Rear - The lot line opposite and most distant from the front lot line.

Lot Line, Side - Any lot line abutting another lot that is not a front or rear lot line.

Lot, Panhandle - A lot having shape and configuration such that it connects to street frontage by an extension and/or arm of the main portion of the lot.

Lot, Through - A lot which fronts upon two parallel streets, or which fronts upon two streets that do not intersect at the boundaries of the lot.

Lot Width - The mean width measured at right angles to its depth at the actual or proposed building setback line.

Lounge - An establishment (e.g., bar, tavern) used primarily for the serving of alcoholic beverages to patrons and where the sale of prepared food, if provided, is accessory to the primary use. To qualify as a lounge, an establishment's gross receipts from alcoholic beverages exceed fifty percent (50 %) of the total gross receipts from food, nonalcoholic beverages, and alcoholic beverages. Live entertainment and dancing facilities may be provided. Any lounge that provides facilities or services that satisfy any portion of the definition of "adult establishment" per G.S. 14.202.10 shall be considered an "adult establishment". Lounges located within restaurants or motels shall be considered as accessory uses to such uses and are allowed in a particular zoning district to the same extent that the restaurant or motel are allowed. Any lounge whether public or private, that serves alcoholic beverages, shall be licensed to dispense such beverages by the State of North Carolina.

Lumber and Building Materials Yard - An establishment where lumber and building materials goods are the primary products sold.

Lumen – A unit of measurement of the quantity of light that falls on an area of one square foot every point of which is one foot from the source of one candela. A light source of one candela emits a total of 12.57 lumens. For the purpose of this Ordinance, the lumen-output value shall be the initial lumen output ratings of a lamp.

Luminaire - A complete lighting unit consisting of a light source (from one or more lamps) and all necessary electrical, mechanical, and decorative parts. Also called a "lighting fixture".

Machine Shop - A workshop in which work is machined to size and assembled.

Major Renovation - Any construction, reconstruction, structural alteration, expansion, enlargement, or remodeling conducted within any two (2) year period, the total cost of which exceeds 51% of the assessed value of the existing building(s) on the property.

Mansard - A steeply pitched roof, pitched at such an angle as to resemble a building wall.

Manufactured Goods, Class 1 - Manufacturing, refining, processing, or assembly of

goods or products subject to the following limitations (Note: The term "SIC" shall refer to the Standard Industrial Classification System as set forth in the SIC Manual published by the United States of America, Executive Office of the President, Office of Management and Budget and unless a use is defined in this Ordinance, the SIC Manual shall be used to define, clarify or more specifically identify the uses and groups of uses listed. While the SIC Manual uses the term "establishments primarily engaged in" in defining types of manufacturing operations, this Ordinance shall be construed to mean that if the activity is conducted at all within the use and that activity is listed as being conditional, then the entire use shall be deemed a "conditional use" as opposed to a "permitted use".):

All manufacturing industries not listed in Manufactured Goods, Class 2 (as identified by SIC Group Number, Division or Industry Number(s)) are considered to be Class 1 uses.

Manufactured Goods, Class 2 - Manufacturing, refining, processing, or assembly of goods or products subject to the following limitations (Note: The term "SIC" shall refer to the Standard Industrial Classification System as set forth in the SIC Manual published by the United States of America, Executive Office of the President, Office of Management and Budget and unless a use is defined in this Ordinance, the SIC Manual uses the term "establishments primarily engaged in" in defining types of manufacturing operations, this Ordinance shall be construed to mean that if the activity is conducted at all within the use and that activity is listed as being conditional, then the entire use shall be deemed a "conditional use" as opposed to a "permitted use"):

The following uses are subject to the issuance of a conditional use permit, and are classified as
Class 2 uses:

a. Meat packing plants and poultry dressing plants (SIC #2011, 2015)

b. Pickled fruits and vegetables (SIC #2035)

c. Flour and other grain mill products, sugar refining (SIC #2041, 2061, 2062, 2063)

d. Animal feeds and pet foods (SIC #2047, 2048)

e. Fats and oils (SIC Group #207)

f. Beer/malt beverages, wines, brandy, distilled and blended liquor, roasted coffee (SIC #2082, 2083, 2084, 2085, 2095)

g. Processing and packing of canned, cured, fresh, or frozen fish and seafood (SIC 2091, 2092)

h. The following manufacturing listed under SIC #2099:

(1) Yeast

(2) Molasses and sweetening syrups

(3) Vinegar

i. Tobacco products (SIC Major Group #21) (Includes manufacturing stemming, and re-drying)

j. Dying and finishing textiles, except wool fabrics and knit goods (SIC Group #226) and under (SIC #2231, 2253, 2252, 2251), the dying and finishing of wool and similar animal fibers

k. Coated fabrics, rubberized and not rubberized; canvas and related products (SIC #2295, 2394, 3069)

l. Sawmills and planning mills, general (SIC #2421)

m. Wood building and mobile homes (SIC Group #245)

n. Wood preserving; reconstituted wood products; pulp mills; paper mills, paperboard mills (SIC #2491, 2493; SIC Group #261; SIC Group #262; SIC Group #263)

o. Industrial inorganic chemicals; plastic materials, synthetic resins and rubber, cellulosic and other manmade fibers, except glass (SIC Group #281; SIC Group #282)

p. Soaps, detergents and cleaning preparations; perfumes, cosmetics, and other toilet preparations (SIC Group #284)

q. Paints, varnishes, lacquers, enamels and allied products (SIC Group #285)

r. Industrial organic chemicals; agricultural chemicals (fertilizers, pesticides, etc.) (SIC Group #281; SIC Group #287)

s. Miscellaneous chemical products (all products listed under SIC Group #289) (e.g., adhesives, sealants, explosives, printing ink, carbon black, and "other chemical and chemical preparations" listed in SIC #2899)

t. Petroleum refining (SIC Group #291)

u. Asphalt paving and roofing materials (SIC Group #295)

v. Lubricating oils and greases (SIC #2992)

w. Products of petroleum and coal classified under SIC #2999

x. Tires and inner tubes (SIC Group #301)

y. Plastic products found under SIC Group #308 when resins are

made at the same facility

z. Leather tanning and finishing (SIC Group #311)

aa. Flat glass; glass and glassware; (SIC Group #321; SIC Group #322)

bb. Cement, hydraulic (SIC Group #324)

cc. Structural clay products (SIC Group #325)

dd. Pottery and related products (SIC Group #326) except handmade pottery and arts and crafts operations involving no more than 1,000 cubic feet of kiln space

ee. Concrete gypsum and plastic products; cut stone and stone products (SIC Group #327; SIC Group #328)

ff. Abrasive products; asbestos products; mineral wool; (SIC Group #3291; SIC #3292; SIC #3296)

gg. Minerals and earths, ground or otherwise treated (SIC #3295)

hh. Non-clay refractories (SIC #3297)

ii. Miscellaneous nonmetallic mineral products listed under (SIC #3299)

jj. Steel works, blast furnaces, and rolling and finishing mills; iron and steel foundries; primary and secondary smelting and refining of nonferrous metals; rolling, drawing and extruding of nonferrous metals; nonferrous foundries; (SIC Group #331, SIC Group #332; SIC Group #333 and 334; SIC Group #335; SIC Group #336)

kk. Metal heat-treating; metal forging-iron, steel and nonferrous; coating and engraving of metals and allied services (SIC #3398, SIC #3462 and #3463; SIC Group #347)

ll. Manufacture of other primary metal products listed under SIC #3399

mm. Manufacture of ordinance (arms, ammunition, etc.) and accessories except vehicles and guided missiles (SIC Group #348)

nn. Power, distribution and specialty transformers (SIC #3612)

oo. Electrical industrial carbon and graphic products (SIC #3624)

pp. Storage batteries; primary batteries, dry and wet (SIC #3691; SIC #3692)

qq. Motor vehicles; truck, bus and passenger car bodies; truck

trailers; motor homes; (SIC #3711, 3713; SIC #3715; SIC #3716)

rr. Railroad equipment (SIC #3743)

ss. Motorcycles (SIC #3751) except bicycles and bicycle parts

tt. Aircraft; guided missiles and space vehicles and parts (SIC #3721; SIC Group #376)

uu. Camping trailers, caps for pick-up trucks (SIC #3792)

vv. (Military) tanks (and related armored vehicles) (SIC #3795) but not tank components

ww. Photographic supplies but not photographic equipment (SIC #3861)

xx. All inks, paints, oils, enamels, and crayons (SIC #3952)

yy. Carbon paper and inked ribbons (SIC #3955)

zz. Linoleum, asphalt - felt-base, and other hard surface floor covering listed under SIC #3996

aaa. Mining (all of SIC Division B)

bbb. Oil and gas extraction (SIC Major Group #13)

Manufactured Home - A dwelling that 1) is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis; 2) exceeds forty (40) feet in length and eight (8) feet in width; 3) is constructed in accordance with the National Manufactured Home Construction and Safety Standards; 4) is not constructed in accordance with the standards of the North Carolina Uniform Residential Building Code for One- and Two-Family Dwellings; and 5) was constructed after July 1, 1976 and meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction.

Type 1 - A manufactured Home (single wide) consisting of a single section home less than 15 feet in width or a double or multi-section home that does not meet the minimum requirements for the MH-1 District as set forth in this Ordinance. A Type 1 home meets or is capable of meeting the requirements of the MH-1 District as set forth in this Ordinance.

Type 2 - A Manufactured Home (double wide) consisting of a double or multi-section home at least 15 feet in width, which has a length not exceeding four (4) times the width and which meets or is capable of meeting the requirements for the MH-1

District as set forth in this Ordinance.

Manufactured Home Park (Mobile Home Park) - Any premises where two or more manufactured homes are parked for living and sleeping purposes, or any premises used for or set apart for the purpose of supplying to the public parking space for two or more manufactured homes for living and sleeping purposes.

Massage Therapist - An individual trained and professionally certified or licensed to provide massage therapy to individuals, the majority of whom are referrals from other medical professionals.

Materials Recovery & Waste Transfer Facilities - This industry comprises establishments primarily engaged in (1) operating facilities for separating and sorting recyclable materials from nonhazardous waste streams (i.e., garbage) and/or (2) operating facilities where commingled recyclable materials, such as paper, plastics, used beverage cans, and metals, are sorted into distinct categories.

Medical Center - A facility housing the offices of three (3) or more doctors (see definition of "doctor's office") where outpatient medical services are routinely provided to the general public. Overnight stays of patients at such facilities shall not be allowed.

Medical Services - Medical facilities that provide outpatient ambulatory or outpatient health care such as emergency medical clinics; ambulatory surgical centers; dialysis centers; outpatient family planning services; community health centers and clinics; blood and organ banks; and medical offices such as physician's and dentist's office; but not including counseling offices.

Meeting Facility – A building available for rent to the general public for meetings and events. This type of facility may provide rooms of various sizes to accommodate one or more functions, restrooms or changing rooms for guest use, and/or a warming kitchen or similar food staging area. This use does not include on-site food preparation, lodging, or any personal care services. Also, this use does not include a club house or amenity center as an accessory use to a residential development.

Membership Warehouse Club - An establishment which sells a variety of consumer goods and services and items for small businesses and offices including small- and large-scale household appliances (e.g., refrigerators, washing machines), clothing items, electronic equipment, groceries, household animal supplies, nursery products, etc. Retail stock (e.g., nursery items, lumber goods), may be kept outdoors. All such stock (except for plant materials) shall be screened in accordance with Section 9.8. Sales are generally limited to members and their guests.

Mini-Mart - A one-story retail store containing less than three-thousand (3,000) square feet gross floor area that is designed and stocked to sell primarily food (pre-packaged or prepared on-site), beverages, and other household supplies to customers who purchase only a relatively few items in contrast to a "food store"). A "mini-mart" is different from a "convenience store" in that it may be open twenty-four hours.

Mini-Warehouse - A structure containing separate storage spaces of varying sizes leased or rented on an individual basis. No outdoor storage shall be allowed in conjunction with the facility with the following exceptions: boats, cars; motorcycles; trailers; motor homes, pick-up trucks and similar-type and size vehicles; building materials. All such areas devoted for outdoor storage shall be screened per Section 9.8. Use of the leased storage spaces shall be for storage purposes only.

Mixed Use – The act of combining various types of development or uses (i.e. residential, commercial, office) within one structure or site.

Mobile Home - See "Manufactured Home"

Modular Dwelling - A dwelling constructed in accordance with the standards set forth in the N.C. State Building Code for one and two family dwellings and composed of components substantially assembled in a manufacturing plant and transported to the Building site for final assembly on a permanent foundation.

Monument Sales - An establishment where cemetery stones may be engraved, finished, and sold.

Motel – An establishment providing transient accommodations containing six (6) or more guest rooms with at least twenty-five (25%) percent of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building. For purposes of this ordinance, an "adult hotel or motel" shall not be considered a "motel" and shall be governed as an "adult establishment".

Motor Vehicle, Junked - A motor vehicle that does not display a current license plate and is one of the following: 1) partially dismantled or wrecked; or 2) cannot be self-propelled or moved in the manner in which it originally was intended to move; or 3) is more than five (5) years old and appears to be worth less than one hundred dollars ($100).

Multi-Family Development - A tract of land under single, individual, corporate, firm partnership, or association ownership, or under common control evidenced by duly recorded contracts or agreements; planned and developed as an integral unit in a single development operation or in a definitively programmed series of development operations. Such development shall consist of two (2) or more duplex buildings, or three (3) or more dwelling units sharing one (1) or more common

walls. The development shall have a unified or coordinated design of buildings and a coordinated organization of service areas and common open space.

Multi-Tenant Development - A non-residential development planned and developed in one or more buildings containing coordinated points of ingress and egress. Such developments contain more than one principal use and may contain one or more lots. Such developments can include office parks, and industrial parks, or shopping centers. Uses contained within these developments shall be limited to those allowed within the zoning district in which it is located.

Multi-Tenant Development, Class I - A multi-tenant development which meets the following criteria:

a. The structure containing the multi-tenant development existed at the time of adoption of this definition.

b. No exterior expansions to the structure housing the multi-tenant development may be made.

c. The multi-tenant development is located in one principal structure.

Multi-Tenant Development, Class II - Any multi-tenant development which does not meet the criteria of Class I Multi-tenant development including those multi-tenant developments expanded externally after the adoption date of this definition and any multi-tenant development comprised of two (2) or more principal structures.

Mural – A piece of artwork applied to or integrated with a building wall. To be defined as a mural it must meet the following standards:

a. Include no specific commercial product or text, although in it may include such generic products as automobiles, furniture, soft drinks or other items where the brand is not apparent; and

b. Includes no legible text, picture, symbol or device of any kind that relates to a commercial business, product or service offered on the premises where the wall is located.

c.

Murals that do not meet the above standards are considered a sign and shall be included in the calculations of allowable sign area.

Newsstand - An establishment that sells newspapers, magazines, candy, tobacco, and sundry products at the retail level. A newsstand may not sell materials so as to conform to the term "adult establishment" as defined in G.S. 14.202.10.

Noncommercial Copy - A sign message through pictures, illustrations, symbols and/or

words, or any combination thereof, which does not contain any reference to a business or product but displays a substantive message, statement or expression that is protected by the First Amendment to the Constitution of the United States.

Non-conforming sign - A sign legally established prior to the effective date of this ordinance or subsequent amendment thereto, that does not conform to the sign regulations found herein.

Non-conforming Situation - A situation that occurs when, on the effective date of this Ordinance or any amendment to it, an existing Lot or Structure or Use of an existing Lot or Structure does not conform to one or more of the regulations applicable to the District in which the Lot or Structure is located. Among other possibilities, a Non-conforming Situation may arise because a Lot does not meet minimum acreage requirements, because Structures do not satisfy Minimum Yard Requirements, because the relationship between existing Buildings and the land (in such matters as density and Setback requirements) is not in conformity with this Ordinance, or because land or Buildings are Used for purposes which are not in conformance with the list of permitted Uses for the District in which the property is located.

Non-conforming Building or Structure - A Non-conforming Situation that occurs when the height of a Structure or the relationship between an existing Building or Buildings and other Buildings or Lot lines do not conform to the dimensional regulations applicable to the District in which the property is located.

Non-conforming Lots of Record - A Lot existing at the effective date of this Ordinance or any amendment to it (and not created for the purpose of evading the restrictions of this Ordinance) that cannot meet Minimum Area and/or Lot Width Requirements of the District in which the Lot is located.

Non-conforming Use - A Non-conforming Situation that occurs when property is used for a purpose or in a manner not permitted by the Use regulations applicable to the District in which the property is located.

Nursery/Garden Center - Industries in the Nursery and Garden Center subsector grow and sell crops mainly to be transplanted to another lot. The subsector comprises establishments, such as orchards, greenhouses, and nurseries, primarily engaged in wholesaling and retailing crops, plants, vines, or trees and their seeds.

Nursing Home - An establishment which provides full-time convalescent or chronic care, or both, to persons who are not related by blood or marriage to the operator or who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.

Office - A room or group of rooms used for the conduct of a business, profession, service, industry or government where retail trade is not conducted.

Office Building - A building, a majority of which is used for conducting the affairs of a business, profession, service, industry or government, or like activity, that may include ancillary services for office workers such as a restaurant, coffee shop, newspaper or candy stand. Retail uses serving the general public may also be located in such structures but shall not constitute a majority of the building's gross leasable area. There is a 5000sf maximum in OIS & C-4 Districts

Open Space - An area (land and/or water) generally lacking in man-made structures and reserved for enjoyment in its unaltered state; it may be for recreational facilities for Civic Space (see Section 21.4-1) or for reserved Open Space (Section 21.7-2).

Outparcel - A parcel of land associated with and located within a shopping center or multi-tenant non-residential development, which is designated on an approved site plan as a location for a structure with an intended use such as, but not limited to banks, savings and loans, dry cleaners, service stations, vehicle repair garages, offices, restaurants, retail establishments, or combination of uses thereof.

Outside Storage - The storage of any material for a period greater than 48 hours, including items for sale, lease, processing and repair (excluding vehicles for sale) outside the principal or accessory buildings on a property. Storage of construction materials on an active job site may not be defined as outside storage.

Outside Sales - The retail sale of goods and products outside of a permanent structure that are clearly secondary to the function contained in that structure. This includes, but is not limited to: landscape materials, lawn and garden supplies, and produce.

Owner - A holder of any legal or equitable estate in the premises, whether alone or jointly with others, and whether in possession or not.

Parapet - That portion of a building wall or false front that extends above the roofline.

Park, Active - A park that provides opportunities for active recreational activities to the general public like ball fields, jogging trails, exercise areas, and playgrounds. Private parks may be approved as part of a conditional use permit or conditional zoning to be located within a residential subdivision or multi-family development for use by the residents of the subdivision or multi-family development.

Park Facilities - Facilities and features related to the public use of parks and open space including but not limited to playgrounds, playing fields, picnic areas, public restrooms, and improvements for pedestrian, bicycle, and vehicular access.

Park, Passive – A public or private outdoor recreational use relying on a natural or man-made resource base that is developed with a low intensity of impact on the land. Typical uses include trail systems, wildlife management and demonstration areas for historical, cultural, scientific, educational or other purposes that relates to the natural qualities of the area and support facilities for such activities. Private parks may be approved as part of a conditional use permit or conditional zoning to be located within a residential subdivision or multi-family development for use by the residents of the subdivision or multi-family development.

Parking Lot/Structure (Principal Use) - A stand-alone parking lot or structure (deck/garage) that is available for public or private use, but that is not accessory.

Parking Structure (Accessory Use) - a building containing one or more Stories of parking above grade.

Patio Home - A single-family dwelling on a separate lot with open space on three sides on that lot.

Pawn Shop - A shop where money is lent on the security of personal property pledged. Such property may then later be sold at the shop.

Pennant - Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

Person - Any individual, partnership, firm, association, joint venture, public or private corporation, trust estate, commission, board or public or private institution, utility, cooperative, interstate body or other legal entity.

Personal Care Services – Cosmetic services such as hair and nail salons, barber shops, clothing alterations, shoe repair, weight loss centers and makeup services.

Personal Services, Restricted - A personal service establishment that may tend to have a blighting and/or deteriorating effect upon surrounding areas and that may need to be dispersed from other similar uses to minimize its adverse impacts, including check-cashing services and tattooing, piercing, and similar services. These uses may also include accessory retail sales of products related to the services provided.

Pharmacy - A retail store that sells prescription drugs and which may also sell other items at the retail level. A pharmacy may have a maximum gross floor area of fifteen thousand (15,000) square feet. Prescription drugs may also be sold in department stores, variety stores and food stores but such a store shall not be deemed to be a "pharmacy".

Photocopy Service - An establishment that makes photocopies of items and related printing services and which may provide a variety of auxiliary services including the use of in-house computer equipment and the retail sale of papered goods and other products for the office.

Plan - Any documented and approved program of recommended action, policy, intention, etc., which sets forth goals and objectives along with criteria, standards, and implementing procedures necessary for effectively guiding and controlling decisions relative to facilitating development and growth management. The Plan is sometimes referred to as "The Land Development Plan".

Planned Residential Development (PRD) - A development planned and developed as an integral unit consisting of one or more residential-unit types (as permitted in the underlying general zoning district) and conforming to all applicable lot and bulk regulations.

Planned Unit Development (PUD) - A development containing a minimum of ten (10) acres, planned and developed as an integral unit containing one or more residential, commercial, institutional or manufacturing uses. A planned unit development (PUD) differs from a planned residential development (PRD) in that whereas a PRD is limited to residential dwelling units, a PUD may or may not contain dwelling units.

Planter - the element of the Public Frontage which accommodates street trees, whether continuous or individual.

Plat - A map or plan of a parcel of land that is to be, or has been subdivided, and meeting the requirements of G.S. 47-30 as amended.

Pool Hall - An establishment that provides three or more pool tables for use by the general public.

Post-Development Appraised Value: An evaluation of a property's value that is

performed by a professional appraiser after a Certificate of Occupancy has been approved. The appraiser is usually chosen by the lender, but the appraisal is paid for by the borrower.

Postal Store and Contract Station - Establishments conducting operations of the United States Postal Service including permanent, contract, and lease stations.

Principal Building - A Building in which is conducted the Principal Use of the Lot on which it is located.

Principal Entrance - the main point of access for pedestrians into a building.

Principal Structure - A Structure in which is conducted the Principal Use of the Lot on which it is located.

Produce Stand - The sale of any form of agricultural or horticultural products at a freestanding retail stand structure by an individual.

Prototype – The original or model on which something is based or formed. Prototypes may be the initial, later revision, or full scale and functional form of a new device design made in single or small lot quantities.

Prototype Design and Development – The processes used by an engineering team to conceive, make, and test prototype devices. The processes used to make and test devices includes precision CNC turning and milling, wire EDM cutting, and other similar devices. Material property testing is completed on a basic test frame.

Public Safety Station - A facility operated by a public agency, a private contractor thereof, or by a private non-profit volunteer organization and used for the base of operations and/or housing of equipment or personnel for the provision of dispatched public safety services including law enforcement, fire protection, rescue services, and/or emergency medical services. Such a facility may contain living quarters for on-duty personnel. It may also contain up to four holding cells for the temporary custody of persons under arrest. Facilities for the maintenance of equipment housed at the operation site are also permitted.

Public Street - A dedicated public right-of-way in which the roadway has been accepted or constructed to public standards for vehicular traffic but not an alley.

Racetrack - A facility where vehicles of any size, model aircraft and similar reduced-scale objects, or animals are raced for speed and/or endurance at which

seating space and accessory food stands may be provided.
Rear Alley (RA) - a vehicular way located to the rear of Lots providing access to service areas, parking, and Accessory Buildings and containing utility easements. Rear Alleys should be paved from building face to building face, with drainage by inverted crown at the center or with roll Curbs at the edges.

Recess Line - a line prescribed for the full width of a Facade, above which there is a Stepback of a minimum distance, such that the height to this line (not the overall building height) effectively defines the enclosure of the Enfronting public space. Var: Extension Line.

Recreation Facility, Indoor - Uses or structures for active recreation including gymnasiums, swimming pool, fitness center, athletic equipment, indoor running tracks, climbing facilities, court facilities and their customary accessory uses.

Recreation Facility, Outdoor - A tract of land designated and used by the general public for active recreation, primarily conducted outside of an enclosed building. Examples of such facilities shall include baseball hitting cages, miniature golf courses, Frisbee golf courses, driving ranges, tennis courts, playgrounds and skating rinks, and also includes their customary accessory uses including, but not limited to, maintenance sheds, clubhouses (with or without food service), pools, restrooms, and picnic shelters. The term shall not include the terms "racetrack", "outdoor firing range", "stadiums", amphitheaters", "amusement park", "country club", or "golf course".

Recreational Use, Accessory - A recreational facility (e.g., swimming pool, tennis court) accessory to a principal use such as a hotel, multi-family development, single-family residence, country club, etc.

Recreational Vehicle - A vehicle or portable structure built on a single chassis without a permanent foundation, which can be towed, hauled or driven and primarily designed as temporary living accommodation for recreational, camping and travel use and including but not limited to travel trailers, truck campers, camping trailers and self-propelled motor homes. A recreation vehicle shall not be considered as a dwelling unit.

Recycling Deposit Station (Principal Use) - A center for the acceptance by donation, redemption, or purchase, of recyclable materials from the public. All such goods shall be housed at all times within the structure. The outdoor storage of all goods to be recycled shall be prohibited.

Recycling Station, Accessory - A recycling station facility which does not constitute the principal use on the lot upon which it is located and at which household goods

are deposited for recycling purposes and which are later transferred to a recycling processing facility or deposit station. Such facilities may or may not be manned and may be located either outdoors or within a principal building. If accessory to a principal residential use, it shall be available for use only by the residents thereof.

Regulating Map - the adopted map or set of maps that shows the Districts, Restricted Frontages, and rights-of-way that are subject to, or potentially subject to, regulation by Section 21 "Downtown Code."

Rental Center (no outdoor storage) - A commercial establishment where household items and goods are offered for rent (and which may be for eventual sale) to the general public. This shall include the rental of prosthetics and medical supplies. Storage and display of all rental items shall be indoors.

Rental Center (with outdoor storage) - A commercial establishment primarily engaged in the rental of commercial and/or industrial supplies and equipment. Storage of rental items may be indoors or outdoors.

Reserve Strip - A strip of land (usually only a few feet wide) owned privately, and set aside around a subdivision in order to prevent access to adjacent property by way of subdivision streets.

Research and Development Facilities - This includes medical and testing laboratories but shall not include uses that require frequent deliveries by truck with more than two axles. This definition also includes facilities for scientific research, and the design, development, and testing of electrical, electronic, magnetic, optical, computer and telecommunications components in advance of product manufacturing, and the assembly of related products from parts produced off-site, where the manufacturing activity is secondary to the research and development activities.

Residential Care Facilities (more than 6 residents) - A staffed premises (not a single-family dwelling) with paid or volunteer staff that provides full-time care to more than 6 individuals. Residential care facilities include group homes (NCGS §131D), nursing homes (NCGS § 131E-101), residential child-care facilities (NCGS § 131D-10.2), assisted living residences (NCGS § 131D-2), adult care homes (NCGS §131D-2), retirement housing, congregate living services, assisted living services, continuing care retirement centers, skilled nursing services and orphanages. This term excludes residential/family care homes and halfway homes.

Restaurant - A commercial establishment other than a drive-in, drive-through or fast food restaurant where food is prepared, served and consumed primarily within the principal building. To qualify as a restaurant, an establishment's gross receipts from food and nonalcoholic beverages shall not be less than fifty percent (50%) of the total gross receipts from food, nonalcoholic beverages, and alcoholic beverages. Any restaurant whether public or private, that serves alcoholic beverages, shall be

licensed to dispense such beverages by the State of North Carolina.

Restaurant, Drive-In - An establishment where food products are sold in a form ready for consumption and where consumption is designed to take place on-site outside the confines of a building.At drive-in restaurants, customers may order their food from individual outdoor calling stations rather than at a centrally located drive-in service window commonly found at "drive-through" or "fast-food" restaurants.

Restaurant, Drive-Through - An establishment whose principal business is the sale of pre- cooked or rapidly prepared food directly to the customer in a ready-to-consume state for consumption on the restaurant premises or off-premises. Unlike a fast food restaurant, a drive- through restaurant does not contain any indoor customer dining areas. Unlike a drive-in restaurant, orders are taken from customers from centrally located drive-in windows rather than from individual calling stations.

Restaurant, Fast Food - An establishment whose principal business is the sale of pre-cooked or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building, on the restaurant premises or off-premises. Orders for food may be placed either within the restaurant building or from a centrally located outdoor calling station. Such restaurants may also have drive-in service windows for the pick-up of food orders.

Riding Academy – An establishment where horses are boarded and cared for and where instruction in riding, jumping and showing is offered and the general public may, for a fee, hire horses for riding.

Road, Frontage - A frontage road is a local street or road that is parallel to a full or partial access controlled facility and functions to provide access to adjacent land.

Road, Public - A public right-of-way not less than thirty (30) feet in width set aside for public travel and either which has been accepted for maintenance by the State of North Carolina or the Town of Waxhaw, has been established as a public road prior to the date of adoption of this Ordinance, or which has been dedicated to the State of North Carolina or Town of Waxhaw for public travel by the recording of a plat of a subdivision with the Union County Register of Deeds Office.

Roof Line - The top edge of the roof or the top of the parapet, whichever forms the top line of the building silhouette.

Rooming House - A residential dwelling in which lodging is provided by the owner or operator to three or more boarders. Kitchen and bathing facilities are normally shared. Lengths of stay are by the week, month, or longer.

School, Elementary, Junior High and Senior High - A public or private school

licensed by the State of North Carolina to provide elementary or secondary education. If said school is located on the grounds of a church or house of worship, it shall be considered a separate principal use if it has a student body in excess of fifty (50) students. Students enrolled in a day care center at the church shall not be separately counted as school students.

School, Vocational - A public or private institution for education or learning including athletic or recreational facilities, which does not include lodging. These schools offer vocational and technical training in a variety of technical subjects and trades. Training may lead to job-specific certification.

School for the Arts - A school where classes in the various arts (e.g., dance, painting, sculpting, singing) are taught to four (4) or more persons at a time. As differentiated from a "vocational school", such schools are usually attended by persons of all ages where professional placement after graduation is not of significant importance. A school giving martial arts instruction (i.e., martial arts school shall be considered a separate use).

Second-Hand and Consignment Shop - A retail establishment where clothes, furniture, and other household goods are sold to the general public on a consignment, retail, or not-for-profit basis. A "pawn shop" shall not be considered as being a "second-hand shop".

Septic Tank Cleaning Service - A base of operations for a septic tank cleaning service. Areas designated for the disposal of septic tank waste shall be deemed a separate principal use.

Setback - the distance on a Lot measured from the property line to a building Facade or Elevation that is maintained clear of permanent structures, with the exception of Encroachments.

Setback Line, Building - A line establishing the minimum allowable distance between the nearest portion of any building and the street right-of-way line or any other lot line when measured perpendicularly.

Setback, Front - Any Setback from a right-of-way line.

Setback, Rear - Any Setback other than a Front Setback that provides a usable outdoor space. (Any Lot having two or more Front Setbacks may not have to provide a Rear Setback.)

Setback, Side - Any interior property line Setback other than a Rear Setback.

Sewer System, Public- The Union County Sewer System.

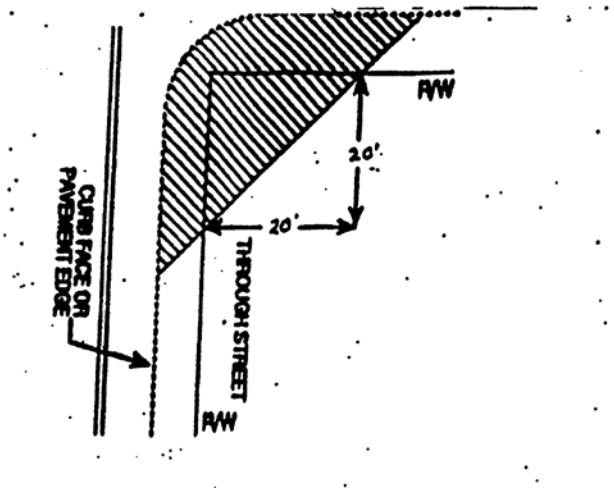
Shopping Center - A group of two (2) or more retail or service establishments constructed and developed in one (1) or more phases with customer and employee parking and merchandise and other loading facilities provided on-site. A shopping center may be located and developed on one (1) or more lots and may include one (1) or more principal buildings. A shopping center differs from an "office building" in that the majority the gross leasable area in a shopping center is devoted to retail and service uses serving the general public; the majority of gross leasable area in an office building is composed of office uses. Any uses located on outparcels which have points of ingress or egress from within the shopping center shall be considered as being part of that shopping center.

Shooting Range, Outdoor - A permanently located and improved area that is designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder or any other similar sport shooting in an outdoor environment. Shooting range excludes any area for the exclusive use of archery or air guns or enclosed indoor facility that is designed to offer a totally controlled shooting environment and that includes impenetrable walls, floor and ceiling, adequate ventilation, lighting systems and acoustical treatment for sound attenuation suitable for the range's approved use.

Shrub, Large - An ornamental plant that is at least two (2) feet tall above the highest root at the time of planting which can be expected to grow to a five (5) to six (6) foot height when mature.

Sidewalk: the paved section of the Public Frontage dedicated exclusively to pedestrian activity.

Sight Distance Triangle - The triangular area formed by a diagonal line connecting two points located on intersecting right-of-way lines (or a right-of-way line and the curb or a driveway), each point being twenty-five (25) feet from the intersection, and the two intersecting right-of- way lines (or a right-of-way line and a driveway).



On highways maintained by the state of North Carolina, additional sight triangle requirements may apply.

Sign - Any device, fixture, placard or structure that uses any color, form, graphic, illumination, symbol or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

Sign, A-Frame - A portable sign comprised of two separate panels or faces joined at the top and spread apart at the bottom to form the base on which the sign stands.

Sign, Address/Tenant Identification - A sign which displays only the name, address, and/or crest, or insignia, trademark, occupation of professional of an occupant or the name of any building on the premises.

Sign, Bill Board – See sign, off-premise.

Sign and Banner Shop - The manufacture (and/or sales) of banners, flags, and similar decorative sign objects on an individualized basis using computer graphic production equipment or silk screening.

Sign, Business Identification - A sign that directs attention to a business, profession, or industry located upon the premises where the sign is displayed; to the type of products sold, manufactured or assembled; and/or to services or entertainment offered on said premises, but not a sign pertaining to the preceding if such activity is only minor and incidental to the principal use of the premises.

Sign, Campaign or Election - A sign that advertises a candidate or issue to be voted upon on a definite election day.

Sign, Canopy and Awning –Signs attached to, painted on, or otherwise integrated into traditional storefront awnings that project over a sidewalk, building entry, window, or outdoor service area from the building facade.

Sign, Changeable Copy - A sign or portion of a sign on which message copy is changed manually in the field through the utilization of attachable letters, numbers, symbols and/or other similar characters without altering the face or surface of the sign. Also known as a reader-board sign.

Sign, Channel Letters (Standard) – The standard channel letter signs have colored Plexiglass faces illuminated with either neon or led in an aluminum frame and with an aluminum back.

Sign, Channel Letters (Reverse) – Reverse channel letters are often called halo-lit signs and are built in the opposite of standard channel letters. They have aluminum faces and clear Plexiglass backs. The result is a halo of light around the letters at night.

Sign, Construction - A sign identifying the architects, engineers, contractors and other individuals or firms involved with the construction of a building. The name of the building, the purpose of the building, and the expected completion date may be specified.

Sign, Directional - A sign fronting on a road containing the name of the principal use, and a directional arrow to the principal use. Such principal use shall not be visible to the motorist at the location at which the sign is placed.

Sign, Electronic Message Board – See Electronic Message Board

Sign, Flashing - A sign that uses an intermittent scrolled or flashing light or message to attract attention, or is otherwise designed or constructed to have intermittent, flashing, or scrolled light emitted from it.

Sign, Freestanding - Any sign that is not affixed to a building and is securely and permanently mounted in the ground. Such sign may include a ground, pole or monument sign.

Sign, Government - Any temporary or permanent sign erected and maintained for any government purposes.

Sign, Illuminated - A sign either internally or externally illuminated.

Sign, Incidental - A sign used in conjunction with equipment or other functional elements for a use or operation. These shall include, but not be limited to drive

through window menu boards, and signs on automatic teller machines, gas pumps, vending machines, or newspaper delivery boxes.

Sign, Inflatable - A three-dimensional object, filled with air or gas, and located in such a manner as to attract attention.

Sign, Monument - A freestanding ground sign having the entire bottom of the sign affixed to the ground.

Sign, Off-Premise - A sign identifying/advertising and/or directing the public to a business, or merchandise, or service, or institution, or residential area, or entertainment which is located, sold, rented, leased, produced, manufactured and/or furnished at a place other than the real property on which said sign is located. ~~However,~~ This definition shall include Outdoor Advertising or "Billboard" signs.

Sign, On-Premise - A sign or display that identifies or communicates a message related to the activity conducted, the service offered, or the commodity sold on the premises where the sign is located.

Sign Painting Shop - The painting and/or manufacture of signs normally which are displayed as pole signs, outdoor advertising signs, ground-mounted or monument signs or erected outdoors either on buildings or freestanding. This shall also include outdoor advertising sign company operations centers.

Sign, Pole - A detached sign erected and maintained on a free-standing frame, mast, or pole and not attached to any building. This does not include post ad arm signs.

Sign, Political - A sign advertising a candidate or issue to be voted upon on a specific election day, which is attached to the ground by a stake or stakes, but which excludes any other sign defined as a portable sign.

Sign, Portable - Any sign designed or intended to be readily relocated whether or not it is permanently attached to a building, structure or on the ground.

Sign, Projecting/Suspended - Pedestrian-scaled signs mounted to the side of a building or underside of a balcony or arcade which can be read from both sides.

Sign, Push Through – Push through signs are created so that only the letters are illuminated, not the background.

Sign, Pylon - A freestanding sign mounted on two posts. This does not include monument signs.

Sign, Real Estate - A sign that is used to offer for sale, lease, or rent the premises upon which such sign is placed.

Sign, Roof - A sign erected or maintained in whole or in part upon or over the roof or parapet of a building and does not include theatre marquee signs.

Sign, Temporary - Signs used to announce or advertise specific events which have a definite beginning and end date/time.

Sign, Theatre Marquee – Vertical signs projecting from the side of a building or a roof structure which may or may not incorporate changeable type.

Sign, Wall - Flat signs or lettering which are painted or attached to the wall of a building or structure.

Sign, Window - Flat signs or lettering which are painted or attached to the inside of a window or door of a building or structure. These signs also include retail window displays which are intended to showcase/advertise goods and products to pedestrians on the sidewalk.

Small Equipment Repair/Rental - The repair and/or rental of small equipment as a primary use including televisions, computers, cleaning equipment, vacuum cleaners, and other equipment that can be transported by automobile, small truck/van.

Spinner - A wind activated, propeller-type device, which may or may not be attached to advertising copy.

Stadium - A structure or facility designed, intended, or used primarily for outside and/or inside athletic events or other performances and containing seating for

spectators of those events, but not including a racetrack. The sale of beverages, snack foods, and sundries geared to on- premise consumption or usage by spectators shall be permitted.

Staging Space - An area of temporary standing storage for one automobile awaiting drive-in service or commodity pick-up. The storage space shall be at least nine (9) feet in width and twenty (20) feet in length.

Storage, Open-Air - The storage of goods, bulk materials or discarded items in the open or under a structure containing a roof but no walls.

Storage, Outdoor Storage Yard – The storage of various materials including, but not limited to, lumber, pipe, bricks, stone, shingles, mulch, soil, sand, gravel and other non-hazardous materials outside of a structure, as a principal or accessory use.

Storage, Self-Service - A building containing separate enclosed storage spaces of varying sizes leased or rented on an individual basis.

Story - That portion of a Building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between such floor and the ceiling next above it.

Streamer - A string or strip of miniature or full size pennants or flags which may or may not be suspended between two points.

Street - a local urban thoroughfare of low speed and capacity.

Street, Collector - Similar to minor thoroughfares but carrying less through traffic.

Street, Local - A local street is any link not a higher-order urban system and serves primarily as a direct access to abutting land and access to higher systems. It offers the lowest level of mobility and through-traffic is usually deliberately discouraged.

Street, Public- Dedicated and accepted by North Carolina Department of Transportation or the Town of Waxhaw for future maintenance.

Street Right-of-Way - An area of land occupied or intended to be occupied by a public street or areas claimed by a municipality or the State of North Carolina for such purposes, or actually used for such purposes.

Street Yard: the area between a building frontage and the right-of-way line.

Streetscreen: A freestanding wall built along the frontage line, or contiguous with the facade, for the purpose of masking a parking lot from the street.

Structure - Anything constructed, erected, or placed.

Studio, Art, Dance, Martial Arts, Music - Facilities for individual and group instruction and training in the arts; production rehearsal; photography, and the processing of photographs produced only by users of the studio facilities; martial arts training studios; gymnastics, yoga, and similar instruction; and aerobics and gymnastics studios with no other fitness facilities or equipment.

Subdivider - Any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

Subdivision- All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and includes all division of land involving the dedication of a new street or a change in existing streets; however, the following is not included within this definition and is not subject to any regulations enacted pursuant to this Ordinance.

1. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the Town of Waxhaw as shown in its subdivision regulations;
2. The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved;
3. The public acquisition by purchase of strips of land for the widening or opening of streets;
4. The division of a tract in single ownership whose entire area is not greater than two (2) acres into not more than three (3) lots, where no street right-of- way dedication is involved and where the resultant lots are equal to or exceed the standards of the Town of Waxhaw as shown in this Ordinance.
5. The division of land in single ownership whose gross area is greater than two (2) acres into not more than two (2) lots or tracts, where no street right-of-way dedication is involved or proposed, and where the resultant lots consist of one (1) lot no greater than one (1) acre and one (1) lot or parcel containing all remaining land area, and where the resultant lots equal or exceed the minimum lot size requirements of applicable codes and ordinances, so long as such division does not occur within twenty-four (24) months of any other division of said parcel.

Subdivision, Conventional- A residential subdivision other than one created in a planned residential development (PRD) or a traditional neighborhood Development (TND).

Subdivision, Major- A major subdivision shall include all subdivisions that require or involve a public street dedication or dedication of floodplain or open space.

Subdivision, Minor - A minor subdivision shall include all subdivisions that do not involve a public street dedication or dedication of flood plain or open space.

Subdivision Sales Office - A sales office located within a single-family, or multi-family residential dwelling, and used as part of a sales campaign to show the design, structure, and appearance of the residential structures in the development in which it is located.

Substantial Modification: major repair or reconstruction that equals sixty percent (60%) or more of the Taxed Value of the Building or Structure, or reconstruction of any Building or Structure damaged by any cause to an extent equal to sixty percent (60%) or more of its Taxed Value, in which the work is done, singularly or cumulatively within any five (5) year period.

Swim/Tennis Club - A private outdoor recreation facility featuring a swimming pool and/or tennis courts. The facility (depending on its zoning district) may be run either as a private club (in commercial and residential districts) or as a commercial use (in commercial districts only). Other on-premise may include racquetball, basketball and similar outdoor courts. Golf courses shall not be allowed.

Taxed Value - The official value assigned to real property by the Union County Tax Assessor for ad valorem tax purposes.

Telecommunication Towers and Facilities - Structure or structures (including any accessory structures required to house transmitting or maintenance equipment) designed to support antennae used for transmitting or receiving commercial communications and/or telecommunications. This does not include ham radio operations.

Temporary Building - Any Structure of an impermanent nature or which is designed for Use for a limited time, including any tent or canopy.

Temporary Use - A land use on an individual parcel or site established for a limited and fixed period of time for a purpose which may not normally be permitted in a zoning district, or which does not meet all zoning requirements, but which is necessary in special situations.

Terminated Vista: a location at the axial conclusion of a Street. A building located at a Terminated Vista designated on a Regulating Plan is required or recommended to be designed in response to the axis.

Theater, Indoor (movie or live performance) - A specialized theater for showing movies or motion pictures on a projection screen or a stage for live performances. This category also includes cineplexes and megaplexes, complex structures with multiple movie theaters, each theater capable of an independent performance.

Theater, Outdoor - An establishment for the performing arts with open-air seating for audiences.

Theater, Outdoor Movie - A facility designed for the outdoor projection of motion pictures onto a permanent screen to be viewed from the patron's automobile.

Thoroughfare, Major - Major thoroughfares consist of Interstate, other freeway and expressway links, and major streets that provide for the expeditious movement of volumes of *traffic* within and through urban areas.

Thoroughfare, Minor - Minor thoroughfares are important streets in the Town system and perform the function of receiving traffic from collector and local access streets and carrying it to the Major Thoroughfare System. Minor Thoroughfares may be used to supplement the Major Thoroughfare System by facilitating a minor through-traffic movement and may also serve abutting property.

Townhouse - A dwelling unit in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more common walls.

Traditional Neighborhood Development - A Traditional Neighborhood Development (TND) is a human scale, walkable community with moderate to high residential densities. Compared with conventional suburban developments, TNDs have a higher potential to increase modal split by encouraging and accommodating alternate transportation modes. TNDs also have a higher potential for capturing internal trips, thus reducing vehicle miles traveled. A dense network of narrow streets with reduced curb radii is fundamental to TND design. This network serves to both slow and disperse vehicular traffic and provide a pedestrian friendly atmosphere. Such alternate guidelines are encouraged by NCDOT when the overall design ensures that non-vehicular travel is to be afforded every practical accommodation that does not adversely affect safety considerations. The overall function, comfort and safety of a multi-purpose or “shared” street are more important than its vehicular efficiency alone.

TNDs have a high proportion of interconnected streets, sidewalks and paths. Streets and right- of-ways are shared between vehicles (moving and parked), bicycles and pedestrians. The dense network of TND streets functions in an interdependent manner, providing continuous routes that enhance non-vehicular travel. Most TND streets are designed to minimize through traffic by the design of the street and the location of land uses. Streets are designed to only by as wide as needed to accommodate the usual vehicular mix for that street while providing adequate access for moving vans, garbage trucks, fire engines and school buses.

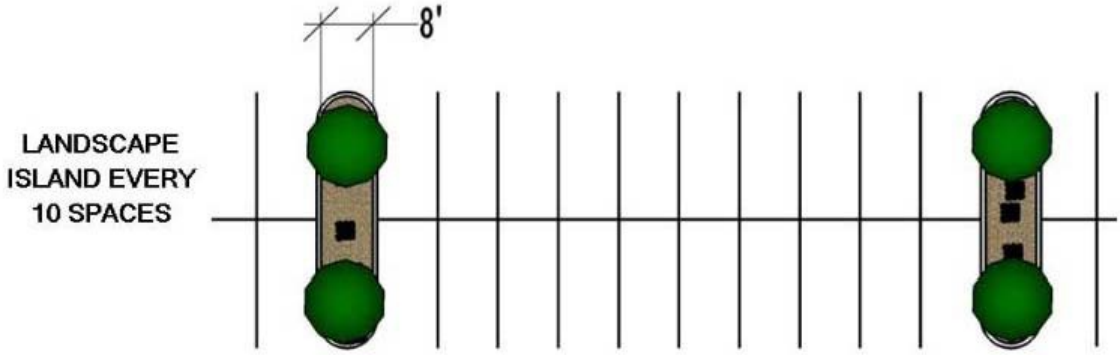
Transparency Zone: A building design standard that emphasizes visibility through ground-floor facades in order to promote a rich pedestrian experience on main streets. It applies to commercial and mixed-use buildings that are subject to Section 21 Downtown Code.

Tree- A living woody plant with an erect perennial trunk two and one-half inches in caliper or d.b.h. with a definitely formed crown or foliage.

Tree Bank – A site such as a school or public park, where the owner/developer shall donate and plant the required trees when it is not feasible to plant the required trees within their site's project area.

Tree, Canopy - A tree, either single or multi-stemmed (i.e., in clump form) which has a height of at least ten (10) feet and is of a species which, at maturity, can be expected to reach a height in excess of forty (40) feet under normal growing conditions in the local climate.

Tree, Island – The tree planting area that is used to break the monotony of expansive parking lots. A graphic example is as follows.



Tree, Landmark- Tree or trees as defined on a list of trees enunciated and established by the
Waxhaw Town Board, with such list being filed in the office of the Waxhaw Town Clerk.

Tree, Mature - A tree, either single or multi-stemmed (i.e., in clump form) which has a height of at least eight (8) feet. If the tree is single-stemmed, it shall have a caliper of at least two and one-half (2-1/2) inches at the time of planting measured six (6) inches up from the highest root of the tree.

Tree, Understory - A tree, either single or multi-stemmed (i.e., in clump form) which has a height of at least five (5) feet and is of a species which at maturity, can be expected to reach a height of 10-40 feet under normal growing conditions in the local climate

Truck Terminal - A facility where cargo is stored and where trucks load and unload cargo on a regular basis.

Turning Radius: the curved edge of a Street at an intersection, measured at the inside edge of the vehicular tracking. The smaller the Turning Radius, the smaller the pedestrian crossing distance and the more slowly the vehicle is forced to make the turn.

Twin House - Two dwelling units on separate lots joined by a common building wall along the property line.

Use - The purpose for which land or Structures thereon is designed, arranged or intended to be occupied or Used, or for which it is occupied, maintained, rented or leased.

Use, Accessory - Any use that is clearly incidental, secondary, and/or supportive or a principal use.

Use, Conditional - A Use which is permitted in a District only if a Conditional Use Permit therefore is expressly authorized by the Board of Commissioners.

Use, Principal Permitted - Any Use listed as a permitted Use in any Zoning District, except those that by definition or their nature are Accessory Uses.

Utilities - Facilities or systems for the distribution of gas, electricity, steam, or water, the collection, treatment and disposal of sewage or refuse; the transmission of communications; of similar functions necessary for the provision of public services. Radio transmission facilities less than 180 feet in height for use by ham radio operators or two-way radio facilities for business or governmental communications shall be deemed accessory uses and not utilities. Utilities are divided into 3 classes:

Class 1 - Distribution, transmission and collection lines (above and below ground) including electrical, telephone/broadband internet, natural, gas, waste water collection, and water distribution lines; pumping stations, lift stations, and telephone/broadband switching facilities (up to 200 square feet).

Class 2 - Elevated water storage tanks; above ground natural gas facilities including regulator stations and Point of Delivery stations; package treatment plants; telephone/broadband switching facilities (over 200 square feet); substations; or other similar facilities in connection with telephone, electric, natural gas, steam, and water facilities, not including cellular communication towers.

Class 3 - Generation, production, or treatment facilities such as power plants, water and sewage plants, and landfills.

Valance - A short apron which is designed and installed as part of a canopy/awning and is usually, but not necessarily vertical.

Variance - Official permission from the Board of Adjustment to depart from the requirements of this Ordinance.

Vehicle, Commercial - A truck of any type used or maintained primarily to transport material or to operate a power attachment or tool. Any vehicle with advertising or business designation affixed to it shall be considered a commercial vehicle, except for passenger vehicles having such affixations.

Vehicle, Inoperable - A vehicle that for a period of more than seventy-two (72) hours has been in a state of disrepair and is incapable of being moved under its own power.

Vehicle, Passenger - An automobile, van, or pick-up truck used exclusively as a passenger vehicle and/or for hauling property of the owner. Pick-up trucks may qualify as passenger vehicles only when used exclusively as passenger vehicles or for hauling property of the owner and not equipped as a camper or a commercial vehicle.

Vehicle Renting/Leasing/Sales - Establishments which may have showrooms or open lots for selling, renting or leasing vehicles. May include car dealers for automobiles and light trucks, mobile homes, motorcycle, ATV, or boat and marine craft dealers.

Vehicle Services – Major Repair/Body Work - The repair, servicing, alteration, restoration, towing, painting, cleaning, or finishing of automobiles, trucks, recreational vehicles, boats, large appliances, commercial and industrial equipment and other vehicles as a primary use, including the incidental wholesale and retail sale of vehicle parts as an accessory use. This includes major repair and body work which encompasses towing, collision repair, other body work and painting services, and tire recapping. This may be an accessory use to an establishment that provides vehicle

rental/leasing/sales.

Vehicle Services – Minor Maintenance/Repair - The repair, servicing, alteration, restoration, towing painting, cleaning, or finishing of automobiles, trucks, recreational vehicles, boats and other vehicles as a primary use, including the incidental wholesale and retail sale of vehicle parts as an accessory use. Minor facilities providing limited repair and maintenance services. Examples include: car washes, attended and self-service; car stereo and alarm system installers; detailing services; muffler and radiator shops; quick-lube services; tire and battery sales and installation (not including recapping).

Vehicular Use Area (VUA) - Any portion of a parking lot or driveway that is used by vehicles.

Veterinary Services - Establishments that include services by licensed practitioners of veterinary medicine, dentistry, or surgery for animals; boarding services for pets; and grooming.

Video Arcade - See "Game Room"

Village House - A single-family detached dwelling built on a small lot (typically smaller than the minimum lot size for the zoning district). Land saved by use of smaller lots is dedicated for common use. Houses may be placed close to the street to maximize rear yards. Shared driveways with separate parking areas may be utilized.

Wall, Building - The entire surface area, including windows and doors, of an exterior wall of a building. For the purposes of this Ordinance, the area of a wall will be calculated for a maximum of fifty (50) feet in height of a building.

Warehouse - A building or group of buildings for the storage of goods or wares belonging either to the owner of the facility or to one or more lessees of space in the facility, or both, with access to contents only through management personnel.

Warehouse-Mini - See "Mini-Warehouse"

Water System, Public - The Union County Water System.

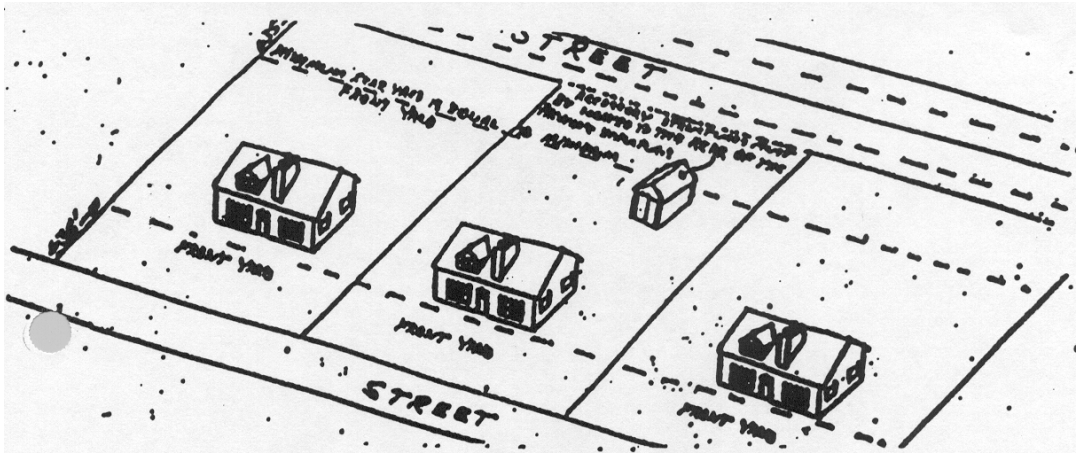
Wholesale Sales Operation - A place of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional or professional business users; or to other wholesalers. The majority of all sales of such businesses shall be for resale purposes. The Administrator may require proof of this through sales

tax reports. Wholesale clubs and similar membership warehouses, where membership is easily available to the consuming public, and similar businesses shall not be deemed "wholesale sales operations" but rather shall be considered a retail sales operation.

Wholesaling and Distribution - Establishments engaged in selling merchandise to retailers; to contractors, industrial, commercial, institutional, farm or professional business users; to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies. This does not include selling to the public. Examples of these establishments include: Agents, merchandise or commodity brokers, and commission merchants; Assemblers, buyers and associations engaged in the cooperative marketing of farm products; Merchant wholesalers; Stores primarily selling electrical plumbing, heating, and air conditioning supplies and equipment.

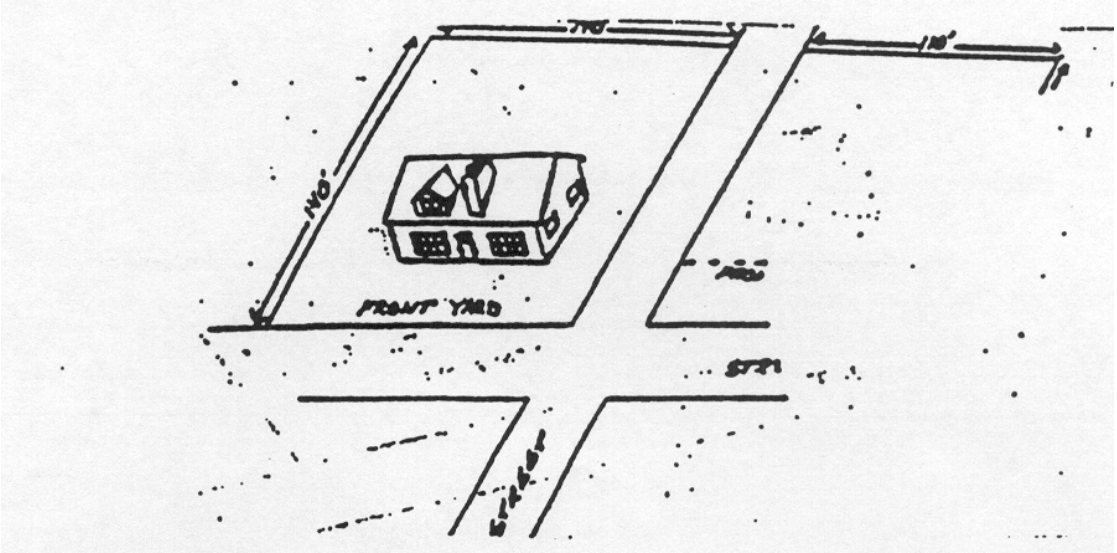
Yard Sale - An outdoor sale of merchandise conducted entirely upon a residentially or institutionally developed lot by one or more households or civic groups where goods sold are limited primarily to used merchandise donated by the yard sale participants.

Yard, Front - An area measured between the edge of the public street right-of-way line, and the front of a building, projected to the side lot lines. On corner lots, the front yard shall be measured perpendicular from the street lot line having the shortest linear footage. If both street lot lines have equal linear footage and no principal structure is located on the lot, the property owner shall determine the location of the front yard. If a principal structure is located on such a lot, the front yard shall be based on the architectural orientation of the house. A graphic example of this is as follows:



On through lots, the required front and rear yards shall each equal or exceed the greater required front or rear yard setback that would normally be applied in that

zoning district. For example, if a through lot were located in a zoning district which normally required a thirty foot front setback and a thirty-five foot rear setback, both front and rear setbacks would have to equal or exceed thirty-five feet. For the purpose of placing accessory structures, however, the rear yard shall be deemed to be the yard opposite the street-side yard that the architectural front of the building faces or lies closest to. A graphic example of this is as follows:

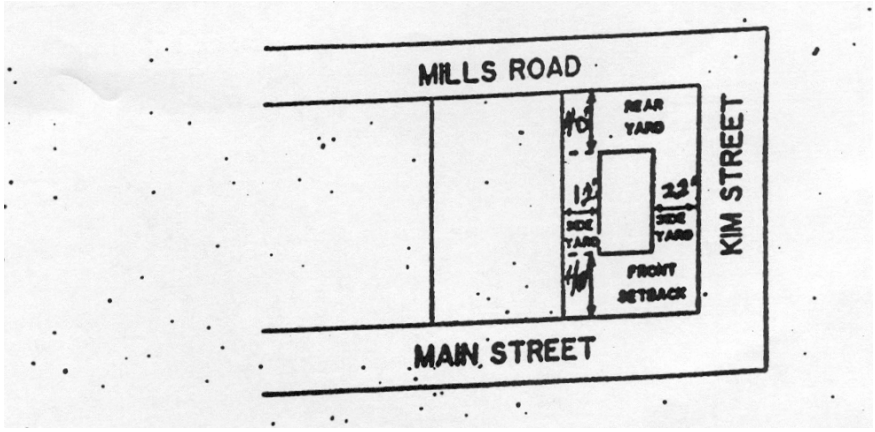


If a lot is abutted by streets on three sides, the front setback requirement for the zoning district shall be applied only on the two opposing street fronts. The required setback on the third street front must be the side yard requirement plus 10' since it is a corner lot. The yard opposite the third street front must be at least the minimum side yard requirement for the zoning district.

Example: Regulations for a single family dwelling in the R-3 Zoning District:

Front Setback:	30’
Rear Setback:	30'
Side Yard:	10'

A graphic example of this is as follows:



Zoning Administrator - See "Administrator, Unified Development Ordinance."

SECTION 9
GENERAL PROVISIONS

The following general provisions shall apply in all situations unless otherwise indicated.

9.1 RELATIONSHIP OF BUILDING TO LOT

Every Building hereafter erected, moved or placed shall be located on a Lot and in no case shall there be more than one (1) principal residential Building on a Lot.

9.2 OPEN SPACE REQUIREMENTS

No part of a yard, court or other open space provided around any Building or Structure for the purpose of complying with the provision of this Ordinance shall be included as a part of a yard or other open space required under this Ordinance for another Building or Structure. Every part of a required yard shall be open and unobstructed from its lowest level to the sky, except for the ordinary projection of sills, chimneys, flues and eaves; provided, however, that none of the aforesaid projections shall project into a Minimum Side Yard more than one-third (1/3) of the width of such yard nor more than twenty-four (24) inches, whichever is the least. Open or lattice enclosed fire escapes, fire proof outside stairways, and balconies opening upon fire towers projecting into a yard not more than five (5) feet shall be permitted where placed so as not to obstruct light and ventilation. Driveways and sidewalks may be permitted also.

In addition, certain Structures are permitted to be placed in the Required Yard Area as provided for in the Schedule of District Regulations (for example parking areas, accessory structures, signs, etc.).

9.3 REDUCTION OF LOT AND YARD AREAS PROHIBITED

No yard or Lot existing at the time of passage of this Ordinance shall be reduced in size or area below the minimum requirements set forth in this Ordinance. Yards or Lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

9.4 ACCESS TO PROPERTY

No Building, Structure or Use of land shall be established on a Lot nor shall any Lot be created that does not abut upon a Public Street to which it has legal access. The public access requirement shall not apply to land exempt from Public Street access by this Ordinance. Lots that were “grandfathered” are allowed to be developed so long as they have a dedicated

easement to a public road. Any "grandfathered" lot on which a non-residential use is to be established shall be served with a minimum of a 20' wide paved access way connecting said lot to a public street.

9.5 RESERVED

9.6 RESERVED

9.7 WATER AND SEWER REQUIREMENTS

The Lot sizes required for the various Districts in this Ordinance were drawn based upon the assumption that adequate water supply and sewage disposal systems are available to each and every Lot. The lack of adequate systems for one or both facilities, however, may require larger Lot areas or, in some instances, not permit development as intended.

9.8 BUFFERS, SCREENING AND LANDSCAPING

1. General Requirements

A. Purpose:

The intent of these requirements shall be to enhance the visual and aesthetic appearance of the Town; provide space definition and landscape continuity between the built environment and the natural environment; provide appropriate barriers and relief from traffic, noise, heat, glare and the spread of dust and debris; reduce the impact of development on the community's storm drainage system and reduce flooding; aid in the conservation of energy; replenish the atmosphere with oxygen; provide for a more pleasant and relaxing urban environment; and increase property values. Furthermore, the intent shall be to create a visual screen between residential zoning districts and other zoning districts, or to screen certain uses in order to minimize potential nuisances such as noise, dust, odor and light glare; to reduce the visual impact of unsightly aspects of adjacent development; to provide for the separation of spaces and to establish a sense of privacy.

B. Applicability

1. All uses subject to the requirements of this chapter shall provide a landscape buffer to separate that use from adjacent land uses in accordance with the following subsections. The buffer shall have the appropriate width, amount of vegetation, and other features to properly mitigate negative effects of contiguous land uses. Whenever new

landscape material must be used, such material shall consist of **drought tolerant** plantings to reduce the need for irrigation systems and / or supplemental watering.

2. Within the C-4 (Central Business) District the requirements of this section shall apply only to boundaries between properties located within the district and properties located outside the district, and not to boundaries between properties that are each located within the C-4 (Central Business) District.
3. If the Zoning Administrator determines that a vegetated buffer does not exist on the site in accordance with the standards specified in the Ordinance, or has been disturbed as allowed in this section, then a re-vegetated natural buffer shall be installed. The intent of the re-vegetated buffer is to restore the natural area (i.e., sufficient canopy trees to achieve a closed canopy in the future.)

C. Temporary Deferral: A certificate of compliance shall not be issued for any use located on a lot(s) upon which screening and/or landscaping are required, unless such screening and landscaping are provided on said lot(s) as herein specified. This provision may be temporarily deferred by the Zoning Administrator in cases where it is not reasonable for the developer to install certain species of plant material prior to occupancy due to the recommended planting season not occurring at an appropriate phase in construction. In such case, the time deadline for planting such materials shall be extended only to the nearest seasonal period suitable for planting such materials. The Zoning Administrator shall require that the applicant obtain a temporary waiver when water restrictions are in place preventing regular irrigation or watering of plant material.

1. If a temporary deferral is granted, the developer or property owner must provide the Town with a surety bond or such other financial security as approved by the Zoning Administrator ensuring the installation of screening/landscaping. The amount of the security shall be one and one-half (1 ½) times the cost of plants, plant material and installation. The developer or owner must submit documentation of the estimated installation costs of the deferred plantings. Suitable documentation may be in the form of a landscape contractor's bid or contract, a nurseryman's bill or a similar document, or a cost estimate by a registered landscape architect.
2. The Zoning Administrator is authorized to release part of any security posted as the improvements are completed. However, all landscaping shall be in place by the next growing season.

D. Landscape Plans

1. In order to implement the requirements of this section, landscape plans are required as part of each site plan required under Section 9 of this Ordinance. In addition, subdivision plans, conditional use permit and conditional zoning site plans which include buffers, streetscapes, or other landscape areas shall be required to provide a landscape plan. Plans shall be developed by individuals or professional firms having the competence and knowledge to prepare plans required by this Section.
2. Landscape Plans shall include typical planting details for trees and shrubs, with specifications for soil amendments to provide suitable long-term growing conditions.
3. Applicants shall familiarize themselves with existing site conditions, and are encouraged to meet with Waxhaw staff to discuss appropriate design options and alternatives for accomplishing screening and landscaping objectives of the Ordinance.

E. Buffers and Screening: Screening between certain uses may be called for in specific situations elsewhere in this Ordinance or as a condition in conjunction with a variance, Conditional Use Permit or through Conditional Zoning. Such screening requirements may be at levels different than those herein called for. Where conflicts or discrepancies occur between any of these requirements, the higher level of buffers and or screening shall be provided.

Buffers, screening, and / or landscaping shall be required when any of the following situations occur:

1. The initial development or occupancy of a non-residential use requiring screening and landscaping under Section 9.8 (1), (2), (3) and/or (4).
2. If a change in use or occupancy results from a change in the zoning classification to a zoning district which requires landscaping and screening, then the change cannot occur without the required screening or landscaping having first been provided on-site.
3. If an expansion of an existing use which is deficient in screening or landscaping on a lot less than 20,000 square feet, which increases the square footage of the building by more than 100 square feet, or 5%, whichever is smaller, then the expansion cannot occur without the required screening or landscaping having first been provided on-site. If the expansion is less than 100 square feet or 5%, whichever is smaller, and the use is adjacent to a residential district, then the Administrator shall determine the amount of screening to be provided to fulfill the intent and spirit of this Ordinance.

4. If an expansion of an existing use which is deficient in screening or landscaping on a lot having between 20,000 and 43,560 square feet increases the gross floor square footage by more than 250 square feet or 5%, whichever is smaller, then the expansion cannot occur without the required screening or landscaping having first been provided on-site.
5. If the expansion of an existing use deficient in screening or landscaping on a lot between 1-5 acres increases the gross floor square footage by more than 500 square feet or 5%, whichever is smaller, then the expansion cannot occur without the required screening or landscaping having first been provided on-site.
6. If the expansion of an existing use deficient in screening or landscaping on a lot greater than 5 acres increases the gross floor square footage by more than 5%, then the expansion cannot occur without the required screening or landscaping having first been provided on-site.
7. In the event a change in use or occupancy results from a change in zoning classification to a zoning district which requires landscaping and screening, or an expansion of an existing use is proposed, and unusual topography, location, and/ or size of the lot or buildings would make strict adherence to the requirements of this Section impossible to install or serve no meaningful purpose, the Zoning Administrator may alter the requirements of Section 9.8.1.E (1), (2), (3), (4), and (5), as long as the spirit and intent of Section 9.8 are maintained.

   Such an alteration may occur only at the request of the owner, who shall submit a plan to the Zoning Administrator showing existing site features that would screen the proposed use and expansion and any additional screen materials the applicant may propose to have installed. The Administrator shall have no authority to alter the screening and buffer requirements unless the owner demonstrates that existing site features and any additional screening materials will screen the expanded use as effectively as the required screen.
8. Parking areas for five (5) or more vehicles shall be screened from view from public streets. Please refer to Section 12.4.2 *Parking, Loading and Lighting: Parking Lot Landscaping* or Section 9.8.2 D *General Provisions: Parking Lot Landscaping* of the UDO for specific screening requirements.

F. <u>Buffers and landscaping</u> shall be required along-side and rear property lines between abutting uses and districts in accordance with tables 9.8.1.a and 9.8.1.b below:

Table 9.8.1.a REQUIRED BUFFER CLASSES

	EXISTING ABUTTING USES AND DISTRICTS				
DEVELOPING USES	SINGLE FAMILY ZONING/ USE CLASS	MULTI FAMILY ZONING	OIS ZONING*	COMMERCIAL ZONING	PARKS AND GREENWAYS
1. MULTIFAMILY Attached and multifamily in one building with more than 12 units; Planned multifamily and attached developments and Manufactured housing parks	B	C			C
2. INSTITUTIONAL Low Intensity: Civic, service and fraternal organizations; cultural facilities; Day care center; Dormitories; Elementary schools*; Group homes with more than 6 residents; and Nursing homes, rest homes and homes for the aged.	C	C			C

	EXISTING ABUTTING USES AND DISTRICTS				
DEVELOPING USES	SINGLE FAMILY ZONING/ USE CLASS	MULTI FAMILY ZONING	OIS ZONING*	COMMERCIAL ZONING	PARKS AND GREENWAYS
Medium Intensity: Government buildings; less than 12,500 sq. ft.; Health institutions, less than 50,000 sq. ft.; Junior high and Middle schools*; Religious institutions, up to 750 seats; Stadiums and arenas, less than 5,000 seats and other institutional uses less than 50,000 sq. ft.	B	B	C		C
High Intensity: Government buildings, 12,500 sq. ft. or more; Health institutions, 50,000 sq. ft. or more; High schools*; Religious institutions, 750 seats or more; Stadiums and arenas, 5,000 seats or more; Universities, colleges and junior colleges; and other institutional uses more than 50,000 sq. ft.	B	B	C		B
3. OFFICE					
Clinics, up to 50,000 sq. ft	C	C			C

	EXISTING ABUTTING USES AND DISTRICTS				
DEVELOPING USES	SINGLE FAMILY ZONING/ USE	MULTI FAMILY ZONING	OIS ZONING*	COMMERCIAL ZONING	PARKS AND GREENWAYS
Clinics, more than 50,000 sq. ft	B	B			B
Offices, up to 50,000 sq. ft	C	C			C
Offices, more than 50,000 sq. ft	B	B	C		B
Other office uses, up to 50,000 sq. ft.	C	C			C
Other office uses, more than 50,000 sq. ft.	B	B	C		B
4. BUSINESS					
Amusement, commercial outdoor	B	B	C		C
Retail, Shopping Centers and Restaurants, up to 50,000 sq. ft.	B	B	C		C
Retail, Shopping Centers and Restaurants, more than 50,000 sq. ft.	B	B	C		C
Wholesale trade	B	B	C	C	C
Other business uses	B	B	C	C	B
5. INDUSTRIAL					
Airport	A	A	A	A	A
Heavy manufacturing	A	A	A	B	A
Light manufacturing	A	A	A	B	A
Warehousing	A	A	A	B	A
Other industrial uses	A	A	A	A	A

** In the event that a single family house is being occupied primarily as a residence in the OIS district, the parcel shall be deemed a single family use as it pertains to the above table.*

Table 9.8.1.b BUFFER WIDTHS AND PLANTING STANDARDS

	SITE AREA (ACRES)	> 2	2 >10	= or >10
A CLASS	WIDTH (ft)	30	55	75
	TREES (PER 100 ft)	5	6	9
	SHRUBS (PER 100 ft)	40	60	60
B CLASS	WIDTH (ft)	20	45	55
	TREES (PER 100 ft)	3	6	7
	SHRUBS (PER 100 ft)	30	40	40
C CLASS	WIDTH (ft)	10	25	45
	TREES (PER 100 ft)	2	3	6
	SHRUBS (PER 100 ft)	20	20	20

G. Landscape Areas Adjacent to Public Streets:
A continuous landscape area shall be provided adjacent to public street right of ways for all districts except single family districts. This landscape area shall be in accordance with table 9.8.1.c below:

Table 9.8.1.c

LANDSCAPE AREAS ADJACENT TO PUBLIC STREETS

USE	MIN. LANDSCAPE AREA WIDTH	PROPERTY SIZE
INDUSTRIAL		
	40 FEET	5 ACRES OR LARGER
	20 FEET	> 5 ACRES
BUSINESS OR OFFICE (EXCLUDING CENTRAL BUSINESS DISTRICT)		
	20 FEET	ANY SIZE
MULTI-FAMILY OR INSTITUTIONAL		
	20 FEET	2 ACRES OR LARGER
	10 FEET	> 2 ACRES
CENTRAL BUSINESS DISTRICT	NONE	

2. General Provisions

A. Screening Requirements for Open Storage and Unenclosed Structures

For open-air storage, or an unenclosed structure consisting of a roof, but no walls used for storage of materials, products, wastes or equipment associated with business or industrial uses located in any zoning district within one hundred fifty (150) feet of the street right-of-way or adjacent property line, screening must be provided on the subject property so as to materially screen said storage, in the form of a berm, wall or fence and / or an appropriate amount of landscape plantings to effectively screen the storage from view from any adjacent lot or street right-of-way.

B. Screening Requirements for All Zoning Districts

1. The following uses must be screened from abutting property and from public view from a public street. If shrubs are used for screening purposes, they shall be positioned to form a continuous, tight screen at mature growth. In lieu of shrubs, an opaque wall or fence of adequate height to shield use from public view shall be used for screening of the following:

    a. Dumpsters or trash handling areas;
    b. Service entrances or utility structures;
    c. Loading docks or spaces;
    d. Open air storage

2. Except as provided in Section 9.8.1, screening shall not be required between any two lots that contain principal single family residential uses.

C. Buffer and Screening Standards

1. To the extent that existing natural vegetation located on the same parcel of land as the proposed development can meet the required screening levels of this Section, the use of such materials is encouraged. In such case, the owner shall designate the land on which such materials are rooted, which shall contain at least the minimum width required for the designated buffer area. Additional planting shall be added, if the buffer is deficient in any way, as required to meet the standards indicated in Table 9.8.1.a.
2. Trees used to meet buffer planting requirements shall have a minimum trunk caliper (measured six (6) inches above ground) of two (2) inches for large maturing trees and one and one-half (1-1/2) inches for small maturing trees, and a minimum height of ten (10) feet. At least seventy-five percent (75%) of the trees in the buffer must be of the large maturing variety. Large maturing trees (those expected to grow over thirty-five (35) feet in height under normal growing conditions) shall not

be planted within twenty-five (25) feet of an overhead electrical distribution line. This requirement does not apply to overhead telephone or cablevision lines.

3. Shrubs used for buffers and / or perimeter screening shall be at least thirty (30) inches tall when planted, and be expected to grow to a minimum height of five (5) to six (6) feet when mature, with a minimum mature width four (4) feet. Shrubs used for screening along public streets shall be at least eighteen (18) inches tall and eighteen (18) inches wide when planted, and be expected to grow to a minimum height of three (3) to four (4) feet when mature.

    a. Buffer planting: To determine the total number of buffer plants required, the length of each side of the property requiring a screen/buffer, minus the area covered by a sight distance triangle as required in this Ordinance, shall be divided by 100 and multiplied by the number of plants listed for the required buffer in Table 9.8.1.b. When units of measurement determining the number of required trees and shrubs result in a fractional tree or shrub, any fraction of one-half (1/2) or more shall require one. At least seventy-five percent (75%) of the shrubs planted in the buffer must be evergreen.

    b. Screen planting along public streets: Shrubs used for screening shall be evergreen species, and shall be planted at a maximum spacing of 4 feet on center along the length of the required screening.

4. These requirements shall not prevent the owner from installing additional plantings beyond the minimum required quantities.
5. No required buffer shall extend nearer to a street than the street right-of-way line.
6. No structure other than a wall, fence, sidewalk, mailbox, sign, school bus shelter, or driveway cut shall be permitted within a required area. If a wall or fence is used as part of a screen, it shall comply with Section 9.19.3 of this ordinance. No off-street parking may take place in any required buffer or required landscape area adjacent to a public street.
7. The height of any screen material required by this Ordinance in the vicinity of a point of ingress and egress may not exceed two and one-half (2-1/2) feet in height within the sight triangle.
8. Solid brick, stone, or stucco walls, wood and vinyl fences shall be permitted within buffers, and shall comply with Section 9.19.3 of this ordinance. Walls or fences shall be located within the inner 25% of the interior (project side) of a buffer, and will not be allowed to cause significant damage to roots of existing trees to be saved within the buffer.
9. Security fencing shall comply with Section 9.19.3 of this ordinance.

10. Berms may be installed within buffers that do not have significant trees or existing vegetation, up to a maximum height of six feet and a 3:1 maximum slope. Where a berm will be utilized within a buffer or screening area, all required tree and shrub plantings shall still be provided. The slope of a berm shall be of a grade that it is suitable for maintenance and soil stability while taking into consideration the type of plantings and ground cover that will be utilized, but in no case shall a berm be less than two (2) feet in height. The use of Pueraria lobata (kudzu) for berm ground cover is not permitted nor are any other nuisance plants that have a tendency to spread to other properties.

D. Parking Lot Landscaping: Tree planting shall be provided for parking lots that contain five (5) or more parking spaces, as follows:

1. For every 1,000 square feet of vehicular use area, one (1) deciduous tree and four shrubs must be planted. At least seventy-five (75) percent of the required deciduous trees must large-maturing trees. The species must be from the approved species list in Section 9.21.15 of this Ordinance. Trees and shrubs must be planted within fifteen (15) feet of the vehicular use area to count as parking lot landscaping.
2. When a development contains more than twenty (20) or more parking spaces, fifty (50) percent of the trees and shrubs required by 9.8.2(D)(1) must be planted in islands or medians located within the parking lot. Tree islands shall be evenly distributed throughout the parking lot in order to provide an even tree canopy throughout the lot. At a minimum, such tree islands shall consist of an area equal in size to two (2) parking spaces side-by-side (324 square feet). Parking bays shall be broken up with landscaped islands or medians to avoid long monotonous rows of parking. Planting trees in groups is encouraged to increase the total amount of planting area for roots to grow.
3. Each parking space must be located within sixty (60) feet of a tree measured from the closest point of the parking space to the tree trunk.
4. Small maturing trees shall be planted where overhead electric lines would interfere with normal growth.
5. Structured parking facilities, or parking decks, shall be excused from the parking lot landscaping requirements contained in this section but shall comply with the provisions of this paragraph. In the event that any openings for ventilation, service or emergency access are located at the first floor level in the building façade, then they shall be an integral part of the overall building design. These openings as well as pedestrian and vehicular entrances shall be designed to minimize visibility of parked cars. All levels of a structured parking facility shall be designed and screened in such a way as to minimize visibility of parked cars. In no instance will rails or cabling alone be sufficient to meet this screening requirement.

6. Small lots, defined as lots with less than one-hundred (100) feet of frontage on a roadway or with less than one-hundred (100) feet of depth, may have site constraints which make strict compliance with the regulations contained in this section a hardship. In such cases, the Zoning Administrator may approve deviations from such regulations so long as the plans of development are consistent with the goals stated herein.
7. This section is replicated in Section 12.4.2 of this Ordinance.

E. Street Trees: Tree planting shall be provided within required landscape areas adjacent to public street right of ways as follows:

1. New trees are required wherever existing trees are not saved within 30 feet of the back of curb.
2. New trees shall be spaced between 40 feet and 65 feet on center.
3. New medium and large maturing trees shall be located within twenty five (25) feet of the back of curb, and shall be located outside of public street right-of-ways, and no closer than four (4) feet from sidewalks.
4. New small maturing trees shall be located inside rights-of-way. When available, small maturing trees shall be located inside planting strips.
5. New trees shall be canopy species, except where overhead utility lines exist within twenty five (25) feet of the street right-of-way, small maturing species shall be used.
6. New trees shall be 2-inch minimum caliper at planting.
7. New trees shall be selected from the approved Waxhaw tree species list (Section 9.21.15), provided that additional species may be used subject to specific approval of the Administrator.
8. Street trees may be installed prior to, during, or after construction on any lot, but in any case, street trees shall be installed prior to issuance of occupancy permits for each lot.

3. Ownership of Buffers

A. The Board of Commissioners may require that a buffer in a residential subdivision not be included within any single family lot, or that the buffer be wholly owned (in fee simple absolute) by the owner of an individual residential building lot zoned for residential uses. The buffers shall be owned by a homeowner's association, or be owned outright by a third party, or shall be otherwise divided so that the buffer is not removed, modified, or damaged. In the event there is no homeowners association, the buffer shall be provided on a permanent recorded landscape easement.

1. Any required buffer (including those required as part of a conditional use permit or conditional zoning) for a residential development shall

be credited toward meeting the lot size requirements but building setback requirements shall be determined based the lot dimensions and will not include the buffer area. However the preferred method is that the residential buffer be a separate lot and owned by a separate entity (e.g., a homeowners association).

2. Where control and/or ownership of the buffer is through a property owner's association, any modifications, removal, or damage to the buffer by an adjacent homeowner shall be prohibited.
3. The property owner's association or owner shall be responsible for any violation related to the buffers in accordance with Section 9.8.6, Maintenance Responsibility, Replacement of Damaged Vegetation, and Associated Fines.

B. The Zoning Administrator may allow buffers to be included within residential lots when all of the following conditions are met:

1. The subdivision is limited in size and has no homeowners association; and
2. There is no reason for the formation of a homeowner's association (e.g. covenants, other common areas or engineered storm water control structures); and
3. The buffer is placed within a permanent conservation easement or other legal instrument (required documents must be provided prior to recording the plat for the impacted area).

4. Side and Rear Yard Landscaping

A. Side and Rear Yard Landscaping: The following standards shall apply in side or rear yard areas where buffers are not required.

1. In the OIS District, there shall be a ten (10) foot landscaped area extending inward from the side and rear lot lines. This landscaped area shall run parallel with the lot lines, and shall not extend into any public street right of way.
2. In the C-1, C-2, C-3, I-1, and I-2 districts said landscaped area shall be increased to fifteen (15) feet in width.
3. Except as provided herein, the side or rear yard landscape area shall consist entirely of planted materials, and shall include trees, two (2) inch caliper tree, eight (8) feet in height at planting, placed twenty-five (25) feet to forty (40) feet on center. In addition, there shall be shrubs, a minimum of two (2) feet height at planting, and expected to reach 4 to 6 feet height at maturity, placed five (5) feet on center maximum. With the exception points of ingress and egress, there shall not be any impervious

surfaces (nor any off-street parking) allowed in the landscaped areas. Freestanding signs may be placed in the landscaped areas, so long as said signs are otherwise in compliance with the sign regulations contained in this Ordinance.

4. Said landscaped areas shall not substitute for any required screening areas, as called for in this Ordinance, unless the landscaped areas meet the required screening standards.

B. The Administrator may waive or modify these requirements in instances where due to a particular lot's size or shape, these requirements would serve no useful purpose.

5. Development within Required Buffers and Landscape Areas

A. Required buffers and landscape areas adjacent to public streets shall not contain any structures, impervious surfaces, or site features that do not meet the standards of section 9.8 of the ordinance, or that require removal of existing trees, unless otherwise permitted below.

1. Required buffer areas shall remain undisturbed where existing trees two (2) inches or larger in trunk diameter occur, unless otherwise approved by the Zoning Administrator. To obtain approval for grading or disturbance of a buffer area where existing trees occur, the following conditions below must be met.
2. Required landscape areas adjacent to public street right of ways shall remain undisturbed where existing trees eight (8) inches or larger in trunk diameter occur, unless otherwise approved by the Zoning Administrator. To obtain approval for grading or disturbance where existing trees occur, the following conditions below must be met.
3. The owner shall submit a landscape plan indicating proposed landscaping that will provide as good or better buffering and screening as the existing vegetation proposed for removal.
4. In no case shall more than 30% of a perimeter side or rear yard buffer width be disturbed (except as noted in section E below), and buffer disturbance may only occur on the interior side of the buffer.
5. Within required landscape areas adjacent to public street right of ways, existing trees 8" or larger in trunk diameter shall be saved, unless the owner can justify removal of existing trees due to requirements for installation of driveways or utilities, or due to unique grading requirements or site development constraints. Where existing trees are approved for removal, mitigation / replacement tree plantings shall be installed at a rate of (1) replacement tree with 2 ½" caliper for each eight (8) inches of cumulative existing trunk diameter removed. Mitigation /

replacement trees shall be installed in the general vicinity of the trees removed, unless approved otherwise by the Zoning Administrator.

B. Pedestrian walkways are allowed within buffers, subject to the following standards:

1. Walkways shall not exceed 5 feet in width,
2. Walkways may cross buffers at an angle between 60 and 90 degrees, and
3. Walkways may only run along the length of a buffer if the buffer is at least 40 feet in width, and the walkway is located within the inner 25% of the buffer.

C. Utilities are not permitted in buffers unless no reasonable alternative exists.

D. If utilities are placed in a buffer, they shall be located and installed in a way that minimizes disturbance of the buffer area: not parallel, but crossing at an angle between 60 and 90 degrees. If utilities, storm water drainage channels or piping, or other similar features are placed in a buffer at an angle less that 60 degrees, the buffer width shall be increased by the width of the utility easement or disturbance, or at least 10 feet, whichever is greater.

E. Bioretention or raingarden areas (but not storm detention basins) may be placed within buffers, provided the planting standards of the buffer is maintained, and existing trees are preserved in at least 50% of the buffer along the exterior perimeter, where existing trees occur.

F. Grading may occur within required buffers or landscape areas that do not contain existing trees or landscape screening material.

6. Maintenance of Required Buffers and Landscaping

A. Maintenance Responsibility

The owners of the property and their agents, heirs, or assigns shall be responsible for the installation, preservation, and maintenance of all planting and physical features (installed or vegetated natural areas) required under this section. Damage to these areas shall result in revegetation requirements.

B. Inspections After First and Fifth Year

The Zoning Administrator or his/her designee shall inspect the site one and five year(s) after the issuance of a permanent Certificate of Compliance in order to ensure compliance with the approved landscape and/or subdivision plan and to ensure that the landscaping is properly maintained. Failure to maintain required landscape areas (trees and shrubs) may result in fines according to Section 17.5 of this Ordinance.

C. Maintenance Responsibility, Replacement of Damaged Vegetation, and Associated Fines

1. Trees and shrubs shall be maintained to keep natural appearance. Limbing up trees and "topping" or shearing off trees shall be prohibited, unless required for public safety reasons approved by the zoning administrator. Any dead, unhealthy, or missing vegetation, or vegetation disfigured by severe or excessive pruning, shall be replaced with locally adapted vegetation that conforms to the standards of this Ordinance and the approved site and/or subdivision plan. In the case of removal of existing original vegetation from required vegetation protection areas, the replacement requirements described in paragraphs below shall apply.
2. In the event that any vegetation or physical element functioning to meet the standards of Section 9.8 of this Ordinance is severely damaged due to an unusual weather occurrence or natural catastrophe, or other natural occurrence such as damage by wild or domestic animals, the owner may be required to replant if the buffer standards are not being met. The owner shall have one growing season to replace or replant after receiving notice from the Zoning Administrator. The Zoning Administrator shall consider the type and location of the landscape buffer or required vegetation area as well as the propensity for natural revegetation in making a determination on the extent of replanting requirements.
3. Any appeal of the Zoning Administrator 's decision relating to the amount of required revegetation shall be made to the Board of Adjustment within fifteen (15) calendar days following the notice of decision, and the Board of Adjustment shall consider reduction requests at the next available regular meeting.
4. All required buffers, perimeter landscaping, and other landscaped areas shall be kept free of refuse and debris, shall be treated for pest/diseases in accordance with the approved landscape plan, and shall be maintained so as to prevent mulch, straw, dirt, or other materials from washing onto streets, sidewalks, and adjoining properties.
5. The owner should take actions to protect trees and landscaping from unnecessary damage during all facility and site maintenance operations. Plants must be maintained in a way that does not obstruct sight distances at roadway and drive intersections, obstruct traffic signs or devices, and/or interfere with the use of sidewalks or pedestrian pathways. Viable plants, whether located within undisturbed buffers, vegetation protection areas, or within planted areas (required by the site and/or subdivision plan) shall not be removed, damaged, cut or severely pruned so that their natural form is impaired (shrubs within landscape areas

adjacent to public streets may be pruned, but must maintain at least three feet in height).

6. In the event that existing required vegetation located within any required buffers, streetscapes, vehicular use or other landscape areas poses an immediate or imminent threat to improved structures on private or public property, severe pruning and/or removal of the vegetation is allowable provided prior approval from the Zoning Administrator is obtained, and the performance standard of the landscape area is maintained consistent with this Ordinance.

D. Landscape Maintenance Plan

The paragraph below regarding a landscape maintenance/ management plan shall be placed on the landscape plan prior to plan approval, along with any other notes applicable to site landscaping. This statement must be individualized based on each site and/or subdivision plan. The maintenance plan shall be prepared by a registered landscape architect or other qualified landscape professional.

"The owners of the property and their agents, heirs, or assigns shall be responsible for the installation, preservation, and maintenance of all planting and physical features shown on this plan. The owners shall be responsible for maintenance of the vegetation, including but not limited to:

1. Fertilization
2. Pruning
3. Pest control
4. Mulching
5. Mowing (if any)
6. Protection of the root zones from equipment, construction and storage of materials
7. Watering
8. Other continuing maintenance operations

Failure to maintain all plantings in accordance with this plan shall constitute a violation of the UDO and may result in fines."

E. Replacement of Disturbed or Damaged Vegetation

The disturbance or damage of vegetation within any required buffers, streetscapes, vehicular use areas, or other landscape areas required by this Ordinance, by a Conditional Use Permit or through Conditional Zoning shall constitute a violation of this Ordinance.

1. The natural death of existing vegetation within any required landscape area does not constitute a violation and would not require revegetation

to replace the plant material unless the required landscape area no longer achieves the required performance standards of this Ordinance.

2. All disturbed or damaged landscaped areas and natural vegetation shall be replanted so as to meet the standards of this Ordinance, as well as the approved site and/or subdivision plans, if applicable. A replacement planting plan shall be submitted for review and approval by the Zoning Administrator prior to replacement. This plan will ensure proper replacements are made.
3. In situations where existing required vegetation on a developed site or vacant site with an approved site and/or subdivision plan has been removed or damaged in violation of this Ordinance, the Zoning Administrator may require that the entire site be reviewed and revegetated consistent with the current provisions of this Ordinance, in addition to any applicable fines.

7. Fines and Replacement of Existing, Original, or Installed Vegetation

A. Unapproved removal of vegetation in a required buffer or landscape area, and /or severe or excessive pruning in non-emergency situations shall constitute a violation of the UDO and may result in the assessment of fines, penalties, and / or landscape replacement requirements indicated below. Violations shall be subject to enforcement provisions contained in Section 17.5 of this Ordinance.

B. When existing vegetation has been disturbed or damaged without obtaining required approval of a landscape plan or other form of approval from the Zoning Administrator, the owner shall be issued a notice of violation; shall be subject to a fine and / or stop work order; and shall be required to replace the disturbed or damaged vegetation in accordance with the standards set forth below, or as required in other parts of this Ordinance, taking into account any unique site conditions and existing vegetation remaining within the buffer or landscape area. Required vegetation replacement must occur within 45 calendar days from the date of the violation notice, which may be extended to September 30 if violation notice is issued between May 15 and July 30.

1. Where the size (trunk diameter) and quantity of damaged vegetation can be documented, an equal amount of new vegetation ("inch for inch") shall be used to quantify the replacement vegetation. Replacement vegetation shall meet or exceed the current requirements of this section. Fines and replacement shall consist of item (1) and any combination of the measures listed in paragraphs (2) and (3).
2. A base fine may be assessed by the Zoning Administrator, in an amount between $2.00 and $4.00 for every square foot of required buffer or

landscape area where unauthorized damage or removal of vegetation has occurred.

3. The base fine shall not exceed a total of $50,000 per site. In determining the amount of the fine, the Zoning Administrator shall consider the degree and extent of harm caused by the violation, the cost of rectifying the damage, and whether the violation was committed willfully.
4. Payment of fines shall be made to the Town within thirty (30) calendar days of receiving notice by the Zoning Administrator.
5. Damaged significant vegetation in both buffers and / or other required landscape areas shall be replaced with an equal amount of new vegetation according to the size of vegetation removed (also called "inch for inch" replacement, see below).
6. Inch for Inch Replacement
   Any tree with a trunk diameter of at least six inches at breast height that is damaged or removed without authorization shall be replaced with one or more trees that have a caliper of at least two inches and a cumulative caliper equal to or greater than the original tree.
7. Area Replacement
   For other cases where existing vegetation is damaged or removed, the type and amount of replacement vegetation required shall be of the type and amount that is necessary to provide the type of landscaped or natural buffer required under Section 9.8, as identified on an approved landscape plan; or as otherwise required by this Ordinance.
8. Area replacement shall include one or more of the following for each 2,000 square feet of disturbed area and prorated for any area less than the subsequent 2,000 square foot (the prorated value will be rounded up to the nearest whole number). If the area is less than 2,000 square feet, then a revegetation plan that meets the general intent of the requirements below may be approved by the Zoning Administrator.

   a. Two large maturing trees of at least two inches caliper and a minimum height of ten feet;
   b. Three small maturing trees of at least one and one-half inches caliper and at least eight feet height;
   c. Fourteen (14) shrubs at least 24" in height at installation (at least 75% evergreen);
   d. On slopes equal to or greater than two and one-half to one, 20 ground cover plants with a container size of one gallon at the time of installation.
   e. The specific quantities of plants listed above may be adjusted by the Zoning Administrator in order to meet the standards for the required buffer type based on location, topography and other site features.

9. Location of Replacement Trees:
Revegetation should be located within the general vicinity of the violation. If revegetation is not practical within the vicinity, a more suitable location on the site may be selected. If no suitable location can be found, a monetary payment to the Town may be required. This monetary payment will be based on the current market price for any replacement tree(s) and/or shrubs. This payment shall be used to fund plantings on public properties.

C. Conflict with Tree Preservation Policy
This Section 9.8 is to be read in conjunction with and in addition to the tree preservation terms and provisions in Section 9.21 of the UDO. In the event of any conflict between this Section 9.8 and Section 9.21, the stricter of the terms and provisions shall govern and control.

D. Appeals
Any party issued a notice of violation, fine, stop work order, or notice of replacement requirement from the Town under Section 9.8 of the Ordinance may file an appeal to the Zoning Board of Adjustment within fifteen (15) calendar days of receiving written notice from the Town. While an appeal is pending with the Zoning Board of Adjustment, enforcement actions for the violations in question shall be suspended.

If a violation is upheld by the Zoning Board of Adjustment, the offending party shall comply with all requirements of the ordinance, with any modifications approved by the Board of Adjustment, and shall pay any required fines within 30 calendar days of the decision by the Zoning Board of Adjustment.

9.9 HEIGHT LIMITATION EXCEPTIONS

Except as may otherwise be prohibited by the FAA Regulations, the height limitations of this Ordinance shall not apply to public buildings, church spires, belfries, cupolas and domes not intended for residential purposes, or to monuments, water towers, observation towers, power transmission towers, silos, grain elevators, chimneys, smokestacks, derricks, conveyors, flag poles, radio, masts, aerials and similar Structures, provided such Structures meet the required N.C. Building Code.

9.10 BUILDING SETBACK EXCEPTIONS

Setback distances shall be measured from the property line or street right-of-way line to the nearest portion of any building, or structure excluding:

1. The outermost four feet of any uncovered porch, step, eave, gutter, canopy, or similar fixture; and

2. A deck or patio if no portion of the same extends more than twelve inches off the ground;

3. Any structure that is a mere appendage to a building, such as a flagpole, or fountain; and

9.11 ONE PRINCIPAL BUILDING

1. **Non-Residential Uses**
   Only one principal use per lot shall be allowed except as part of a planned shopping center, office building, or similar planned multi-tenant development as permitted in this Ordinance. More than one principal structure devoted to a non-residential use may be located on a lot provided that access is available from a public street or a twenty (20) foot easement is maintained from a public street to each building for use by service or emergency vehicles.

2. **Residential Uses**
   No more than one principal building devoted to a residential use shall be allowed on a lot except as part of a multi-family development. However, accessory dwelling units are allowed provided the additional regulations set forth in Section 11.3.80 are met.

3. **Mixed Uses**
   No lot shall be allowed to contain a principal residential and non-residential use, except as part of a PRD.

9.12 VIBRATIONS

No established use in any district shall be operated so as to generate inherent or recurring ground vibrations detectable at the property line that create a nuisance to any person of ordinary sensitivities on another property.

9.13 CURB, GUTTER, AND SIDEWALK REQUIREMENTS

All new development(s) except for a single family or duplex structure shall be required to provide a standard 2’-6” concrete curb and gutter and a minimum 5 ft. concrete sidewalk in all zoning districts as a condition of this ordinance. Sidewalks should be located within the street right-of-way. In order for a sidewalk to be located outside the public right-of-way, the Zoning Administrator must approve the location and an approved sidewalk easement must be recorded with the Union County Register of Deeds prior to issuance of final Zoning Compliance.

The sidewalks and curb and gutter shall be built to NCDOT and/or Waxhaw standards, whichever is most restrictive.

Curbing (two foot and six inches) shall also be required along the perimeter of:

1. All landscaped areas as required by Section 9.8.4;

2. The perimeter of driveways for all uses (except single-family and two-family dwellings) that provide access to off-street parking areas; and,

3. The perimeter of all designated off-street parking areas for all uses (except single- and two-family dwellings).

The Administrator may waive or modify these requirements in instances where due to a particular lot's size, location, shape, these requirements would serve no useful purpose.

9.14 PARKING OF COMMERCIAL AND RECREATIONAL VEHICLES

1. Recreational Vehicles

For purposes of this Ordinance, a recreational vehicle shall not be deemed a dwelling unit and the usage of a recreation vehicle for living, sleeping or housekeeping purposes and the connection of such vehicle to utility services (other than for periodic maintenance and/or repair purposes) shall be prohibited unless the vehicle is located in a camping and recreational vehicle park so designed to accommodate recreation vehicles.

2. Commercial Vehicles

A. On any lot of less than two (2) acres in size located in a Residential Zoning District, one commercial vehicle may be parked on an overnight basis on private property and shall be limited to Class 1 or Class 2 vehicles (gross vehicle weight of up to 10,000 pounds), providing that such vehicle is parked off the street and is used by a resident of the premises.

B. No person shall park or place construction or maintenance equipment, machinery or materials, or allow same to be parked or placed upon public property, streets, and right-of-way or upon private property in the Residential Zoning Districts.

9.15 RESERVED

9.16 RESERVED

9.17 RESERVED

9.18 DEVELOPMENT/SITE PLAN REQUIREMENTS

All developments, other than single-family detached and two-family dwellings and/or accessory buildings thereto on individual lots and/or tracts not proposed for subdivision, shall be in conformance with an approved Development Plan. Exception is taken to farming and/or agriculture whereby the principal use of the development meets the definition of a "Bona fide Farm" as per the North Carolina General Statutes.

1. Development Plan Requirements and Procedures

All Development Plans shall be required to satisfy the following requirements and procedures, and satisfy the requirements of the Section pertaining to Design Criteria for Land Development, herein.

2. Application and Approval Process in General

Applicants requesting a Zoning Permit for Development other than that specifically excepted herein shall submit a Development Plan (together with any and all required technical data specified and/or requested) for review by the Administrator or his/her authorized personnel. Approval of a satisfactory Development Plan is pre-requisite to the issuance of a Zoning Permit.

Applicants desiring input and/or recommendation from the Administrator or any other municipal official prior to submittal of a Development Plan are encouraged first to prepare a sketch plan of the proposed Development before meeting to discuss specifics with municipal officials. Guidelines for sketch plans are set forth in following herein.

The applicant is encouraged to incorporate the recommendations of the Administrator or authorized staff reviewer into the Development Plan before submittal. The sketch plan is only a courtesy intended to inform the applicant of the approval criteria prior to submittal of the Development Plan; furthermore, sketch plan approval does not constitute approval of the Development Plan and may not be substituted for any required approvals.

All Development Plans must bear the original signature of the Administrator to be deemed approved.

Upon submittal of a Development Plan and all required materials specified by the Administrator, the Administrator shall have up to twenty-one (21) days to make a decision on the plan. The Administrator shall notify the applicant of his decision. Notification may be verbal, but must be documented in writing within seven (7) days following the notification date. Each time a Development Plan is rejected, revised or returned for additional information, the timetable for official action shall begin anew.
Should a period of twenty-one (21) days elapse from submittal of a Development Plan

without a decision rendered by the Administrator, the Development Plan shall automatically be deemed approved

Applicants wishing to re-submit a rejected development plan or submit one that has been substantially revised as determined by the Administrator must re-apply and pay the associated review fees.

Applicants requesting Development Plan review/approval shall be required to pay a review fee as contained in the Fee Schedule adopted by the Board of Commissioners at the time of each Development Plan submittal and/or request for substantial revision. The Town shall bill the applicant for any engineering or other outside consultant fees charged to the Town in association with review of the Development Plan. The Town shall issue no zoning permit unless all requisite development plan fees have first been paid to the Town in full. Fees are not applicable to sketch plan review and/or record drawing (As-built) review. If after the third submittal of the development plan, the plan does not meet the requirements of the Town, the applicant must re-apply and pay the associated review fee again. This helps to keep the applicant from running up zoning and engineering fees incurred by the Town.

3. Effect of Development Plan Approval - Validity

Development Plan approval is valid for a period of six (6) months from the date of approval; however, approved revisions shall not constitute additional time unless specified in writing by the Administrator upon approval of said revisions. Substantial revision to a Development Plan requiring re-application as described above may constitute a new validation period.

4. Optional Sketch Plan Requirements/Recommendations and Procedure

The optional sketch plan is encouraged and should be drawn to scale, preferably the same scale as required for Development Plan submittal. Recommended information shall include the following:

A. Property Boundaries and total acreage;
B. Major topographical and physical features (i.e. creeks, slopes, buildings, streets, etc.);
C. Proposed streets, buildings and/or lot arrangements;
D. Existing and proposed land use with brief project description including building sizes, unit sizes, lot sizes, open space, amenities, etc.;
E. Name, address and telephone number of applicant and persons (firm) preparing the Development Plan;
F. Adjacent Street names, numbers, and right-of-way widths; and
G. Zoning district classification of site and surrounding properties, including those across streets.

The sketch plan shall be submitted providing at least three (3) copies.

5. Development Plan Requirements/Recommendations and Procedure

The Development Plan shall be submitted providing the minimum required information and should contain all applicable recommended information. The Development Plan hall be drawn to scale. The Administrator may waive required information; in addition, the Administrator may require other pertinent information, as deemed necessary on a case-by-case basis.

A. Required Information for Development/Site Plan:

(NOTE: THE ADMINISTRATOR MAY WAIVE CERTAIN REQUIREMENTS WHERE DEEMED APPROPRIATE)

1. Existing and proposed topographic contours at vertical intervals no greater than five feet of development area;
2. Stormwater drainage plan;
3. The location, use and outline of existing and proposed buildings and structures;
4. The location of proposed open spaces;
5. The location, name, pavement width and right-of-way width of existing streets;
6. The location, name, pavement width, curb type, right-of-way width, pavement type, sidewalk location and curb cuts of all proposed street and parking facilities and site improvements;
7. The location of all existing and proposed utilities including electrical, water, sewage, telephone and gas facilities (including easements);
8. The location of all existing and proposed drainage facilities necessary to serve the site (including easements);
9. Residential density (units per acre);
10. Schedule of building uses, by type, showing the number of bedrooms, number of units and floor area:
11. Buffer, landscaping, and screening devices proposed.
12. Proposed schedule of development for each phase of the project showing anticipated time for completion and estimated completion dates;
13. Property line survey and acreage data;
14. Vicinity map at a scale of no less than one inch equals four hundred (1" = 400') feet and encompassing an area no less than one-fourth mile in radius of the site and including:
15. Existing streets, existing water courses and Flood Hazard Areas, existing land uses on the site and in the area surrounding the site;
16. Written and graphic scale, north arrow and title;
17. Proposed name of the development;
18. Technical report containing:

a. A description of the project including general characteristics, development concept and amenities;
b. A general assessment of impact showing the proposed impact upon all affected utilities, transportation facilities, the environment, the local economy and local government; and
c. Engineering report to demonstrate adequacy of existing and proposed public facilities;

19. Name, address and telephone number of the applicant and persons (firm) preparing the development plan;
20. Zoning district classification of site and all abutting properties;
21. Names of property owners of all abutting properties.

The information listed above may be required as part of the site plan submittal for the Conditional Use Process.

The Development Plan shall be submitted providing at least five (5) copies. The Development Plan must be prepared by a professional engineer, architect, and/or land surveyor with his or her seal. Prior to construction, detailed plans and specifications shall be reviewed and approved by any other relevant entity (i.e., Union County) in accordance with their respective policies regarding said facilities and/or improvements. Approval of the Development Plan does not imply or satisfy approval requirements for such facilities and/or improvements.

9.19 FENCES AND WALLS

1. **Fence and Wall Regulations for Residential Uses**

A. On lots containing single-family, two-family, multi-family, and manufactured homes the following regulations apply:

1. Fences and walls may be located on the property line or in any portion of the required setbacks, under the following conditions:

a. If located in the required front yard, such fence or wall shall be no greater than four (4) feet in height.
b. If located in the required side or rear yard, such fence or wall shall be no greater than six (6) feet in height (unless otherwise used for screening purposes.)
c. Outside of the required setbacks and not otherwise used for screening purposes, fences and walls shall be no greater than four (4)

feet in height in the front yard and no greater than eight (8) feet in height in the side and rear yard.

2. Fences or walls may be built on the property line; however, it is strongly encouraged that the fence or wall be placed in such a manner so that the property owner has the ability to perform maintenance on the fence or wall without requiring access to an adjacent piece of property.

3. The following materials are permitted for fences or walls:

   a. Stone or imitation stone
   b. Brick or stucco
   c. Metal (wrought iron, welded steel, or aluminum)
   d. Wood or vinyl
   e. Chain link coated in black, dark green or dark brown vinyl (allowed in side and rear yard only)
   f. A combination of any of these materials designed to be compatible with the building façade

B. Residential Accessory Uses

1. Fences or walls used in conjunction with an accessory to a residential use shall meet the following requirements:

   a. Fences that are used at the periphery of a tennis court, basketball court, etc. (built per accessory structure requirements) shall be no greater than twelve (12) feet in height. Chain link fences shall be coated in black, dark green, or dark brown vinyl.
   b. Pools shall be enclosed from adjoining lots and/or adjoining dwelling units within the development by a protective fence or solid wall that is no less than four (4) feet in height. Chain link fences shall be coated in black, dark green, or dark brown vinyl.

2. **Fence and Wall Regulation for Non-Residential Uses**

A. On lots containing commercial, industrial, office, institutional, or specialty uses the following regulations apply:

1. Fences and walls may be located on the property line or in any portion of the required setback, under the following conditions:

a. If located within or outside the required front yard a fence or wall shall be no greater than four (4) feet in height.
b. If located within or outside the required side or rear yard a fence or wall shall be no greater than eight (8) feet in height.
c. A front yard fence greater than four (4) feet in height and a side or rear yard fence greater than eight (8) feet in height may only be allowed through securing a conditional use permit or conditional zoning.

2. The following materials are permitted for fences or walls of lots containing commercial, industrial, office, institutional, or specialty uses:

a. Stone or imitation stone
b. Brick or stucco
c. Metal (wrought iron, welded steel, or aluminum)
d. Wood or vinyl
e. Chain link coated in black, dark Green or dark brown vinyl (allowed in side and rear yard only)
f. A combination of any of these materials designed to be compatible with the building façade

3. Barbed wire or razors attached to fences are permitted in side and rear yards if screened from public view, according to the standards of Table 9.8.1.b, and not located within thirty (30) feet of a lot containing a principal residential use or any lot located in a Residential (R) District.

3. **Fence and Wall Regulations for Buffering and Screening**

A. Fences and walls located within landscaping buffers or used for screening purposes shall meet the following conditions:

1. If a fence or wall is used as part of a screen it shall be no less than six (6) feet in height and no greater than eight (8) feet in height.
2. A fence or wall located within a sight triangle shall be no greater than two and one-half (2-1/2) feet in height.
3. Security fencing, such as metal pickets, may be placed within a buffer.

B. Fences and walls shall be located within the inner 25% of the interior (project side) of a buffer and shall not cause significant damage to roots of existing trees to be saved within the buffer.

C. In lieu of shrubs, an opaque fence or wall of adequate height to shield use from public view shall be used for screening of the following:

1. Dumpsters or trash handling areas
2. Service entrances or utility structures
3. Loading docks or spaces
4. Open air storage areas

D. The following materials are permitted for fences or walls used within landscaping buffers or for screening of open air storage:

1. Brick, stone, or stucco
2. Wood or vinyl
3. Metal (wrought iron, welded steel, or aluminum)

9.20 ACCESSORY STRUCTURES

1. An Accessory Building/Structure located in either the R-1, R-2, R-3, R-4, RM-1, RM-2 or OIS Primary Zoning Districts shall not be located forward of the principal structure. Said Accessory Building and/or Structure shall not cover more than thirty (30) percent of the minimum lot size of any lot or tract. Notwithstanding, any accessory structure in these zones shall be located a minimum of five feet off any rear or side lot line, except 15 feet off any side or rear lot line abutting a public street. Said Accessory Building and/or Structure shall not be located closer than eight (8) feet from the Principal Building and/or any building and/or structure used for residential occupancy either on or off the lot and/or parcel. Accessory structure shall be of like material as the primary structure.

Exceptions to Accessory Structure Regulations

A. Exceptions to the Accessory Building/Structure setback from the Principal Building would include structures such as detached decks, detached pergolas and any other structure typically found immediately adjacent to a Primary Structure and approved as such by the Zoning Administrator.

B. Exception to the Accessory Building/Structure size limitation is taken where said accessory is located in the C-4 Primary Zoning District.

C. The Zoning Administrator may allow an accessory structure to be located in the front yard in situations where it is impracticable to locate said accessory structure in the side or rear yard. If a request for the accessory structure to be located in the front yard is denied, the applicant may appeal the decision to the Waxhaw Board of Adjustment as outlined in Section 15 of this Ordinance.

2. An Accessory Building/Structure located in either the C-1, C-2, C-3, C-4, I-1 or I-2 Primary Zoning Districts shall be subject to the requirements for Setback and/or Minimum Yard Width established in Article 5 of this Unified Development Ordinance and shall not be located closer than eight (8) feet from the Principal Building.

3. Tennis courts may only be located in the rear yard on any lot whose principal use if either a single-family dwelling or a manufactured home.

4. Irrespective of any of the regulations cited herein, outdoor in-ground swimming pools located on a residentially occupied lot (including those associated with multi-family, condominium, townhouse, or similar developments where such swimming pool is designed to be used by the residents of such residential development) shall meet the following requirements:

A. The pool shall be enclosed from adjoining lots (or from adjoining dwelling units within the development) by the principal building or accessory structure on the lot containing the pool or a solid wall or protective fence that shallcomply with Section 9.19.1.B.

B. All other distance separation requirements pertinent to accessory structures shall also apply to swimming pools.

5. Kennels located on lots containing a residential use shall meet the following requirements:

A. Kennels may be constructed of galvanized steel chain link fencing.

B. Kennels shall have a maximum height of 8 feet and be located in the side and rear yard only.

9.21 TREE PRESERVATION

1. Purpose

A. The purpose of this section is to protect trees within designated tree save areas. A tree save area is defined as one or more trees of a site which includes existing trees and their tree protection zone. The purpose of a tree save area is to encourage the preservation of healthy clusters of trees or heritage trees.

B. The Town Board finds it has been established that trees stabilize the soil and control water pollution by preventing soil erosion and flooding, reduce air pollution, provide oxygen, yield advantageous microclimatic effects, temper noise, provide a natural habitat for the wildlife of the town, and further, that unusual, large and old trees have unique aesthetic and historic values. Indiscriminate removal of trees causes deprivation of these benefits and disrupts the town's ecological systems. It is, therefore, the purpose of this chapter to prevent the indiscriminate or unnecessary destruction of trees within the Town of Waxhaw.

C. The town, furthermore, takes note of the findings of the North Carolina State Environmental Quality Review Act, among them being the obligation of the town to serve as a steward of air, water, land and living resources and the obligation to protect the environment for the users and further generate that it is the intent of the town to recognize these responsibilities in part by providing these procedures as well as to preserve the health and welfare and rural character of the community which is reflected in the woodlands of the Town of Waxhaw.

2. Applicability

A. <u>The provisions of this ordinance shall apply to the following:</u>

1. All new subdivisions, non-residential developments, and multifamily developments.

2. Changes in use, expansions, and new buildings for already existing non-residential or mixed land uses as per the following:
   a. Changes in use from residential to non-residential, such as a change from residential to commercial, or residential to industrial.
   b. Non-Residential Expansions – Any expansion of any existing land use (buildings, parking lots, etc) shall comply with the Tree Preservation and Protection Requirements in section 9.21.8 of this ordinance.

B. Site visits are required by the Zoning Administrator in conjunction with a North Carolina registered forester, registered landscape architect, ISA certified arborist, or certified tree and landscape appraiser for any situation requiring tree removal or mitigation of trees on sites being developed for non-residential, multi-family, single-family subdivision or non-agricultural use.

C. Exemptions: The requirements of this Section do not apply to any of the following:

1. Existing or proposed single family detached dwellings or two family dwellings on individually owned lots.
2. Trees may be removed as may be necessary to maintain town, county, state or utility rights of way or to control forest fires.
3. Activity that is conducted in accordance with a forest management plan that is prepared or approved by a forester registered in accordance with chapter 89B of the North Carolina General Statutes. Any such forest management plan shall be filed with the Zoning Administrator.

3. Administration and Enforcement

The Town Board hereby designates the Administrator to administer and enforce these regulations. The Administrator shall perform the following duties:

A. Receive and keep accurate records of tree removal permit applications.

B. Inspect the trees described in each application

C. Determine the disposition of the application based on the standards for granting permits described in Section 9.21.5(B) of this Ordinance.

D. Carry out such other duties as may be assigned from time to time by the Town Board.

4. Authority to Contract Arborist Services

The Zoning Administrator shall have the authority to contract services from a North Carolina registered urban forester, registered landscape architect, ISA certified arborist, or certified tree and landscape appraiser on a case-by-case basis as needed for education, review, and recommendation of tree preservation, protection, removal, cutting, pruning, treatment, removal of diseased or infected trees, or determining the monetary value of a specific tree. The applicant will be responsible for reimbursing the Town of Waxhaw for the expense associated with contracting the services of a certified arborist, registered landscape architect, registered forester, or certified tree and landscape appraiser.

5. Tree Removal Permit Required

A. General Regulations. A tree removal permit will be required before removing:

1. Trees eight (8) inches and larger DBH and any understory tree (e.g. Dogwood, Redbud, Ironwood, American Holly, etc.) with a caliper measurement of four (4) inches or more or on any parcels of land being developed for non-residential, multi-family, single-family subdivision or nonagricultural use
2. Trees growing on slopes over twenty-five percent (25%).
3. Any threatened or endangered species of tree as defined by the North Carolina State Department of Environmental Conservation regardless of size.

B. Standards for the granting of permits. The granting of a tree removal permit by the Administrator shall be based on the following criteria:

1. The physical condition of the tree, as determined by a North Carolina registered urban forester, registered landscape architect, or ISA certified arborist.
2. The proximity of trees to existing or proposed improvements if located: (a) Within fifteen (15) feet of a foundation wall; (b) Within three (3) feet of a sidewalk or driveway; (c) Within ten (10) feet of a cesspool, dry well, septic tank or other subsurface improvement; or, (d) Within five (5) feet of a roadway.
3. The effect of the removal on the ecological systems, including the erosion potential of the property.
4. The effect on the area of removal as determined by accepted tree management practices.
5. The effect of the removal on the property values of the neighborhood. Property values can increase as much as twenty (20) percent when trees are present.[1] The monetary value of an individual tree can be determined by an experienced appraiser.
6. The effect of the removal on the solar access of existing or proposed structures on the property.

C. Other permit deemed approval.

1. Where tree removal is proposed in connection with any site plan or subdivision application, trees shall be removed from the affected property only in conjunction with an approved preliminary subdivision plat or final site plan. The Planning Board and Town Board, in reviewing the plat, shall apply the same criteria and procedures set forth herein for tree permits granted by the Administrator.

[1] Kane, B. & Kirwan, J. (2006). *Value, Benefits, and Costs of Urban Trees*. Retrieved October 3, 2008, from Virginia Cooperative Extension Website: http://www.ext.vt.edu/pubs/forestry/420-181/420-181.html

2. Subdivision construction plans or site plans approved by the Town showing trees to be removed and trees to be preserved shall be deemed a tree removal permit for the removal of trees so designated.
3. The Town, in connection with any site plan or subdivision application, may require the planting of trees to replace trees removed from the affected property as part of the site plan or subdivision application. The Town may require moving or relocating other structures in order to preserve trees considered by the Town to have particular value. The Planning Board or Town Board may refer such subdivision construction plans or site plans to the Administrator for his recommendations. The Town may designate certain trees to be preserved and specify means for their preservation during construction.

6. Conditions for granting permit

The Administrator may, as a condition of granting a permit:

A. Require the reasonable relocation of proposed foundation walls, driveways, surface and subsurface improvements or drainage systems to preserve specific trees.

B. Regulate the days and hours of operations.

C. Require a performance bond to insure compliance with this chapter.

D. Require that each tree to be cut or removed has been marked at two (2) points, one (1) low enough on the stump to be visible after removal of the tree.

E. Require such safeguards as appropriate to minimize the environmental impact of such removal operations.

7. Tree Removal Permit Application

The applicant shall file three (3) copies of the tree removal permit application with the Administrator. The application shall include the following information:

A. Name and address of the applicant.

B. Address and Town Tax Map designation of the property on which the tree(s) is/are located.

C. Total land area involved in cutting operations.

D. The number of trees to be removed.

E. The purpose of the tree removal.

F. Tree Survey Requirements

A tree survey shall be required. The tree survey is intended to serve as the basis for formulating a tree protection plan. All tree surveys shall be prepared by a licensed surveyor, certified arborist, registered landscape architect, registered forester, or engineer registered in the state of North Carolina. The survey shall provide the following information.

1. Location, species, and size of all existing trees eight (8) inches or larger in diameter at breast height (DBH), and any understory tree (e.g. Dogwood, Redbud, Ironwood, American Holly, etc.) with a caliper measurement of four (4) inches or more within thirty (30) feet of all existing public street right-of- way.
2. Sites three (3) acres or larger: Location, species, and size of all existing trees eight (8) inches or larger in diameter at breast height (DBH), and any understory tree (e.g. Dogwood, Redbud, Ironwood, American Holly, etc.) with a caliper measurement of four (4) inches or more within perimeter yards or buffers, or within thirty (30) feet of exterior property lines, whichever is greater, and within proposed tree preservation areas.
3. Sites less than three (3) acres in size: Location, species, and size of all existing trees eight (8) inches or larger in diameter at breast height (DBH), and any understory tree (e.g. Dogwood, Redbud, Ironwood, American Holly, etc.) with a caliper measurement of four (4) inches or more.
4. Existing tree locations shown on tree removal application plans shall be accurate within two (2) feet of actual location.
5. Site Plans and Subdivision Plans: Existing tree information listed above shall be shown on site plans and subdivision plans when these plans are submitted to the Administrator as part of the subdivision plat submittal.

6. Where no site plan or subdivision plan is involved, the existing tree survey information listed above shall be provided as an independent drawing.

8. Tree Preservation and Protection Requirements

A. Tree Preservation Standards

Existing trees eight (8) inches or larger DBH and understory trees four (4) inches or larger DBH shall be preserved in accordance with the following standards. The Administrator may grant exceptions to these standards based on unique circumstances**,** please refer to section 9.21.13 for exception requirements. Any exceptions granted must fulfill the spirit and intent of Section 9.21.

Tree Protection Minimum Tree Canopy Requirements and Standards

(1) Commercial, Institutional, Multifamily, Industrial (uses other than single family residential and excluding agricultural)
a. Existing trees (8) inches or larger DBH and understory trees four (4) inches or larger DBH shall be preserved within required street setbacks and exterior landscape buffers**,** in accordance with Section 9.8 of the UDO. b. Internal areas on sites where 40% or more of the site is wooded, existing trees eight (8) inches or larger DBH and understory trees four (4) inches or larger DBH in diameter shall be preserved on a minimum of ten (10) percent of the internal property area. The total internal property area will be calculated by taking the square footage for the entire site and subtracting the square footage for required tree save areas in perimeter landscape buffers, any existing or proposed street or utility right-of-ways, existing street setback areas, and any area covered by existing ponds and lakes. Internal tree protection zones shall be no less than eight (8) feet in width in order to apply toward the required tree save requirement. The locations of these preservation areas shall be designated on the tree protection plan and site plan. c. Any request for parking above the maximum allowed, per section 12.3.4 of this Ordinance, must also provide an additional 5% of internal tree save. Where no internal tree save is required, a minimum of 10% internal tree save must be accomplished in order for the applicant to receive approval for the additional parking. d. Heritage or Specimen Trees: Existing trees 36” DBH or larger shall be preserved when feasible. The Administrator or his designee shall determine if it is unfeasible to preserve heritage or specimen trees on a case by case basis. A tree permit will be required if removal is necessary (see Tree Permit 9.21.7). Tree protection areas for heritage or specimen trees shall be counted at 1.5 times the actual area towards the required ten (10) percent interior tree protection area.
(2) Single Family Residential
a. Exterior Perimeter: Existing trees eight (8) inches or larger DBH and understory trees four (4) inches or larger DBH shall be preserved within thirty (30) feet of the exterior perimeter of any subdivision (excluding existing public street frontage). These perimeter tree preservation areas shall be established within common open space, or may occur within deeded lot areas with a permanent landscape preservation easement recorded on lots. b. Existing Street Frontage: Adjacent to existing public street frontage, where new lots are proposed that will not front on the existing street, existing trees eight (8) inches or larger DBH and understory trees four (4) inches or larger DBH shall be preserved within twenty (20) feet of the right of way.

c. Interior Trees:

1. On any site where twenty (20) % or more of the site has existing trees present, a minimum of twenty (20) % of the internal property area shall be preserved with existing trees within the site interior. The total internal property area will be calculated by taking the square footage for the entire site and subtracting the square footage for required tree save areas in perimeter landscape buffers, any existing or proposed street or utility right-of-ways, existing street setback areas, and any area covered by existing ponds and lakes. Internal tree protection zones shall be no less than eight (8) feet in width in order to apply toward the required tree save requirement.

2. The applicant shall designate the locations for tree preservation areas on the subdivision plans and tree removal plans. These interior tree protection areas shall be established within common open space, or may occur within deeded lot areas with a permanent landscape preservation easement recorded on the lots. This requirement may be waived for sites where less than 20% of the site is covered with existing trees, or in cases of hardship, as determined by the Administrator or Planning Board.

3. Interior tree protection areas shall contain no less than one (1) tree per 2500 square feet of tree protection area. Where existing trees are insufficient to meet this standard, new trees shall be planted to meet this minimum standard. New trees shall be a minimum of two (2) inch caliper at planting.

4. Heritage or Specimen Trees: Existing trees 36" DBH. or larger shall be preserved, unless a tree permit is submitted and approval to remove the tree is granted by the Administrator.

B. Tree Protection Zone (TPZ)

1. For the purpose of this section, the area containing the canopy and critical root zones of trees composing the existing tree canopy to be retained shall be known as the "Tree Protection Zone". The critical root zone and tree protection zone will be measured as a radial distance from the tree trunk and will be equivalent to the greater area of: the drip line; a maximum of six feet from the trunk; or a distance or 1.5 feet for every inch of trunk DBH. (See Figure 9.21.1)

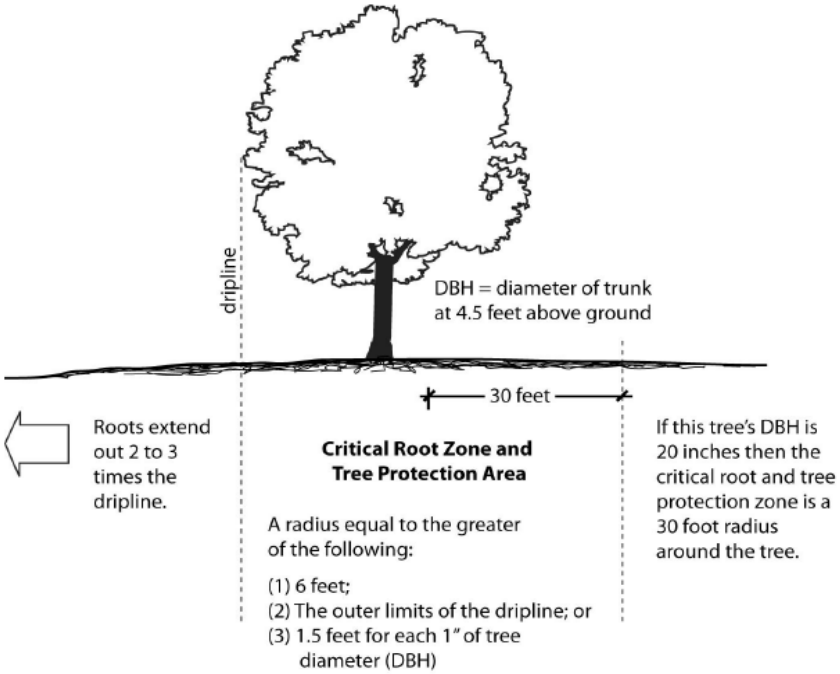


Figure 9.21.1: Critical Root / Tree Protection Zone

2. Prior to the approval of a development plan, site plan, or subdivision plan, all Tree Protection Zones shall be identified for protection in a form acceptable to the Administrator,and shall be areas where the existing canopy will be maintained.

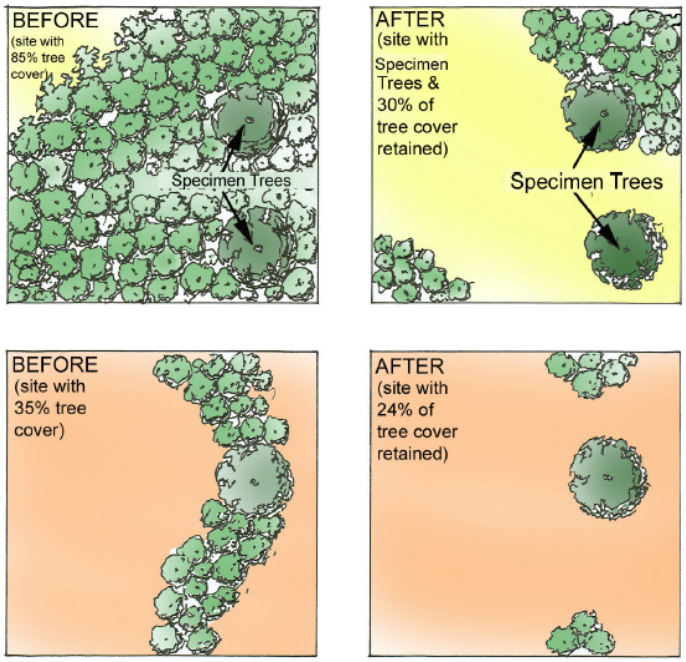


Figure 9.21.2 Tree Protection Zone: This diagram depicts the TPZ on two hypothetical development sites.

9. Tree Protection During Construction

Existing trees must be protected during construction. Trees must be protected from direct or indirect root damage and trunk and crown disturbance. The following standards shall apply.

- Tree protection zones and tree save areas shall remain open and unpaved.
- Construction site activities such as parking, material storage, dirt stockpiling, concrete washout and other similar activities shall be prohibited within the tree protection zone.
- Changes that significantly raise or lower the grade of soil in tree save areas and tree protection zone are prohibited.
- If an underground utility must cross the drip line area, the contractor must tunnel or auger underneath major roots of the tree without cutting them. Permission may be granted for auguring of 1/3 distance of the drip line to the trunk of the tree only if there is no other feasible way. Depth of auguring shall be a minimum of 2 feet. Figure 9.21.3 highlights both appropriate and inappropriate practices for auguring near saved trees.

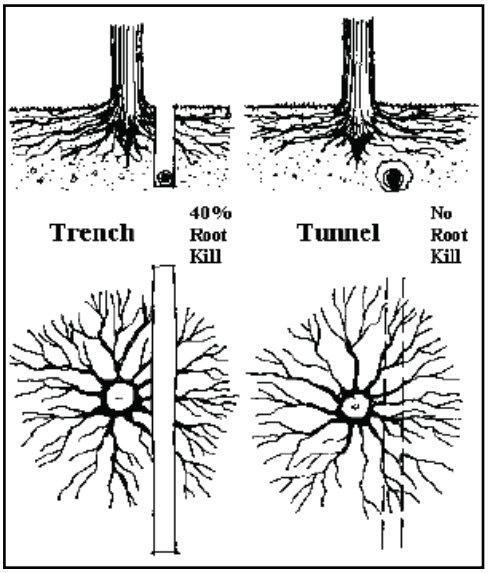


Figure 9.21.3 Proper Boring and Auguring Techniques (tunnel must be at least 2 ft below grade)

A. Tree Protection Fencing

During development, the owner or developer shall be responsible for the erection of any and all barriers necessary to protect any existing or installed trees from damage both during and after construction. The tree protection fencing shall be clearly shown on the site plan or subdivision plan, and shall be maintained until the final site inspection prior to the Certificate of Occupancy is scheduled.

1. Where Required: Heritage trees and trees retained in a Tree Protection Zone shall be fenced with a sturdy and visible fence before grading, clearing, or other development activity begins. Fencing should be erected outside the critical root zone. The owner or developer shall contact the Administrator or his designated representative for inspection of fencing prior to any development or land clearing activity.
2. Type of Fencing: All fencing required by this section shall be a minimum of four (4) feet high and consist of visibility mesh fabric fencing material with posts eight (8) feet or less on center.

   See Figures 9.21.4 and 9.21.5 for fencing illustrations.

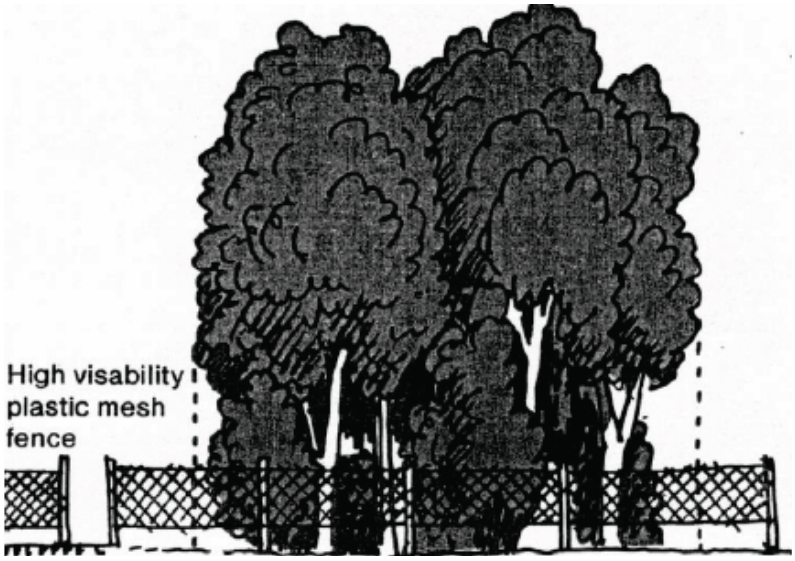


Figure 9.21.4: Fencing should be placed to prevent trucks and equipment from damaging tree roots.

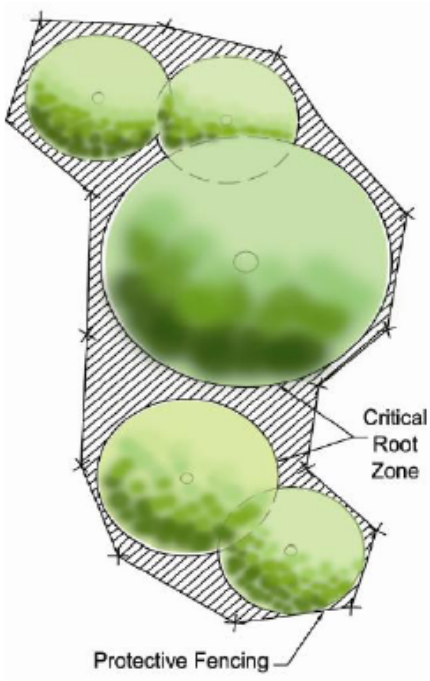


Figure 9.21.5: Protective fencing should be placed at the outer limits of the tree protection zone / critical root zone.

B. Signage

Signs shall be installed on the tree protection fence visible on all sides of the fenced-in area. The sign shall contain the following language "TREE PROTECTION ZONE: KEEP OUT". The sign shall be posted in both English and Spanish.

C. Inspection

All tree protection measures shall be inspected and approved by the Administrator or his designee prior to the start of any land disturbing activities. Failure to have tree protection measures in place prior to the commencement of construction is a violation of this Ordinance. Sites may be inspected periodically by planning department staff and authorized representatives of the Town to ensure compliance.

D. Additional Tree Protection

Additional tree protection measures and notes may be required by the Town where applicable.

10. Tree Planting Mitigation

A. Where removal of existing trees is approved within tree protection zones, new trees shall be installed in the general vicinity of the trees removed, in accordance with the following schedule:

Tree Removed	Replacement Tree to be Planted
4 to 7 inch DBH.	(3) 2" caliper trees
8 to 12 inch DBH.	(6) 2"caliper trees
13 to 18 inch DBH.	(9) 2"caliper trees
19 to 24 inch DBH.	(12) 2" caliper trees
25 inch or larger DBH.	(15) 2"caliper trees

Any replacement trees shall be similar in species to those that were removed except as may be permitted by the Zoning Administrator in consultation with a certified arborist or registered forester where, in his opinion, the replacement species will serve in an equal or better capacity than the original species.

B. In some situations, it may not be suitable to mitigate on site. The following options are available if on-site mitigation is not possible:

1. Tree Bank

   a. The number of replacement trees shall be the same as described in Section 9.21.10. Replacement costs (material plus labor) shall be at the applicant's expense.
   b. Allowable sites for receiving off-site replacement plantings as defined by the Waxhaw Tree Management and Maintenance Plan.
   c. Town owned properties.
   d. All trees to be replaced off-site shall meet the replacement standards of this section.
   e. In the event there are no appropriate planting spaces available, the tree replacement fee must be paid.

2. Tree Replacement Fee. A fee in lieu of tree replacement may be allowed, subject to approval by the Administrator after careful consideration of all other options. A tree replacement fee shall be required for each replacement tree required but not planted on the application site. The fee shall be based on the cost of the replacement tree. The applicant is responsible for providing price quotes from at least three (3) tree suppliers within this region.

   a. The fee shall be paid to the Town prior to the issuance of a Tree Removal Permit.
   b. A separate account shall be established by the Town for fees collected. Tree Replacement fee receipts shall be earmarked specifically for this account. Funds withdrawn from this account

shall be used for planting of new trees in Town owned parks, open spaces or rights-of way or maintenance of public trees according to Waxhaw's Urban Forestry Management Plan. The request must be made, in writing, to the Zoning Administrator. The Zoning Administrator must determine, in conjunction with a North Carolina registered forester, registered landscape architect, ISA certified arborist, or certified tree and landscape appraiser, if the site is not suitable for on-site mitigation.

C. Where removal of existing trees occurs within tree protection zones without a permit, new replacement trees shall be installed at a ratio double the schedule listed above, in addition to other penalties assessed and / or mitigation requirements assessed by the Town of Waxhaw.

D. Proposed mitigation tree planting shall be shown on a site plan, indicating the proposed location, size, and species of mitigation trees. Canopy trees shall be spaced no closer than twenty-five (25) feet from other canopy trees, and understory trees shall be placed no closer than fifteen (15) feet from other understory trees.

E. Mitigation trees shall be installed prior to approval of final record plats wherever feasible. The Administrator may deny approval of occupancy permits when required mitigation planting has not been completed.

F. All new plant material shall be of good quality, installed in a manner to meet the standards set forth in the American Standard for Nursery Stock by the American Association of Nurserymen.

G. New Tree Planting for Single-Family Subdivisions: The following tree planting will be required for new single-family subdivisions approved for construction after the adoption of this Ordinance:

1. Street Trees: Street trees shall be planted along all new public streets. Tree planting shall follow the following criteria:

   a. New trees are required wherever existing trees are not saved within 30 feet of the back of curb.
   b. New trees shall be spaced between 40 feet and 65 feet on center.
   c. New medium and large maturing trees shall be located within twenty five (25) feet of the back of curb, and shall be located outside of public street right-of-ways, and no closer than four (4) feet from sidewalks.

d. New small maturing trees shall be located inside rights-of-way. When available, small maturing trees shall be located inside planting strips.

e. New trees shall be canopy species, except where overhead utility lines exist within twenty five (25) feet of the street right-of-way, small maturing species shall be used.

f. New trees shall be 2-inch minimum caliper at planting.

g. New trees shall be selected from the approved Waxhaw tree species list (Section 9.21.15), provided that additional species may be used subject to specific approval of the Administrator.

h. Street trees may be installed prior to, during, or after construction on any lot, but in any case, street trees shall be installed prior to issuance of occupancy permits for each lot.

2. Individual Lots: Each single-family lot shall have a minimum cumulative tree DBH. required within the lot as shown below. Notwithstanding, street trees as herein required, shall not count as meeting these requirements. These minimum standards may be met with existing trees, with new trees, or any combination of existing and new trees. The cumulative tree DBH. shall be in accordance with the following schedule:

a. Lots on traditionally cleared land (80% or greater of the subdivision area has been cleared of trees for a period of five (5)

Lot Size	Cumulative DBH. required per lot	Minimum # of trees required per lot
6,000 s.f. or less	6"	2
6,001 to 15,000 s.f.	8"	3
15,001 to ,20,000 s.f.	10"	4
20,001 or Greater	12"	4

b. Lots on partially wooded land (between 20% and 40% of the total land area has been wooded for a period of five (5) years or greater) or wooded land (greater than 40% of the total land area has been wooded for a period of five (5) years or greater):

Lot Size	Cumulative DBH. required per lot	Minimum # of trees required per lot
6,000 s.f. or less	8"	2
6,001 to 15,000 s.f.	10"	3
15,001 to 20,000 s.f.	16"	4
20,001 or Greater	20"	4

c. New tree planting for each single-family lot shall be done on a lot-by-lot basis, prior to the issuance of an occupancy permit for each lot.

G. Tree Maintenance and Replacement:

1. Replacement: When existing and proposed trees used to comply with this Ordinance die or are removed for any reason, they must be replaced during the next suitable planting season in a manner, quantity, and size approved by the Administrator.
2. Notification: If the owner is notified of missing or dead trees and fails to replace them or contact the Administrator within 10 working days, the site is considered to be in violation of this Ordinance.
3. Protection: Existing and proposed trees used to comply with this Ordinance shall not be sheared, topped, or disfigured by improper pruning. Trees shall be allowed to grow to their natural height and form.

11. Tree Planting Techniques

Installation and construction practices shall be utilized which preserve existing topsoil or amend the soil to reduce compaction (See Figure 9.21.6 for an illustration of proper planting techniques)

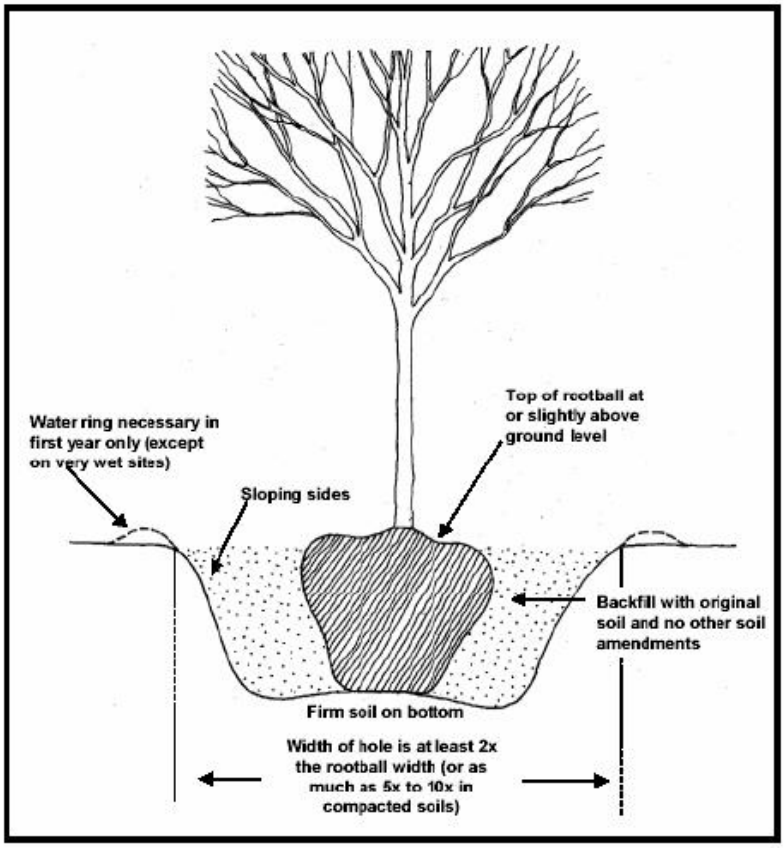


Figure 9.21.6: Proper Tree Planting Technique.

A. All trees shall be properly guyed or staked (where required due to grade changes, steep slopes, creek embankments, or man-made hazards), fertilized and mulched (3-4" layer). See illustration below and the ANSI standards for fertilization and mulching. Figure 9.21.7 shows proper mulching techniques.

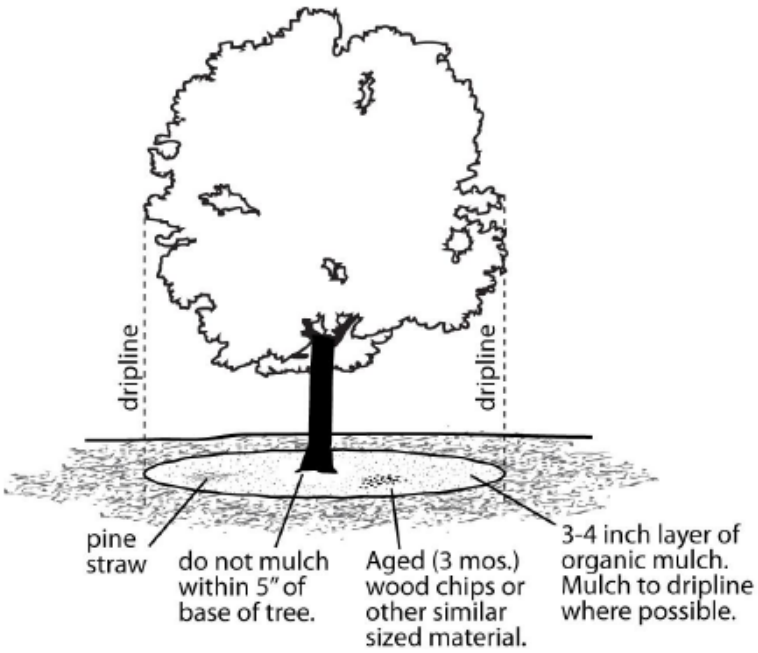


Figure 9.21.7: Proper Tree Mulching Technique.

12. Fees

A tree removal permit application shall be accompanied by a fee to be determined by the Town Board and set in the Fee Schedule except when the applicant is the Town of Waxhaw.

13. Exceptions

Where there are exceptional conditions that prevent full compliance with Section 9.21 *Tree Preservation*, the applicant may request an exception. A request for any exception shall be submitted in writing by the applicant for consideration by the Administrator. The written request shall fully state all substantiating facts and evidence pertinent to the exception request, and include supporting maps or plans. The Administrator, in conjunction with a North Carolina registered urban forester, registered landscape architect, or ISA certified arborist will review the exception request.

A. <u>Exception Criteria</u>

An exception shall not be granted unless the following criteria are satisfied:

1. The exception is necessary because:

   a. There are special circumstances related to the size, shape, topography, location, or surroundings of the subject property; and

b. Strict compliance with the provisions of this code may jeopardize reasonable use of property

B. Proposed vegetation removal, replacement, and any mitigation measures proposed shall be consistent with the purpose and intent Section 9.21.

C. The granting of the exception or standard reduction will not be detrimental to the public welfare or injurious to other property in the vicinity.

14. Violations

Any person who violates any of the provisions of this ordinance, or rules of orders adopted or issued pursuant of this ordinance shall be subject to any one or all of the combination of penalties authorized by this section or those contained in Section 17.5 of the Unified Development Ordinance. If a party continues to fail to comply with a particular provision, the party shall continue to remain subject to the penalties prescribed by this section for the period of the continued violation of the particular provision. Penalties assessed under this Section are in addition to, and not in lieu of, compliance requirements of the Town's Unified Development Ordinance.

A. Destruction or removal of trees greater than 8 inches DBH without approval of the *Town of Waxhaw* will incur a civil penalty equal to the amount of the value of trees listed in *The Guide for Plant Appraisal 9th Edition* published by The Council of Trees and Landscape Appraisers as determined by a NC registered urban forester or ISA certified arborist. The amount of the civil penalty shall include any cost incurred by the Town in appraising the value of the trees removed or destroyed in violation of this ordinance.

B. For the purposes of this Section, a separate offence shall be deemed to have occurred for each tree 8 inches in DBH or greater that have been destroyed or removed without the approval of the *Town of Waxhaw*.

C. If the Zoning Administrator or designee has determined that a violation of this Ordinance has occurred, no certificate of compliance shall be issued until compliance has been achieved.

15. Waxhaw Tree Species List

Any tree should be chosen based on individual site characteristics such as space, sunlight, soil moisture, urban stresses, etc. This list provides trees that perform well in this region under most circumstances. Please reference the 'comments' column for pertinent information on the tree species listed. The Town encourages the practice of "right tree, right place" to reduce future problems and improve tree survival for many years. The Administrator in conjunction with an approved tree professional may approve additional tree species on a case-by-case basis.

Large Maturing Trees *Height of 50 ft. or more*				
Common Name	**Botanical Name**	**Height x Width**	**Comments**	**Growth Rate**
Deciduous Trees				
Ash, Green	*Fraxinus pennsylvanica*	50-60 x 25	many cultivars, potential insect problem(ash borer)	fast
Ash, White	*Fraxinus americana*	50-80 x 40	many cultivars, emerald ash borer	moderate
Baldcypress	*Taxodium distichum*	70 x 25	Unique, stately tree, tolerates wet areas, may produce 'knees in wet soils	moderate
Beech, American	*Fagus grandifolia*	70 x 50	Needs space and good soils, stately tree, holds some leaves through winter for screening	Slow to moderate
Birch, River	*Betula nigra*	40-60 x 35	Chose drought resistant variety, prone to insect problems, avoid mass plantings	Moderate to fast
Dawn Redwood	*Metasequoia glyptostroboides*	70 x 30	Underused tree, upright form, good screening	fast
Elm, Lacebark	*Ulmus parvifolia*	50 x 40	Upright and spreading, good disease resistance, interesting bark, cultivars	Moderate to fast
Ginkgo	*Ginkgo biloba*	50-80 x 30	Tough tree, odd looking, better for specimen tree Plant only the male species	slow
Hornbeam, European	*Carpinus betulus*	50 x 35	Fine tree for urban uses, numerous cultivars for size and shape	Moderate to slow
Hackberry, Common	*Celtis occidentalis*	60 x 50	Large root system, underused tree	Moderate to fast
Hackberry, Sugar	*Celtis laevigata*	70 x 60	Large root system, more disease resistant	Moderate to fast
Hickory, Bitternut	*Carya cordiformis*	60 x 40	Large nut, difficult to transplant, great tree	Fast to moderate
Hickory, Pignut	*Carya glabra*	60 x 35	Large nut, difficult to transplant, great tree	moderate
Hickory, Shagbark	*Carya ovata*	60 x 40	Large nut, difficult to transplant, great tree	Slow to moderate
Hickory, Mockernut	*Carya tomentosa*	60 x 40	Large nut, difficult to transplant, great tree	moderate
Kentucky Coffeetree	*Gymnocladus dioicus*	60 x40	Interesting spring color, tough, underused tree, may present litter problem	moderate
Magnolia, Cucumbertree	*Magnolia acuminata*	60 x 40	Needs space, beautiful park or natural area tree, great blooms, many cultivars for size	Moderate to fast
Maple, Sugar	*Acer saccharum*	60 x 30	Prefers partial shade, choose cultivar "Legacy" or 'Summer Proof' for heat, find disease resistant cultivars	Slow to moderate
Maple, Red	*Acer rubrum*	40-60 x 40+	Many cultivars for shape, resistance and fall color	Moderate to fast
Oak, White	*Quercus alba*	50-80 x 50-70	Monarch tree, needs space, great form, some litter in fall	Moderate to slow

Oak, Swamp White	*Quercus bicolor*	50 x 40	Tough tree, white underside to leaf is interesting, tolerates wet and dry soils, likes acid soils	moderate
Oak, Shumard	*Quercus shumardii*	40-60 x 40+	Pyramidal-spreading at maturity, tough, good fall color	Moderate
Oak, Southern Red	*Quercus falcata*	60-70 x 50	Large shade tree, Good structure, some litter in fall	moderate
Oak, Nuttall	*Quercus nuttallii*	50 x 50	Very adaptable, colorful most of the year, some litter in fall	moderate
Oak, Scarlet	*Quercus coccinea*	70 x 50	Tough and adaptable, good fall color	Slow to moderate
Oak, Willow	*Quercus phellos*	50-80 x 50	Needs space, beloved urban tree	Moderate
Oak, Overcup	*Quercus lyrata*	40-60 x 40	More confined, oval, superb tree	Moderate
Oak, Pin	*Quercus palustris*	60 x 40	Compact crown, great fall color, avoid high pH	Moderate to fast
Oak, English	*Quercus robur*	60 x 50	Numerous cultivars for shape and size	moderate
Oak, Post	*Quercus stellata*	45 x 40	Smaller crown, tough tree, unusual form, not widely available	slow
Oak, Black	*Quercus velutina*	60 x 40-50	Tough, good form	slow
Oak, Live	*Quercus virginiana*	40 x 50+	shorter, needs wide spaces, stately tree	Moderate to slow
Poplar	*Liriodendron tulipifera*	70+ x 40	Needs space and good soil, weaker wood, at least 40' from structures or parking	fast
Sycamore, Planetree	*Platanus occidentalis*	80 x 50	No urban sites, needs space, litter issues, may not tolerate dry sites with poor soil	fast
Tupelo, Blackgum	*Nyssa sylvatica*	50 x 30	Great fall color, tough, underused	moderate
Zelkova, Japanese	*Zelkova serrata*	50+ x 40	Tough urban tree, upright habit, culitvars	Moderate to fast
Evergreen Trees				
Cryptomeria, Japanese	*Cryptomeria japonica*	50 x 20	Possible replacement to Leyland cypress, shows some disease problems, avoid mass plantings	fast
Cypress, Leyland	*XCupressocyparis leylandii*	40-60 x 20+	**Overused**, prone to **disease** and pests, **Use cultivars** for variety of color and shape, not long lived in most cases **Choose carefully, no mass plantings**	fast

Cedar, Atlas	*Cedrus atlantica*	50 x 30	Pyramidal in youth, spreading later, beautiful tree, cultivars	Moderate to slow
Cedar, Deodar	*Cedrus deodara*	40-60 x 40	Graceful tree, needs space, numerous cultivars for color and size	Slow to moderate
Hemlock, Carolina	*Tsuga caroliniana*	45 x 20	Needs improved soils, not very drought tolerant	Slow
Incensecedar, Califorina	*Calocedrus decurrens*	40-50 x 10	Tolerant of heat, great screen or specimen tree	Slow to moderate
Magnolia, Southern	*Magnolia grandiflora*	60 x 40	Needs space, great screen, numerous cultivars for size and bloom	Slow to moderate
Pine, Loblolly	*Pinus taeda*	70 x 40	Strong pine, choose location wisely, may break during ice	fast
Pine, Shortleaf	*Pinus echinata*	60 x 30	More beauty that Loblolly, some disease issues, choose wisely	Fast to moderate
Norway Spruce	*Picea abies*	50 x 25	Choose location wisely, heat is a factor, may not tolerate full sun with no irrigation, needs root space	Moderate to fast
Sawara Falsecypress	*Chamaecyparis pisifera*	50 x 20	Upright, loose, cultivars	moderate
Hinoki Falsecypress	*Chamaecyparis obtusa*	50 x 20	Beautiful tree, red bark, cultivars for size	Moderate

Medium Maturing Trees

Height 30ft. – 50ft.

Common Name	Botanical Name	Height x Width	Comments	Growth Rate
Deciduous Trees				
Carolina Silverbell	*Halesia tetraptera*	30 x 25	Beautiful flower, wonderful small tree, low branching, tolerates shade	Moderate
Cherry, Japanese	*Prunus serrulata*	40 x 40	Many varieties, sizes and colors, prone to disease, use sparingly	Moderate
Cherry, Yoshino	*Prunus yedoensis*	35 x 40	Beloved tree, performs well in heat, prone to disease, use wisely	Fast
Dogwood, Flowering	*Cornus florida*	35 x 25	Not stress tolerant, not suited for full sun, needs good soils, many cultivars for color and disease resistance	Slow

Dogwood, Kousa	*Cornus kousa*	30 x 30	Better suited to urban stresses and heat, numerous cultivars	Slow
Lacebark Elm	*Ulmus parvifolia*	40 x 30	Tough urban tree, tolerates stress, some cultivars	Fast
Turkish Filbert	*Corylus colurna*	40 x 20	Excellent urban tree, formal habit, heat tolerant	Moderate
Hornbeam, European	*Carpinus betulus*	50 x 35	Fine tree for urban uses, numerous cultivars for smaller size and shape	Moderate to slow
Hornbeam, American	*Carpinus caroliniana*	20-30 x 30	Tough tree, looks like Beech, muscular trunk	Slow
Hophornbeam, American	*Ostrya virginiana*	35 x 20	Beautiful bark, interesting structure, tough	Slow
Red Horsechestnut	*Aesculus x carnea*	50 x 40	Interesting tree, good flowers, some litter with nut, tough, excellent border tree	Moderate
Honeylocust, Thornless	*Gleditsia triacanthos*	30-50 x 30+	Some problems with disease and insects, many cultivars for size and shape, likes good soils	Fast
Maple, Red	*Acer rubrum v.??*	40 x variable	Choose cultivars for size, shape, resistance and fall color	Moderate to fast
Maple, Hedge	*Acer campestre*	25-35 x 25	Good fall color, more compact size	Slow
Maple, "Sunset"	*A. truncatum x platanoides*	25-35 x 25	Several cultivars, stress tolerant	Moderate
Maple, Trident	*Acer buergerianum*	35 x 30	Tough, small tree, good for urban sites, fall color	Slow to moderate
Oak, English	*Quercus robur*	Variable, 25 - 50	Numerous cultivars for shape and size	Moderate
Oak, Post	*Quercus stellata*	45 x 40	Smaller crown, tough tree, unusual form, not widely available	Slow
Redbud, Eastern	*Cercis canadensis*	30 x 30	Great flower show, numerous varieties and cultivars for size, flower and color	Moderate to fast
Sourwood	*Oxydendrum arboreum*	30+ x 20	Colorful all seasons, minor insect pests	Slow
Evergreen Trees				
Arborvitae, Giant	*Thuja plicata*	50 x 20	Great conifer for screen/hedge, bagworms, numerous cultivars for size or color	Moderate
Arborvitae, Eastern	*Thuja occidentalis*	40 x 15	More disease and insect problems than *T. plicata,* many culitvars	Moderate to fast
Cedar, Easter Red	*Juniperus virginiana*	40 x 20	Tough, compact, columnar*, substitute for Leyland Cypress*, many cultivars	Moderate to slow
Cypress, Arizona	*Cupressus arizonica*	40 x 20	Great tree, tough, replacement for Leyland Cypress, cultivars	Moderate
Cryptomeria, Japanese	*Cryptomeria japonica*	50 x 20	Possible replacement to Leyland cypress, shows some disease problems, avoid mass plantings, cultivars for size	Fast

Carolina Hemlock	*Tsuga caroliniana*	50 x 20	Needs moist, well drained soil; tolerates urban pressures, cultivars	Slow to moderate
Magnolia v.?	*Magnolia grandiflora v.?*	Variable 30+ x 30	Choose cultivar for various sizes	Moderate to slow
Magnolia, Sweetbay	*Magnolia virginiana*	20-50 x 20	Beautiful semi-evergreen magnolia, tolerates wet soils, cultivars	Moderate to fast
Atlantic Whitecedar	*Chamaecyparis thyoides*	40 x 20	Beautiful tree, may be hard to find, numerous cultivars for color and size	Moderate to fast
American Holly	*Ilex opaca*	45 x 20+	Choose cultivars for superior performance	Moderate
Fosteri Holly	*Ilex attenuata*	30+ x 15	Many cultivars for size	Moderate
Southern Redcedar	*Juniperus silicola*	30+ x 15	Like Eastern Redcedar, smaller, tougher	Slow

Small Maturing Trees

Height 10ft. – 30ft.

Common Name	Botanical Name	Height x Width	Comments	Growth Rate
Deciduous Trees				
Cherry, Apricot	*Prunus spp. v.??*	variable	Incredible variety in flower color, size and shape; short lived due to disease and insect problems, use wisely & sparingly	Slow to moderate
Chinese Pistache	*Pistacia chinensis*	30 x 30	Very tough, fall color, tolerates pruning	Moderate
Crabapple, Flowering	*Malus spp.*	20 x 20	Short lived, incredible flowering, choose disease and insect resistant cultivars, use sparingly	Moderate
Common Crapemyrtle	*Lagerstoemia indica*	variable	Overplanted, overpruned, tough, beautiful, use sparingly, endless cultivars for size and flower color	Moderate to fast
Dogwood, Corneliancherry	*Cornus mas*	20 x 20	Beautiful tree, tougher than *C. florida* , many cultivars for color and flower size	Moderate
Fringetree	*Chionanthus virginicus*	15-20 x 20	Beautiful small tree, shrubby look, *C. retusus* is also noteworthy	Slow
Maple, Hedge	*Acer campestre*	25-35 x 25	Good fall color, more compact size	Slow
Maple, "Sunset"	*A. truncatum x platanoides*	25-35 x 25	Several cultivars, stress & heat tolerant	Moderate
Serviceberry	*Amelanchier arborea*	15-25 x 15	Not stress tolerant, great flower show, requires little pruning, some disease problems, many cultivars for flower and habit	Slow
Redbud, Eastern	*Cercis canadensis*	20-30 x 20	Showy flower, some disease problems, tough tree, many cultivars for color	Moderate
Carolina Silverbell	*Halesia tetraptera*	30 x 25	Beautiful flower, wonderful small tree, low branching, tolerates shade	Moderate

Hornbeam, American	*Carpinus caroliniana*	20-30 x 30	Tough tree, looks like Beech, muscular trunk	Slow
Witchhazel	*Hamamelis virginiana*	20 x 20	Tough, great in borders or near buildings, interesting form, *H. japonica* and x *intermedia* easier to locate	Moderate
Evergreen Trees				
Carolina Cherrylaurel	*Prunus caroliniana*	30 x 20	Tough, beautiful, needs space, some cultivars	Fast
Loquat	*Eriobotrya japonica*	15-25 x 25	Tough, tropical looking, fruit edible & may cause litter	Moderate
Holly	*Ilex spp.*	variable	*I. cornuta, glabra, opaca, verticillata, decidua, cassine, vomitoria,* endless hybrids and cultivars, explore native hollies	Moderate to fast
Juniper, Chinese	*Juniperus chinensis x*	variable	Many cultivars for shape, size, color	Moderate to slow
Mountain Laurel	*Kalmia latifolia*	variable	Not very stress tolerant, beautiful border plant, requires improved soil, cultivars for size and flower color, underused	Slow
Magnolia	*Magnolia spp.*	30 x 20	Many cultivars for smaller size such as "Little Gem", "Wada's Memory", "Hasse"	Moderate
Magnolia, Star	*Magnolia stellata*	20 x 15	Use species or numerous cultivars	Moderate
Waxmyrtle, Southern	*Myrica cerifera*	25 x 20	Tolerates heat and stress, some cultivars	

16. Invasive Species List

The following is a list of exotic invasive species as provided by the North Carolina Native Plant Society. The intent of the list is to eliminate the use of invasive exotic plants in landscaping and restoration projects. Any species listed in this section is prohibited for use in landscaping and mitigation plans within the Town of Waxhaw.

The NC Native Plant Society ranks exotic plants based on their demonstrated invasive characteristics. The Town of Waxhaw adopts the Rank 1 – Severe Threat and Rank 2 – Significant Threat lists to reference the plants and species that should be avoided.

Rank 1 - Severe Threat

Exotic plant species that have invasive characteristics and spread readily into native plant communities, displacing native vegetation.

Scientific name	Common name
*Ailanthus altissima (Mill.) Swingle**	Tree of Heaven*

Albizia julibrissin Durz.*	Mimosa*
Alliaria petiolata (Bieb.) Cavara & Grande	Garlic-mustard
Alternanthera philoxeroides (Mart.) Griseb.	Alligatorweed
Celastrus orbiculatus Thunb.	Asian bittersweet
*Elaeagnus angustifolia L.**	Russian olive*
*Elaeagnus umbellata Thunb.**	Autumn olive*
Hedera helix L.	English ivy
Hydrilla verticillata (L.f.) Royle	Hydrilla
Lespedeza bicolor	Bicolor lespedeza
Lespedeza cuneata (Dum.-Cours.) G. Don	Sericea lespedeza
Ligustrum sinense Lour.	Chinese privet
Lonicera fragrantissima Lindl. & Paxton	Fragrant honeysuckle
Lonicera japonica Thunb.	Japanese honeysuckle
Microstegium vimineum (Trin.) A. Camus	Japanese stilt-grass
Murdannia keisak (Hassk.) Hand.-Mazz.	Asian spiderwort
Myriophyllum aquaticum (Vell.) Verdc.	Parrotfeather

*Paulownia tomentosa (Thunb.) Sieb.&Zucc. ex Steud.**	Princess tree*
Phragmites australis (Cav.) Trin. ssp. australis	Common reed
Polygonum cuspidatum Seib. & Zucc.	Japanese knotweed
Pueraria montana (Lour.) Merr.	Kudzu
Rosa multiflora Thunb.	Multiflora rose
Salvinia molesta Mitchell	Aquarium water-moss
Vitex rotundifolia L.f.	Beach vitex
Wisteria sinensis (Sims) DC	Chinese wisteria

Rank 2 - Significant Threat

Exotic plant species that display some invasive characteristics, but do not appear to present as great a threat native communities in NC as the species listed in Rank 1.

Scientific name	Common name
Ampelopsis brevipedunculata (Maxim.) Trautv.	Porcelain-berry
Arthraxon hispidus (Thunb.) Makino	Hairy jointgrass
Bambusa spp.	Exotic bamboo
Berberis thunbergii DC	Japanese barberry
Broussonetia papyrifera (L.) L'Her. ex Vent.	Paper mulberry

Cayratia japonica (Thunb. ex Murray) Gagnep.	Bushkiller
Centaurea biebersteinii DC	Spotted knapweed
Clematis terniflora DC (=C. dioscoreifolia)	Leatherleaf clematis
Conium maculatum L.	Poison hemlock
Coronilla varia L.	Crown vetch
Dioscorea oppositifolia L.	Air-potato
Eichhornia crassipes (Mart.) Solms	Water-hyacinth
*Euonymus alata (Thunb.) Sieb.**	Burning bush*
Euonymus fortunei (Turcz.) Hand. - Mazz	Winter creeper
Glechoma hederacea L.	Gill-over-the-ground, ground ivy
Humulus japonicus	Japanese Hops
Lamium purpureum L.	Henbit
Lespedeza bicolor Turcz.	Bicolor lespedeza, shrubby bushclover
Ligustrum japonicum Thunb.	Japanese privet
Ligustrum vulgare L.	Common privet
Lonicera maackii (Rupr.) Maxim.	Amur bush honeysuckle

Lonicera morrowii A. Gray	Morrow's bush honeysuckle
Lonicera standishii Jaques	Standish's Honeysuckle
Lonicera ×bella [morrowii × tatarica]	Hybrid Bush Honeysuckle
Ludwigia uruguayensis (Camb.) Hara	Creeping waterprimrose
Lygodium japonicum (Thunb. ex Murr.) Sw.	Japanese climbing fern
Lythrum salicaria L.	Purple loosestrife
*Mahonia beali (Fortune) Carriere**	Leatherleaf Mahonia*
Miscanthus sinensis Andersson	Chinese silver grass
*Morus alba L.**	White mulberry*
Myriophyllum spicatum Komarov	Eurasian watermilfoil
*Nandina domestica Thunb.**	Nandina*
Persicaria longiseta (de Bruijn) Moldenke (=Polygonum caespitosum Blume)	Oriental ladies-thumb
Persicaria maculata (Rafinesque) S.F. Gray (=Polygonum persicaria L.)	Lady's thumb
Phyllostachys spp.	Exotic bamboo
Poncirus trifoliata (L.) Raf.	Hardy-Orange
*Pseudosasa japonica (Sieb. & Zucc. ex Steud.) Makino ex Nakai**	Arrow bamboo*

Pyrus calleryana Decne.	Bradford pear
Rhodotypos scandens (Thunb.)	Makino jetbead
Rubus phoenicolasius Maxim.	Wineberry
Solanum viarum Dunal	Tropical soda apple
Sorghum halepense (L.) Pers.	Johnson grass
Spiraea japonica L.f.	Japanese spiraea
Stellaria media (L.) Vill.	Common chickweed
Veronica hederifolia L.	Ivyleaf speedwell
Vinca major L.	Bigleaf periwinkle
Vinca minor L.	Common periwinkle
Wisteria floribunda (Willd.) DC	Japanese wisteria
Xanthium strumarium L.	Common cocklebur
Youngia japonica (L.) DC.	Oriental false hawksbeard

**Already present in our region.*

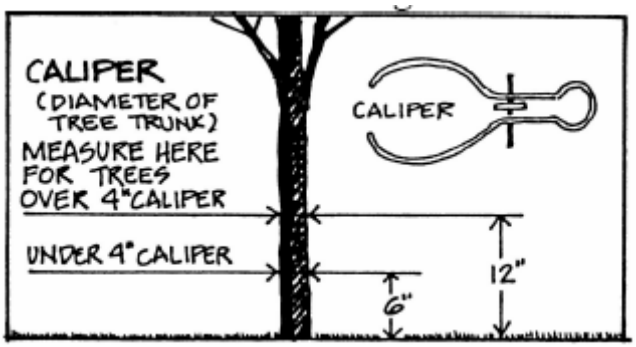
17. Definitions

As used within this ordinance, the following terms shall have the meanings set forth in this section:

ANSI - American National Standards Institute (ANSI) is a private, non-profit organization (501-C3) that administers and coordinates the U.S. voluntary standardization and conformity assessment system.

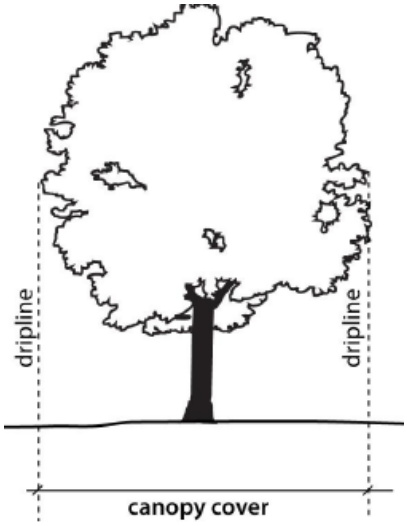
Auguring – A practice used to reduce the damage to and loss of individual trees where underground construction involves a tree's critical root zone (CRZ).

Caliper – Diameter measurement of a tree trunk taken at six (6) inches above ground level for trees up to and including trees four (4) inches in caliper. For larger trees, measurement of caliper shall be taken at twelve (12) inches above ground level.



Canopy – The uppermost spreading branchy layer of a tree

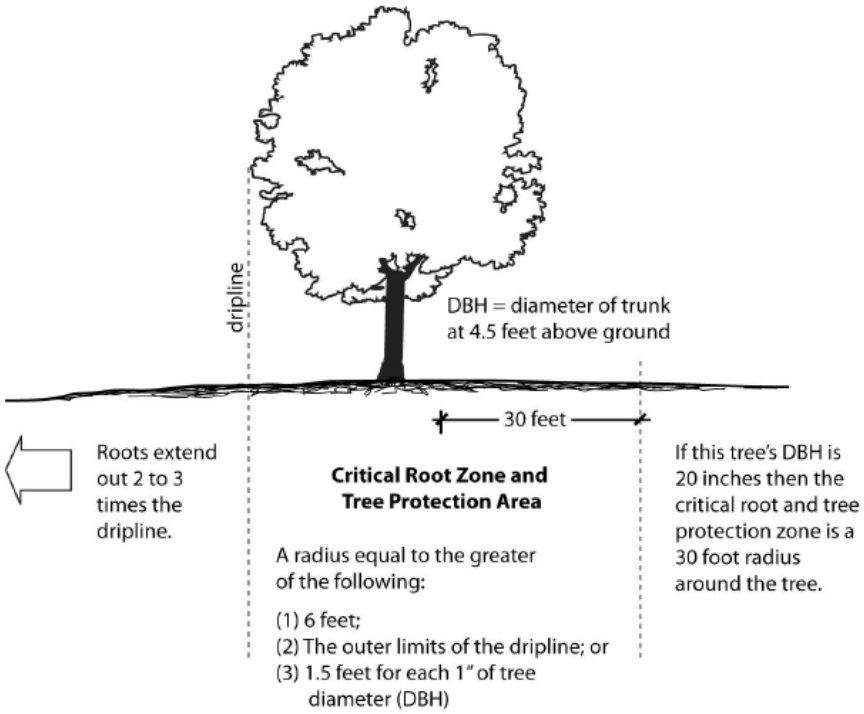
Canopy Cover – The area that falls within a tree's drip line.



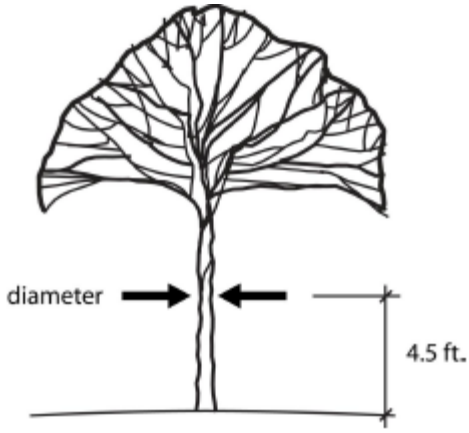
Clear Cutting – The felling and removal of all trees from an area. This practice is typically an indiscriminant removal of trees except in the case of silviculture harvesting where removal is followed up with a forest replanting or regeneration effort to keep the land forested.

Cluster of Trees – A group of trees gathered together in their natural state.

Critical Root Zone (CRZ) or Tree Protection Zone (TPZ) – The radial distance from the tree trunk equivalent to the greater area of: the drip line; a maximum of six feet from the trunk; or a distance or 1.5 feet for every inch of trunk DBH.



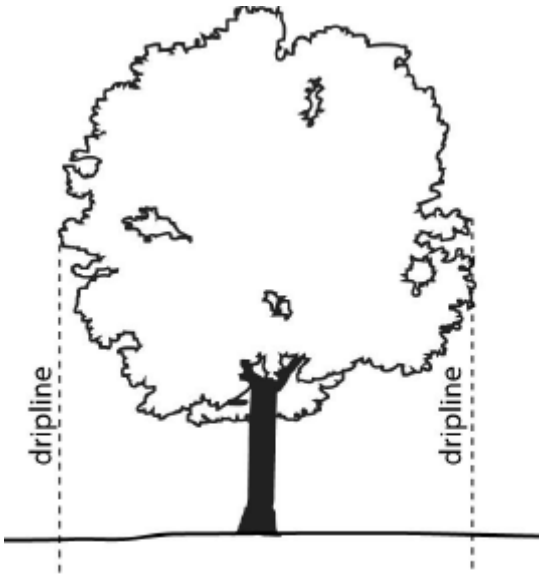
DBH (Diameter at Breast Height) – The trunk diameter of a tree measured at a point four and one-half (4 ½) feet above the ground.



Deciduous – Plants or trees that lose their leaves annually.

Development – The act, process or state of erecting buildings or structures, or making improvements.

Drip Line – An imaginary vertical line extending from the outermost portion of the tree canopy to the ground.



Evergreen – Plants or trees that retain their levels throughout the year.

Exotic/Invasive Species – An alien species that becomes established in natural or semi-natural ecosystems or habitats and threatens native plants and when such species spread they threaten biological diversity. Invasive species include, but are not limited to, English Ivy – Hedera helix, Chinese Wisteria – Wisteria sinensis, Japanese Wisteria – Wisteria floribunda, Japanese Honeysuckle – Lonicera japonica, Kudzu – Pueraria montana.

Grading or Land Disturbing – Any use of land by any person that results in a change of the natural cover or topography and that may cause or contribute to the sedimentation or soil compaction.

Heritage Tree – Existing trees thirty-six (36) inches DBH or larger.

ISA – The International Society of Arboriculture is a worldwide professional organization dedicated to fostering a greater appreciation for trees and to promoting research, technology, and the professional practice of arboriculture.

Land Clearing – The large scale indiscriminant removal of trees, shrubs, and undergrowth with the intention of preparing real property for non-agricultural development.

Large Maturing Tree – A tree whose height is greater than sixty (60) feet at maturity and meets the specification of "American Standards for Nursery Stock" published by the American Association of Nurserymen. See also *Canopy Tree*.

Medium Maturing Tree – A tree whose height is thirty (30) to sixty (60) feet at maturity and meets the specification of "American Standards for Nursery Stock" published by the American Association of Nurserymen.

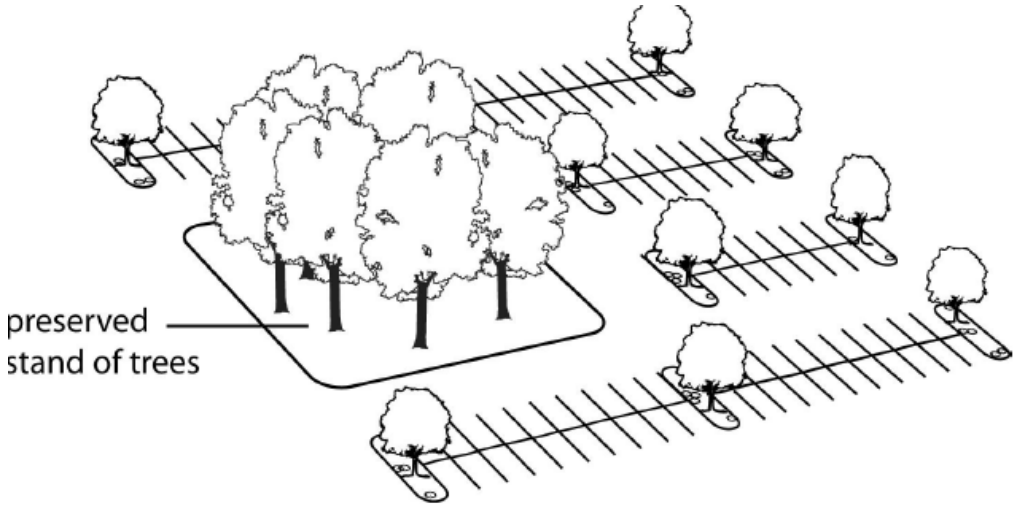
Native Species – Refers to a tree species whose geographic range during pre-colonial times included the Piedmont of North Carolina.

Protective Fencing – A physical and visual barrier installed around the critical root zone of a tree to prevent damage to the tree and its root system. At a minimum this would include four (4) foot tall orange safety fencing.

Pruning - The cutting off or removal of dead or living parts of a tree or shrub. See ANSI standards for recommended pruning practices.

Small Maturing Tree – A tree whose height is less than thirty (30) feet at maturity and meets the specifications of "American Standards for Nursery Stock" published by the American Association of Nurserymen.

Stand – A group of trees of sufficiently uniform and/or complimentary species composition, age, and condition that they may be considered homogenous unit for management purposes.

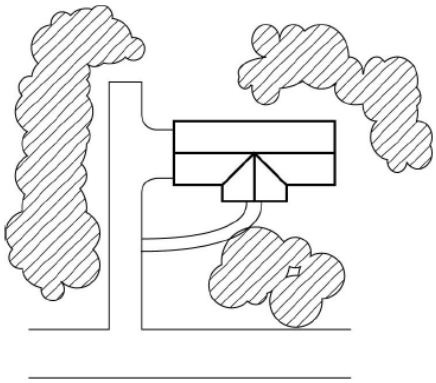


Street Tree – A tree planted within or adjacent to a public right-of-way as required by the town.

Tree Bank - A site such as a school or public park, where the owner/developer shall donate and plant the required trees when it is not feasible to plant the required trees within their site's project area

Tree Protection Zone – The area that contains the canopy and critical root zones of trees composing the existing canopy.

Tree Save Area – One or more areas of a site which includes existing trees and their tree protection zone. The purpose of a tree save area is to encourage the preservation of healthy clusters of trees or heritage trees.



Tree Survey – The tree survey shall be prepared by a licensed surveyor, arborist, landscape architect, registered forester, or engineer registered in the state of North Carolina. The survey shall provide the location, species, and size of all existing trees eight (8) inches or larger in diameter at breast height (DBH), and any understory tree (e.g. Dogwood, Redbud, Ironwood, American Holly, etc.) with a caliper measurement of four (4) inches or more as stipulated in section 9.21.7.

9.22 UNION COUNTY PUBLIC SCHOOL ZONING REGULATION

1. Purpose

Union County Public Schools (UCPS) is currently subject to 13 different sets of local land use regulations (12 different municipalities and Union County). Regulations vary from jurisdiction to jurisdiction, making it difficult to build new schools, renovate existing schools or locate mobile units in a consistent, timely and cost effective manner.

As a part of the Union County Board of Education's adopted "Building Program Cost Saving Principles", UCPS is endeavoring to establish a standard zoning classification and standardized requirements for school construction regardless of the schools locale in Union County. Such standardization will result in (i) equitable school facilities throughout the county; (ii) more efficient permitting of school facilities and (iii) cost savings for the benefit of the taxpayers of Union County.

2. Applicability

A. UCPS staff will involve local municipal staff early in the site selection process. The local municipal staff will make recommendations regarding target sites or areas within their respective jurisdictions that are suitable for school uses. Pursuant to state statute, final decisions regarding the selection of school sites are made by the Union County Board of Education.

B. Allow all new schools, additions, or renovation uses by right with supplemental standards. This will eliminate the costly and time-consuming discretionary conditional use permit zoning process and site-by-site negotiations. All local government entities benefit by having expectations regarding school design and construction identified in advance.

C. Jurisdictions may consider an optional conditional use permit review process if unique conditions exist as determined by the zoning/planning administrator. The administrator shall consider if the proposed project poses a negative impact on the public health , safety and historical character of the Town of Waxhaw.

3. Standards

Supplemental standards shall include:

A. <u>Exterior of buildings.</u>

1. Exterior building materials shall be limited to masonry brick (brick or Shall be reviewed and approved by the Zoning Administrator.
2. UCPS staff will work with municipality staff to follow any requirements of municipality "special overlay districts" as it relates to the exterior design of the facility.
3. Exterior of buildings will be articulated to enhance the area of the site.

B. Mobile classrooms (MCR)

1. MCR's shall be located in rear yard if possible. If rear yard cannot accommodate the MCR's then they can be placed in the side yard. MCR's can be placed in the front yard only if the MCR's cannot be accommodated in the rear or side yards.
2. MCR underpinning and crawl spaces shall be screened.
3. Landscaping/planting shall be provided between the MCR and any adjacent roads from which the MCR's are visible.
4. MCR's shall be removed promptly by UCPS when no longer required at a school site. No MCR shall be vacant for more than 60 days during the schools calendar year without written approval from the Zoning Administrator. A detailed written request must be submitted to the Zoning Administrator outlining the unique circumstances that require a waiver or extension of the requirement.

C. Sidewalks

1. Sidewalks shall be installed unless they present a public health and safety hazard. If shown as a hazard, then a waiver from town staff must be approved and the ordinance pertains to Union County Schools only. Sidewalks on the school property that connect to an existing sidewalk infrastructure will be provided by UCPS. Except as provided above, the municipalities shall be responsible paying for and constructing sidewalks.
2. UCPS will dedicate appropriate easement or road right of way needed for sidewalks if requested by municipality.
3. UCPS will grade areas for sidewalks if requested by municipality.
4. UCPS will cooperate with municipality to apply for grants for sidewalks.

D. Exterior Illumination

1. Driveway and parking area lighting shall be no more than 10 foot candles. Spill over to adjacent properties shall not exceed 1 foot candle. Lighting fixtures shall be shielding type.
2. Lighting fixtures located on the building exterior shall not emit more than 5 foot candles and shall be shielding type.
3. Lighting for athletic fields shall follow the current standards as set forth by the North Carolina High School Athletic Association Lighting Standard. A lighting control package shall be included and lights shall be shut-off no later than one hour after the end of the event.

E. Signs

1. Materials for sign base and structure shall match the primary building materials.
2. Sign face shall not exceed 40 square feet and does not include the sign support structure. The bottom of the sign face shall be no less than 24" above nor more than 72" above the ground surface. The sign support structure can include columns and walls on either side of and below the sign face and shall not be more than 16" taller that the sign face.
3. One sign shall be permitted per school. Alternatively, if multiple schools use the same driveway access, then the allowable square footage may be increased by 10 square feet for each additional school.
4. One wall sign per school shall be permitted and only for the name of the school and shall be reviewed by the administrator.
5. External illumination is allowed.
6. Temporary banners shall be allowed on the exterior walls of schools with the following conditions:

    a. No more than three (3) banners shall be allowed at any time.
    b. No banner shall exceed thirty-two (32) square feet and shall not be illuminated.
    c. Each banner shall be displayed no earlier than ten (10) days prior to the first day of school and shall be removed no later than ten (10) days after the last day of school.

F. Parking

1. At elementary and middle schools provide 1 space per staff member plus 1.6 spaces per classroom or 1 space for each 3 seats used for assembly purposes whichever is greater.
2. At high schools provide 5 spaces per instructional classroom or 1 space for each 3 seats used for assembly purposes whichever is greater.
3. No more than 20% of the required spaces can be compact spaces.
4. Minimum size of spaces shall be 9' wide by 19' long for regular, 7.5' wide by 15' long for compact, and accessible spaces shall meet current accessibility codes.

G. Student Drop Off Stacking

1. On-site vehicle stacking for student drop-off shall be based on NCDOT requirements using the NCDOT required calculator.

H. Landscaping and Screening/buffering

1. Trees and shrubs shall be as indicated within the municipality species list.
2. Parking Area: 1 large or 2 small trees shall be provided for each 12 parking spaces. Each parking space shall be located within 65' of a tree. Rows of parking spaces shall be terminated with a landscaped island and shall be the same size as a parking space.
3. Parking areas shall be screened from adjacent public roads with shrubs based on the municipality's species list.
4. Storm Detention Basins shall be screened with fencing and/or shrubs as determined by the administrator and shall be dependant upon the size, location, and use of the basin.
5. Land berms will not be permitted between school facilities and roads.
6. Land berms can be used in conjunction with required screening/buffering to adjacent uses as determined by the local regulations.
7. Screening/buffering from adjacent uses will be opaque and shall consist of:

    a. Small trees planted at a rate of 3 per 100' and 6' high evergreen shrubs planted at a rate of 25 per 100', or
    b. Large trees planted at a rate of 2.5 per 100' and a 6' high solid wood fence, or
    c. Tall evergreen trees with branches touching the ground planted in a stagger.

8. If the adjoining property is of similar or compatible use the Administrator may reduce or eliminate the screening/buffer.
9. Screening/buffering requirements may be waived when screening/buffering is already provided. There may be cases where the unusual topography or elevation of a site, or the size of the parcel involved, or the presence of screening on adjacent property would make the strict adherence to the regulation serve no useful purpose. In those cases, the Administrator is empowered to waive the requirements for screening so long as the spirit and intent of this section and the general provisions of this section pertaining to screening are adhered to. This section does not negate the necessity for establishing screening for uses adjacent to vacant property.
10. UCPS will endeavor to adhere to all Tree Preservation ordinances of the municipalities and shall preserve natural buffers between the school facility and adjacent properties as much as practical.

11. UCPS will endeavor to retain as much existing trees and vegetation on school sites as practical and will re-introduce common local species into the project as possible.

I. In the event any provisions of the supplemental regulations conflict with any other provisions of this ordinance, then the provisions of these supplemental regulations shall control. Other ordinance provisions not in conflict with these supplemental regulations remain in effect.

SECTION 10
NON-CONFORMING SITUATIONS

The purpose of this Section is to avoid undue hardship by permitting the continued Use of any Building, Structure, or property that was lawful at the time of the enactment of this Ordinance or any applicable amendment thereof even though such Use, Structure or property does not conform to the provisions of this Ordinance. However, this Section is also established to require that Non-conforming Situations be terminated under certain circumstances.

10.1 DEFINITIONS

Refer to Section 8 – Definitions.

10.2 CONTINUATION OF NON-CONFORMING SITUATIONS

Non-conforming Situations that were otherwise lawful on the effective date of this Ordinance may be continued, subject to the restrictions and qualifications set forth in Subsections 10.4 through 10.7 of this Section.

10.3 NON-CONFORMING LOTS OF RECORD

In any district where a lot has been recorded with the Union County Office of the Register of Deeds, and is not in violation of the Unified Development Ordinance of the Town of Waxhaw, North Carolina prior to the effective date of this Ordinance, and such lot does not comply with the minimum lot area and/or width requirements for the zoning district in which such lot is located, such lot may be used for any use permitted in that zoning district provided that the principal and accessory structures meet all applicable front, side, and rear yard requirements for that zoning district as provided in this Ordinance.

If two or more adjacent unimproved lots, neither one of which meet the lot width and/or area requirements of the zoning district in which they are located are of single ownership and are of record at the time of adoption of this Ordinance or any amendment thereto, and if these lots, in combination, meet the dimensional requirements established for lot width and area, the lands involved shall be deemed to be an undivided lot. For the purpose of this Ordinance, said lot(s) shall be used or sold by the owner and all future assigns in a manner that is in compliance with lot, width, and area requirements contained in this Ordinance.

Notwithstanding the above, in any district where a lot has been recorded on a plat filed with the Union County Office of the Register of Deeds, and such lot was not in violation of the Union County Zoning Ordinance or Unified Development Ordinance at the time of such recording, the

front, rear, and side yard setbacks applicable to such plat may be recognized as being valid by the Town of Waxhaw for zoning purposes.

10.4 EXTENSION OR ENLARGEMENT OF NON-CONFORMING SITUATIONS

The following provisions shall not be applicable to existing single-family dwelling units that are nonconforming due to the zoning district classification of the underlying lot. A single-family dwelling unit under such conditions may be expanded (i.e., an expansion to the principal building and/or construction of additional or enlarged accessory structures) so long as minimum setback, bulk, and parking requirements for single-family dwellings in the district are met. In no instance, however, shall any such expansion result in the creation of a second dwelling unit on the lot.

1. Except as specifically provided in this Subsection, it shall be unlawful for any person to engage in any activity that causes an increase in the extent of non-conformity of a Non-conforming Situation.

2. Subject to Paragraph 4 of this Subsection, a Non-conforming Use may be extended through any portion of a completed Building that, when the Use was made non-conforming by this Ordinance, was manifestly designed or arranged to accommodate such Use. However, a Non-conforming Use may not be extended to additional Buildings or to land outside the original Building.

3. A Non-conforming Use may not be extended to cover more land than was occupied or manifestly designed and arranged to be occupied, by that Use when it became non-conforming.

4. The volume, intensity, or frequency of Use of property where a Non-conforming Situation exists may be increased and the equipment or processes used at a location where a Non-conforming Situation exists may be changed if these or similar changes amount only to changes in the degree of activity rather than changes in kind and no violations of other paragraphs of this Subsection occur.

5. Physical alteration of Non-conforming Structure or Structures containing a Non-conforming Use is unlawful if it results in:

A. An increase in the total amount of space devoted to a Non-conforming Use (except as provided in paragraph 2 above).

B. Greater non-conformity with respect to dimension restrictions such as yard requirements, height limitations, or density requirements.

C. The enclosure of previously unenclosed areas, even though those areas are or were used in connection with the non-conforming activity.

6. Minor repairs to and routine maintenance of property where Non-conforming Situations exist are permitted and encouraged. Major renovation - i.e., work estimated to cost more than ten percent (10%) but less than sixty percent (60%) of the Taxes Value of the Structure to be renovated may be done provided that the work will not result in a violation of any other paragraphs of this Subsection particularly Paragraph 5. In no case however shall work costing more than sixty percent (60%) of the Taxes Value of the Structure be done, singularly or cumulatively, within any five (5) year period.

10.5 RECONSTRUCTION PROHIBITED

Any Non-conforming Building or Structure or any Building or Structure containing a Non-conforming Use (excluding single-family dwellings) for which major repair or reconstruction is proposed in an amount equal to sixty percent (60%) or more of the Taxed Value of the Building or Structure or which has been damaged by any cause to an extent equal to sixty percent (60%) or more of its Taxed Value shall only be repaired and/or reconstructed and Used as a conforming Structure and a conforming use.

A single-family dwelling (including principal and/or accessory structures) which has been damaged or destroyed to an extent equal to sixty (60%) percent or more of its taxed value at the time of destruction may be allowed to be rebuilt so long as a Zoning Permit is secured no later than one (1) year from the date of destruction. Due to unforeseen circumstances, the Administrator shall have the authority to issue the Zoning Permit up to two (2) years from the date of destruction of it is determined that diligent effort has been made by the applicant in securing financing and/or other attending other matters pertaining to the construction of the home. Any such replacement home shall be built, to the greatest degree feasible, in accordance with all applicable yard, bulk, and height requirements for single-family dwellings in the R-3 district. In no instance shall the replacement dwelling be located on the lot in a manner more nonconforming than the dwelling which was destroyed.

10.6 CHANGE IN KIND OF NON-CONFORMING USE

1. A Non-conforming Use may be changed to a conforming Use. Thereafter, the property may not revert to a Non-conforming Use.

2. A Non-conforming Use shall not be changed to another Non-conforming Use.

3. If a Non-conforming Use and a conforming Use, or any combination of Non-conforming Uses exist on one Lot, the Use made of the property may be changed only to a conforming Use.

4. Change in Use of Non-conforming Buildings - Conforming Uses may be established or re-established in Non-conforming Buildings or Structures provided that off-street parking is provided as required by this Ordinance and provided no other provision of this Ordinance for the establishment of new Uses is violated.

10.7 DISCONTINUANCE OF NON-CONFORMING USES

1. When active operation or occupancy of a Non-conforming Use is discontinued regardless of the purpose or reason for a consecutive period of one hundred eighty (180) days, the property involved may thereafter be used only for conforming Uses.

2. For purposes of determining whether a right to continue a Non-conforming Situation is lost pursuant to this Subsection, all of the Buildings, activities, and operations maintained on a Lot are generally to be considered as a whole. For example, the failure to rent one apartment in a non-conforming apartment Building or one space in a conforming mobile home park for one hundred eighty (180) days shall not result in a loss of the right to rent that apartment or space thereafter so long as the apartment building or mobile home park as a whole is continuously maintained. But if a Non-conforming Use is maintained in conjunction with a conforming use, cessation of operation or occupancy of the Non-conforming Use for the required period shall terminate the right to maintain it thereafter.

10.8 NON-CONFORMING SIGNS

1. Signs erected after the passage of Section 13 (Signs) shall conform to the standards set forth herein. All legal nonconforming signs in existence as of the effective date of Section 13 may be continued and shall be maintained in good condition. Nothing in this ordinance shall prevent the normal maintenance of an existing non-conforming sign. However, a nonconforming sign shall not be:

   A. Changed to another type or shape of nonconforming sign; provided, however, the copy, content, or message of the sign may be changed so long as the shape or size of the sign is not altered.

   B. Structurally altered, except for normal maintenance.

   C. Physically expanded, enlarged, or extended in any manner.

   D. Reestablished after discontinuance for 180 days.

   E. Reestablished after the sign is removed, except for normal maintenance.

F. Reestablished after damage or destruction where the estimated expense of reconstruction exceeds 50% of the appraised replacement cost of the sign in its entirety.

SECTION 11
SCHEDULE OF DISTRICT REGULATIONS

Within the Districts as established by this Ordinance, the requirements as set forth in this Section shall be complied with in addition to any other general or specific requirements of this Ordinance.

11.1 TABLE OF USES

1. The list of uses allowed in each zoning district is indicated in Table 1. For any use listed in Table 1, the Administrator shall be able to determine if the use is (i) permitted, (ii) permitted subject to the adherence of certain identified specifications, (iii) permitted subject to the issuance of a conditional use permit, or (iv) not permitted.

2. A use shall be permitted in a certain zoning district if it is accordingly designated in Table 1 with a "X". For instance, single-family dwellings are permitted uses in the R-1 district. A use permitted subject to certain pre-established specifications that would not be applicable to other uses is designated by a "XS". For instance, duplexes are subject to the supplemental regulations found in Section 11.3.31 of this Ordinance. A "C" indicates a use that requires conditional zoning or the issuance of a conditional use permit. For instance, a rooming & boarding house in the RM-1 district would be a conditional use and would require either (i) approval through conditional zoning or (ii) the issuance of a conditional use permit by the Board of Commissioners. If additional findings of fact, or other supplemental requirements, pertain to a certain conditional use, this would be indicated by a "CS". Such is the case of an elementary school in the R-1 district. If a use does not have a "X", "XS", "C", or "CS" designation in a particular zoning district, that use shall not be allowed in that zoning district.

3. Yard, bulk, and height requirements are found in Section 11.3. In general, these requirements shall pertain to all uses. However, if different requirements for a particular use are found in the supplemental regulations (most supplemental regulations are found in Section 11.3), the stricter requirement shall prevail.

4. If a use is not specifically listed in any of the districts listed in this Ordinance, then the Administrator shall have the authority to interpret in which district the use should be permitted.

11.2 LOT DEVELOPMENT REQUIREMENTS (setbacks, etc.)

See Charts

REQUIREMENT[(4)(5)]

	R-1	R-2	R-3	R-4	RM-1	RM-2	OIS	C-1	C-2	C-3	C-4	I-1	I-2
Front	30	30	30	20	30	50	20	20	20	40	0	50	70
Rear	30	30	30	30	30	30	20	20**	20**	20**	0	30	50
Side (interior lot)	15	10	10	10	10	25	8	10**	10**	10**	0	20	50
Side (corner lot / street side)	25	20	20	20	20	25	18	20	20	20	0	20	50
Lot Area (min sf in thousands)	100	40	20	*12	*9	50	*5	10	24	28	1	22	60
Lot Width (minimum lf)	75	75	60	60	60	75	50	75	150	100	20	100	150
Lot Depth (minimum lf)	75	75	60	60	60	75	50	75	150	100	20	100	150
Lot Coverage (max %)	30	40	60	75	70	70	85	80	80	75	100	75	80
Height (principal building)	45	45	45	45	45	60	45	45	45	80	3 stories^	80	80
Height (accessory building)	25	25	25	25	25	25	25	25	45	80	3 stories^	80	80

NOTES:
1) (*) Represents the application of the base requirement for the first dwelling unit or separate non-residential establishment. For each additional unit or non-residential establishment add 50% of base requirement.
2) (**) Represents setback if adjoining a Commercial or Industrial zone. If adjoining a Residential or Office zone add 10’ to the setback.
3) (^) The height shall not exceed three (3) stories at any street view.
4) Refer to Section 11.3.77 for regulations on the TND zoning district.
5) Refer to Section 21 Downtown Code for downtown zoning requirements.

SECTION 11
SCHEDULE OF DISTRICT REGULATIONS

Within the Districts as established by this Ordinance, the requirements as set forth in this Section shall be complied with in addition to any other general or specific requirements of this Ordinance.

11.1 TABLE OF USES

1. The list of uses allowed in each zoning district is indicated in Table 1. For any use listed in Table 1, the Administrator shall be able to determine if the use is (i) permitted, (ii) permitted subject to the adherence of certain identified specifications, (iii) permitted subject to the issuance of a conditional use permit, or (iv) not permitted.

2. A use shall be permitted in a certain zoning district if it is accordingly designated in Table 1 with a "X". For instance, single-family dwellings are permitted uses in the R-1 district. A use permitted subject to certain pre-established specifications that would not be applicable to other uses is designated by a "XS". For instance, duplexes are subject to the supplemental regulations found in Section 11.3.31 of this Ordinance. A "C" indicates a use that requires conditional zoning or the issuance of a conditional use permit. For instance, a rooming & boarding house in the RM-1 district would be a conditional use and would require either (i) approval through conditional zoning or (ii) the issuance of a conditional use permit by the Board of Commissioners. If additional findings of fact, or other supplemental requirements, pertain to a certain conditional use, this would be indicated by a "CS". Such is the case of an elementary school in the R-1 district. If a use does not have a "X", "XS", "C", or "CS" designation in a particular zoning district, that use shall not be allowed in that zoning district.

3. Yard, bulk, and height requirements are found in Section 11.3. In general, these requirements shall pertain to all uses. However, if different requirements for a particular use are found in the supplemental regulations (most supplemental regulations are found in Section 11.3), the stricter requirement shall prevail.

4. If a use is not specifically listed in any of the districts listed in this Ordinance, then the Administrator shall have the authority to interpret in which district the use should be permitted.

11.2 LOT DEVELOPMENT REQUIREMENTS (setbacks, etc.)

See Charts

REQUIREMENT[(4)(5)]

	R-1	R-2	R-3	R-4	RM-1	RM-2	OIS	C-1	C-2	C-3	C-4	I-1	I-2
Front	30	30	30	20	30	50	20	20	20	40	0	50	70
Rear	30	30	30	30	30	30	20	20**	20**	20**	0	30	50
Side (interior lot)	15	10	10	10	10	25	8	10**	10**	10**	0	20	50
Side (corner lot / street side)	25	20	20	20	20	25	18	20	20	20	0	20	50
Lot Area (min sf in thousands)	100	40	20	*12	*9	50	*5	10	24	28	1	22	60
Lot Width (minimum lf)	75	75	60	60	60	75	50	75	150	100	20	100	150
Lot Depth (minimum lf)	75	75	60	60	60	75	50	75	150	100	20	100	150
Lot Coverage (max %)	30	40	60	75	70	70	85	80	80	75	100	75	80
Height (principal building)	45	45	45	45	45	60	45	45	45	80	3 stories^	80	80
Height (accessory building)	25	25	25	25	25	25	25	25	45	80	3 stories^	80	80

NOTES:
1) (*) Represents the application of the base requirement for the first dwelling unit or separate non-residential establishment. For each additional unit or non-residential establishment add 50% of base requirement.
2) (**) Represents setback if adjoining a Commercial or Industrial zone. If adjoining a Residential or Office zone add 10' to the setback.
3) (^) The height shall not exceed three (3) stories at any street view.
4) Refer to Section 11.3.77 for regulations on the TND zoning district.
5) Refer to Section 21 Downtown Code for downtown zoning requirements.

11.3 SUPPLEMENTARY USE REGULATIONS

The following supplemental regulations shall pertain to the various uses listed in the Table of Uses. If not otherwise listed, these regulations shall be applicable in all districts in which the individual uses are allowed. For any use, which requires the issuance of a conditional use permit, the supplemental use regulations listed herein may be in addition to any other fair and reasonable conditions placed on such use by the Planning Board or Board of Commissioners. Such conditions may impose greater restrictions on a particular use than those that are listed herein.

1. Adult Establishment

Adult establishments, by their very nature are recognized as having certain serious objectionable operational characteristics upon adjacent neighborhoods (especially residential neighborhoods); churches, schools, or when concentrated in a particular area within the community. Special regulation of these establishments is therefore necessary to ensure that any adverse effects will not contribute to the blighting or down grading of the surrounding neighborhood or uses within said neighborhood.

A. Use Description

Adult uses / establishments include adult establishments as defined in the definitional section of this supplemental use regulation.

B. Definitions

1. Adult Bookstore: a bookstore:

a. Which receives a majority of its gross income during any calendar month from the sale or rental of publications (including books, magazines, other periodicals, videotapes, compact discs, other photographic, electronic, magnetic, digital, or other imaging medium) which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section; or

b. Having a preponderance (either in terms of the weight and importance of the material or in terms of greater volume of materials) of its publications (including books, magazines, other periodicals, videotapes, compact discs, other photographic, electronic, magnetic, digital, or other imaging medium) which are distinguished or characterized by their emphasis on matter

depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section.

2. Adult Establishment: an adult bookstore, adult motel, adult motion picture theatre, adult mini motion picture theatre, adult live entertainment business, or adult massage business each as defined in this definitional section.
3. Adult live entertainment: any performance of or involving the actual presence of real people which exhibits specified sexual activities or specified anatomical areas.
4. Adult live entertainment business: any establishment or business wherein adult live entertainment is shown for observation by patrons.
5. Adult Motel: A hotel, motel, or similar commercial establishment that:

    a. Offers accommodation to the public for any form of consideration, and provides patrons with a preponderance (either in terms of the weight and importance of the material or in terms of greater volume of materials) with closed circuit television (as distinguished from commercial cable services or satellite) transmissions, films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by an emphasis on the depiction or description of any specified sexual activity or any specified anatomical area; or
    b. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
    c. Allows a tenant or occupant of a sleeping room to sub rent the room for a period of time that is less than ten (10) hours.

6. Adult Motion Picture Theatre: an enclosed building or premises used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section, for observation by patrons therein. Adult motion picture theatre does not include any adult mini motion picture theatre as defined in this Section.
7. Adult Mini Motion Picture Theatre: an enclosed building with viewing booths designed to hold patrons which is used for presenting motion picture, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas as defined in this section, for observation by patrons therein.
8. Massage: the manipulation of body muscle or tissue by rubbing, stroking, kneading, or tapping by hand or mechanical device.

9. Adult Massage Business: any establishment or business wherein massage is practiced, which includes any specified sexual activities.
10. Specified anatomical areas: any of the following:

    a. Less than completely and opaquely covered: (i) human genitals, pubic region, (ii) buttock, or (iii) female breast below a point immediately above the top of the areola; or
    b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

11. Specified Sexual Activities: any of the following:

    a. Human genitals in a state of sexual stimulation or arousal;
    b. Acts of human masturbation, sexual intercourse or sodomy; or
    c. Fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts

C. Districts Where Adult Uses May be Authorized

As a mitigating measure, adult establishments (as defined in Section 8.2) shall only be allowed in the I-2 district as conditional uses, with the following separation distances being required:

Where these standards establish locational restrictions for an adult use/establishment such restriction will be measured by a straight line in all directions and will not be measured as a walking or street distance. Since adult uses are likely to have adverse secondary effects on surrounding properties whether located inside and outside the Town of Waxhaw, all measurements will be taken from the proposed location of an adult use to surrounding land uses and zoning districts irrespective of the corporate boundaries of the Town of Waxhaw. Distances shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior structure wall of the adult establishment to the nearest lot line of the religious use, school, residential district or other adult establishment. In the case where an adult use/establishment is proposed to be located in a multi-tenant building all measurements will be in a straight line from the public entrance to the adult use/establishment to the nearest lot line of the religious use, school, residential district or other adult use.

1. No two adult establishments may be located within fifteen-hundred (1,500) linear feet of each other, irrespective of jurisdictional boundaries.

2. No adult establishment may be located within one thousand

(1,000) linear feet of any Residential (R) Zoning District within Town limits, and within five hundred (500) linear feet of any residential zoning district outside of the Town limits.

3. No adult establishment may be located within one-thousand (1,000) linear feet of any church, synagogue, or temple and associated uses including cemeteries; congregate care facility; a public or private day care center; non-profit clubs; or any public or private school. The required separation from the above listed uses applied whether the place of worship, school, child day care center, playground, or park is the principal use or an accessory use of the property.

D. Prohibition of Sleeping Quarters
Except for an adult motel, no adult use / establishment is permitted to have sleeping quarters.

E. Restriction of Uses on the Same Property or in the Same Building
There shall not be more than one adult use / establishment in the same building, structure, or portion thereof. No other principal or accessory adult use may occupy the same building, structure, property, or portion thereof with any other adult use / establishment

F. Signs
Signage shall be regulated in accordance with Section 13, except that sexually oriented printed material, slide, video, photograph, written text, live show, or other sexually oriented visual display shall not be visible from outside the walls of the establishment, nor shall any live or recorded voices, music, or sounds be heard from outside the walls of the establishment.

2. Amusement Parks, Fairgrounds, Fun Park

A. All outdoor recreation facilities and vending stands shall be located at least five-hundred (500) linear feet from a Residential (R) Zoning District. Otherwise, all buildings or structures, whether permanent or temporary, may not be located within one-hundred (100) feet of any lot line.

3. Animal Grooming Establishment

A. Animals must be kept indoors at all times.

B. Animals boarding facilities shall not be permitted.

4. Animal Shelter; Animal Kennels; Animal Hospital

A. Any structure which houses animals for an Animal Hospital or Animal Shelter which is not fully enclosed and all animal runs shall be located at least one hundred (100) feet from any lot line and three-hundred (300) linear feet from any pre-existing principal residential structure located on another lot.

B. All pens and kennels used for housing animals (excluding horses, ponies, and cows) must be surrounded by a black, dark green, or dark brown vinyl coated chain link fence not less than six (6) feet in height, and enclosed on top, or be located in an enclosed structure.

C. An animal kennel may be only an accessory use on a lot containing a principal single-family residential use in the R-1 district subject to the regulations contained herein, and subject to a conditional use permit issued by the Board of Commissioners. An animal kennel may not be a principal use on a lot. Any structure which houses animals, which is not fully enclosed, and all animal runs shall be located at least one hundred (100) feet from any lot line and five hundred (500) linear feet from any pre-existing principal residential structure located on another lot.

5. Appliance Sales and Repair Shop

A. All outdoor storage of appliances shall be effectively screened from view from any adjacent lot or street right-of-way. Such screening shall be in the form of a berm, wall or fence, or an appropriate amount of natural plantings to effectively screen the storage from view.

6. Automobile Body Shop, Automobile Repair Shop, Automotive Parts and Repair Store

A. The structure containing such use shall be located at least 200 feet from any lot located in a Residential zone and buffered in accordance with Table 9.8.1.b found in Section 9.8. This distance shall be measured in a straight line from the outermost portion of the structure containing the above referenced use to the nearest residential lot line.

B. All vehicles, materials or equipment shall be stored within an enclosed building or outdoor storage with opaque fence or wall. Such storage is restricted to the rear yard.

C. Storage yards shall be set back a minimum of 50 feet from any residential district.

D. Repair work involving noise-producing equipment shall be performed indoors.

E. Oil, grease and other petroleum products shall be properly disposed of and in no case drained onto the ground or parking area. Containers for the collection of these substances shall not be visible from any public street and shall be screened from public view.

F. Stockpiling or collection of automobiles for dismantling and use as spare parts is expressly prohibited.

G. No vehicle may be stored for more than 40 calendar days.

H. Hours of operation for Automobile Body Shops and Automobile Repair Shops shall be limited to 7:00 am to 7:00 pm only when adjoining a residential zone.

I. Hours of operation for Automotive Parts and Repair stores shall be limited to the following only when adjoining a residential zone:

1. The retail component of the store may keep operation hours from 7 am to 10 pm.
2. The repair component of such stores may keep operation hours from 7 am to 7 pm.

7. Automobile Detailing Shops

A. Hours of operation of outdoor activities shall be limited to 7:00 A.M. to 10:00 P.M. only when adjoining a residential zone

8. Automobile Parts & Supply Stores

A. Hours of operation shall be limited to 7:00 A.M. to 10:00 P.M. of adjoining a residential (R) zone.

B. No outside storage of oil shall be allowed if adjoining a residential zone.

9. Automobile Service Stations

A. Gasoline pump islands shall be located no closer than fifteen (15) feet from any lot line.

10. Automobile Towing and Wrecking Service

A. Any outdoor vehicle storage area shall be located a minimum of one hundred (100) linear feet from any street right-of-way; and two-hundred (200) linear feet

from any residential (R) zoning district lots which contain a principal residential use.

B. Vehicle storage facilities shall not be located at an elevation whereby the storage is visible from a public street after the required screening is in place.

C. No more than fifty (50) vehicles may be stored on premises.

D. All lighting shall be directed away from surrounding properties.

E. Vehicles may only be store in designated outdoor storage areas.

11. Automobile Washes, Class 1 (Self-Service Car Wash)

A. Vacuuming, frying and polishing facilities may not be located in any required yard or buffer area adjacent to a residential (R) zoning district.

B. At least two (2) staging spaces and one (1) drying space per wash bay shall be provided.

C. Hours of operation shall be limited to 8:00 A.M. to 9:00 P.M. only when adjoining a residential (R) zone.

D. All vehicular accessible area on the lot shall be at least one hundred (100) feet from any interior lot line separating the lot from a residential (R) zone.

E. Security light must be shielded from adjacent residential zoned properties to prevent undo bright lights from shining onto/into dwellings.

F. Loud music to be controlled by property owner.

12. Automobile Wash, Class 2 (Automatic Car Wash)

A. Hours of operation shall be limited to 8:00 A.M. to 9:00 P.M. only when adjoining a residential (R) zone.

B. All vehicular accessible area on the lot shall be at least one hundred (100) feet from any interior lot line separating the lot from a residential (R) zone.

C. Security light must be shielded from adjacent residential zoned properties to prevent undo bright lights from shining onto/into dwellings.

D. Loud music to be controlled by property owner.

13. Barber/Beauty Shop

A. All masseurs and masseuses must be licensed massage and bodywork therapist per N.C.G.S. Chapter 90, Article 36 *Massage & Bodywork Therapy Practice* as amended.

14. Barn, Horse or Cattle

A. Accessory use only with single-family residence as a principle use.

B. Barn must be a minimum 100 feet from dwelling and 500 feet from pre-existing residence located on adjacent lot.

C. No more than one (1) horse for each one (1) acre of land, total cannot exceed five (5) animals unless bona fide farm which requires 20 aces. Then, there is no limit to the number of animals.

D. Use is subordinate to residence, strictly private use, animals owned or leased by the resident.

E. Must comply with Section 9.20 of the Unified Development Ordinance.

15. Bed and Breakfast Inn

A. In all zoning districts, meals shall be served to resident guests only.

B. In any residential (R) zoning district, no more than two (2) off-street parking spaces shall be provided in the front yard.

16. Building and Home Materials Center, Lumber and Building Materials Yard

A. All outdoor storage areas shall be at least one hundred (100) feet from any adjacent residential (R) zoning district.

17. Camping and Recreational Vehicle Parks

A. All spaces for camping and recreational vehicles shall be located at least one hundred (100) feet from any adjoining lot line.

B. Notwithstanding any other screening requirements, the campground shall be sufficiently wooded to provide an opaque natural buffer between the campground, all adjacent lots, and all adjacent public roads at the time the campground is initially developed.

C. Accessory uses, limited to usage by campground patrons, may include laundry facilities and the selling of convenience items (snacks, beverages, etc.)

18. Cemetery/Columbarium

A. Tombstones, columbariums, crypts, monuments and mausoleums shall be located a minimum of twenty (20) feet from any side or rear lot line and at least thirty (30) feet from a street right-of-way. Greater setbacks shall be observed if otherwise required by the zoning district in which it is located.

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

19. Churches/House of Worship

A. If a school is operated on-premises, parking needs may be satisfied by that already provided by the church. A school having an enrollment certification of one-hundred (100) or more students shall be considered a conditional use in Residential zoning district and shall be considered a separate principal use and may be allowed on the same lot so long as the school meets all applicable area, bulk and setback requirements.

B. A single-family residential use, occupied by the pastor, priest, rabbi, etc. of the facility, may be placed on the lot containing the church/house of worship. Said structure shall meet all setback requirements for single-family dwellings for the zoning district in which the lot is located. Said structure may not be used for day care facilities.

C. If a day care center with an enrollment capacity in excess of twenty-five (25) students is operated on-premises, the day care center shall be deemed a separate use and may be allowed subject to the regulations covering such uses in the underlying zoning district.

20. Community Centers

A. In all Office or Commercial zoning districts, any community center with a seating capacity of up to five hundred (500) persons shall be a use by right. All other community centers shall be a conditional use.

21. Dairy Bars and Ice Cream Shops

A. Retail sales on premises, only.

22. Commercial or Office Use with Outdoor Speakers

A. Outdoor speakers shall be at least fifty (50) feet from property lines residential development or residentially zoned properties (R).

23. Continuing Care Facility

A. The density levels and minimum yard requirements shall be based on the regulations of the underlying zoning district.

24. Contractors Office and Storage Yards

A. Outdoor storage areas shall meet the requirements of Section 9.8.

25. Convenience Store; Mini-Mart

A. Vacuuming facilities may be located outside the building, but may not be located within any required yard or buffer area adjacent to a Residential (R) district.

B. If a mini-mart is located adjacent to a Residential (R) district, hours of operation shall be limited to 5:00 A.M. to Midnight only.

C. A mini-mart may contain a freestanding automatic car wash facility. All applicable supplemental regulations contained in Section 11.3.12 shall be followed.

D. Gasoline pump islands shall be located no closer than fifteen (15) feet from any lot line.

E. Suitable landscaping shall be provided along all sides of the property that abut Residential (R) Zoning Districts as per Section 9.8.

F. Convenience or mini-mart stores must have a minimum of one hundred (100') feet setback(s) when adjacent to Residential zoned property.

G. Security lights must be shielded from all adjacent Residential zoned property to prevent undo bright lights shining onto/into dwellings.

26. Correctional Facility

A. A two hundred (200) foot setback for all principal and accessory structures shall be observed if the facility is adjacent to any lot located in a Residential (R) Zoning District or any pre-existing principal residential structure.

B. Any fence which is barbed or contains razors, shall be located in the side or rear yard only, shall be screened according to the standards in Table 9.8.1.b and be located at least thirty (30) feet from any lot located in a Residential (R) District.

1. A fence which is taller than prescribed by section 9.19 or that contains razors in the front yard may only be allowed through securing a conditional use permit or conditional zoning.

C. All lighting for the facility must be oriented so that direct beams of light shine away from all adjoining properties.

27. Day Care Centers, in Single Family Structure and up to 8 Children/Persons

A. The facility is staffed by persons residing in the dwelling in which the day care center is located and up to one (1) non-resident.

B. Outdoor play areas shall be located in the rear or side yards only. In no case shall such play areas be located in the required side yard setback.

C. All outdoor play areas shall be surrounded by a fence or wall at least four (4) feet in height. Outdoor play areas shall not include driveways, parking areas, or other land unsuitable for play use.

D. One attached on-premise non-illuminated sign may be used to advertise the day care center. Said sign shall have a maximum area of four (4) square feet and a maximum height of two (2) feet.

E. The day care center shall be located in a structure originally constructed as and designed for a single-family dwelling. Said structure shall be the principal structure on the lot. The exterior of the structure (aside from the allowed day care signage) shall not be altered in a manner, which diminishes its single-family dwelling characteristics.

F. In Office and Commercial districts only, outdoor play areas located in the side yard shall observe a minimum side yard setback of ten (10) feet. On corner or through lots, a minimum twenty (20) foot setback for outdoor play areas as measured from the abutting street right-of-way shall be observed.

28. Day Care Centers, in Single Family Structure from 9 to 12 Children/Persons

A. The facility is staffed by persons residing in the dwelling in which the day care center is located and a maximum of two (2) non-resident.

B. Outdoor play areas shall be located in the rear or side yards only. In no case shall such play areas be located closer than ten (10) feet to any property line.

C. All outdoor play areas shall be surrounded by a privacy fence or wall at least six (6) feet in height to preserve the appearance of a single-family structure.

D. One freestanding non-illuminated sign may be used to advertise the day care center. Said sign shall have a maximum area of four (4) square feet and a maximum height of two (2) feet. No other signs are allowed on the property.

E. The day care center shall be located in a structure originally constructed as and designed for a single-family dwelling. Said structure shall be the principal structure on the lot. The exterior of the structure (aside from the allowed day care signage) shall not be altered in a manner, which diminishes its single-family dwelling characteristics.

F. Day care operating hours shall begin no earlier than 6:00 A.M. and end no later than 6:30 P.M. Monday through Friday.

G. In Office and Commercial districts only, outdoor play areas located in the side yard shall observe a minimum side yard setback of ten (10) feet. On corner or through lots, a minimum twenty (20) foot setback for outdoor play areas as measured from the abutting street right-of-way shall be observed.

29. Day Care Centers, Located in a Church or School, up to 50 Children/Persons.

A. Outdoor play areas shall be located in the rear yard or side yards only. In no case shall such play areas be located in a required side yard.

B. All outdoor play areas are to be surrounded by a fence or wall at least four (4) feet in height.

C. Signage for the day care center shall be included in that which is allowed for the church or school.

D. The property upon which the day care center is located shall be used primarily for church or school purposes. If located on the premises of a church, the day care center shall be an accessory use to the church and may not be conducted in any single-family residence located on such property. The number of persons regularly attending such church or school must equal or exceed the number of enrollees certified by the State of North Carolina to attend the day care center.

30. Day Care Centers, Located in a Church or School, over 50 Children/Persons

A. Outdoor play areas shall be located in the rear yard or side yards only. In no case shall such play areas be located in a required side yard setback.

B. All outdoor play areas are to be surrounded by a fence or wall at least four (4) feet in height.

C. Signage for the day care center shall be included in that which is allowed for the church or school.

D. The property upon which the day care center is located shall be used primarily for church or school purposes. If located on the premises of a church, the day care center shall be an accessory use to the church and may not be conducted in any single-family residence located on such property. The number of persons regularly attending such church or school must equal or exceed the number of enrollees certified by the State of North Carolina to attend the day care center.

E. There shall be adequate road ingress and egress to and from the site. Traffic generated by the facility shall not be disruptive to any adjacent residentially developed properties.

31. Day Care Centers, Principal Use

A. Outdoor play areas may be located in the rear yard or side yard only. If located in the side yard, a minimum side yard setback of ten (10) feet shall be observed. On corner or through lots, a minimum twenty (20) foot setback as measured from the abutting street right-of-way line shall be observed. (Greater setbacks may be required if otherwise called for in the underlying zoning district.)

B. All outdoor play areas shall be surrounded by a fence or wall at least four (4) feet in height.

32. Duplex

A. Two units per lot provided that such are located on a corner lot and that the architectural front of each dwelling unit faces different streets.

33. Dry Cleaning Outlets

A. Any dry cleaning plant associated with pick-up stations shall have less than 2,000 square feet of floor area in the C-1 district only.

B. The emission of steam and other obnoxious byproducts shall be controlled in the C-2 district only.

34. Electronic Gaming Operations

A. Days/Hours of operation: business engaging in electronic gaming operations activities may operate from 8:00 am until 10:00 pm each day, seven (7) days per week.

B. The maximum number of machines/terminals/computers for any electronic gaming business is 20.

C. The machines/terminals must not be prohibited by State or Federal law and must have all applicable permits and licenses.

D. If food or beverage is served the establishment must meet the requirements of the UDO, the Union County Department of Health, and all State law requirements.

E. The establishment must be a minimum of three hundred (300) linear feet from any residential zoning district located within or outside the Town of Waxhaw municipal limits.

F. The establishment must be a minimum of one thousand six hundred (1,600) linear feet from any other organization engaged in an electronic gaming operation business.

G. The establishment must be a minimum of one thousand (1,000) linear feet from any church, synagogue, or temple and associated uses including cemeteries congregate care facility; a public or private daycare center; non-profit clubs; or any public or private school. The required separation from the above listed uses applies whether the place of worship, school, child day care center, playground, or park is the principal use or an accessory use of the property.

H. Distances shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior structure wall of the electronic gaming establishment to the nearest lot line of the religious use, school, residential district or other electronic gaming facility.

I. The applicant shall submit a current plot plan prepared within thirty (30) days prior to application by a registered land surveyor depicting the following:

1. Property lines and the structures containing any existing electronic gaming businesses within one thousand six hundred (1600) feet of the subject property
2. Property lines of any established church, synagogue, or temple and associated uses including cemeteries congregate care facility; a public or private daycare center; non-profit clubs; or any public or private school that is within one thousand (1000) feet of the subject property
3. Property lines of any existing residential zoning district within three hundred (300) feet of the subject property.

For the purposes of this Section, a use shall be considered existing or established if it is in existence at the time and application is submitted.

35. Electric, Heating, Air Conditioning, Ventilating, and Plumbing Supplies and Equipment Sales

A. All outdoor storage areas shall meet the requirements of Section 9.8.

36. Equestrian Facilities

A. Such uses (where allowed) may be principal uses or accessory uses on a lot containing a principal single-family residence.

B. The tract on which the facility is located must have at least one (1) acre of open pasture for every horse able to be boarded at the site in accordance with the provisions in this section.

C. All structures housing horses must meet the following setbacks:

1. At least fifty (50) feet from all front, side and rear property lines.
2. At least one hundred (100) feet from any pre-existing residential structures located off the subject property.
3. At least thirty (30) feet from the principle structure when accessory to a residential structure. If accessory to a residential structure, then the structure housing the horse(s) shall be in the rear or side yard.

D. The number of stalls shall not exceed the number of horses permitted.

E. Any outdoor lighting shall not shine into the road right-of-way or adjacent residences per Section 12.12 of this Ordinance.

F. An equestrian facility shall not be located on less than five (5) acres.

37. Public Utility Facility

A. All service and storage yards shall meet the requirements of Section 9.8, and shall be surrounded by a sturdy fence not less than six (6) feet in height.

38. Family Care Homes

A. Family care homes shall be allowed as use by right provided that no family care home shall be allowed within on half mile radius of another family care home.

39. Farm Equipment Sales and Service, Tire Recap Facility

A. All activities shall be conducted within a completely enclosed building.

40. Racetrack, Outdoor

A. No portion of the racecourse perimeter shall be located closer than three hundred (300) linear feet from any exterior lot line, except five-hundred (500) linear feet from any lot line abutting a Residential (R) zoning district.

B. Hours of operation shall be limited to 10:00 AM to 10:00 PM only.

C. All racecourses for any motorized vehicle shall be paved.

41. Fraternal and Service Organization Meeting Facility

A. A side setback of twenty (20) feet and a rear setback of forty (40) feet shall be required if a side and/or rear lot line abuts a residential (R) district, unless a greater setback is otherwise required for the zoning district in which it is located.

42. Game Room

A. A game room, unless located within a shopping center or other planned commercial development, shall be located at least three hundred (300) linear feet from any residential (R) zoning district, and any existing principal residential structure.

43. Hotels or Motels

A. Retail uses and restaurants may be located as an accessory use within any motel or hotel.

B. Off-street parking facilities shall be separately computed at seventy-five (75) percent of the required spaces for any retail use containing over 1,000 square feet of gross floor area and for any restaurant or lounge which is open to the general public.

44. Industrial Equipment, Sales, Supplies and Repair

A. All service and open storage areas shall meet the requirements of Section 9.8

45. Junkyard and Automobile Salvage Yard

A. Any lot containing such use shall be located at least three-hundred (300) linear feet from any lot in a residential (R) district.

46. Laboratories/Offices in the OIS District

A. Laboratories and offices located in an OIS district shall be medically related only.

47. Lounge (Principal Use)

A. Any lounge shall be located at least three-hundred (300) linear feet from any lot in a residential (R) district.

48. Mini-Warehouse

A. All storage compartments within the mini-warehouse shall front on a private drive having a minimum width of twenty-five (25) feet to ensure sufficient room for vehicular circulation, loading, and parking.

B. Driveways providing ingress and egress to the site shall not permit any parking or loading extending to within thirty (30) feet of the adjoining street right-of-way.

C. If the mini-warehouse facility has a locked and keyed entrance two (2) staging spaces must be provided directly in front of the entrance.

D. All mini-warehouses must have a minimum setback of one hundred (100) feet from any adjacent Residential zoned property.

E. Outside storage is limited to mini-warehouses in the Heavy Industrial district.

F. If mini-warehouse is located adjacent to a Residential District, hours of operation shall be limited to 8 a.m. to 9 p.m. only.

G. Security lights are to be shield from all Residential zoned property adjacent to mini-warehouses to prevent undo bright lights shining onto/into houses.

49. Monument Sales

A. The lot which such use is located shall be located at least three-hundred (300) linear feet from any lot located in a residential (R) district.

50. Motorcycle Sales

A. The lot which such use is located shall be located at least three-hundred (300) linear feet from any lot located in a residential (R) district.

51. Multi-family in the C-4 Business District

A. A maximum of twelve (12) dwelling units per acre are allowed.

1. Increases in density must be approved by the Board of Commissioners. The applicant must be able to demonstrate how the request is incorporating unique or creative design elements that would warrant additional density.

B. A mix of uses is preferred in the C-4 Central Business District. Therefore, if two or more dwelling units are located in the C-4 Central Business District, the dwelling

units shall not be allowed on the ground or first floor. Only single-family, detached units are allowed on the ground or first floor.

C. Parking of any kind should be encouraged not to abut Broome Street, North Main Street or South Main Street.

52. Pet stores

A. All facilities associated with a pet store shall be located indoors.

53. Produce Stand (Accessory Use)

A. A produce stand shall not be located in a road right-of-way.

B. A produce stand shall not be located closer than ten (10) feet to any side lot line and twenty (20) feet to any side lot line which is in or abuts a Residential (R) District, unless a greater setback is required for the zoning district in which it is located.

C. Signs for a produce stand shall not be illuminated, nor have flashing lights, nor shall they exceed four (4) square feet in area.

D. During the times of the year in which the produce stand is not in operation, the stand and any structure associated with it shall not be visible from any public road.

54. Produce Stand (Principal Use)

A. Any produce stand structure shall not be located in a road right-of-way.

B. If a free-standing structure is used, it shall not be located closer than ten (10) feet to any side lot line or twenty (20) feet to any side lot line which abuts a Residential (R) district, unless a greater setback is required for the zoning district in which it is located.

C. The produce stand may be a permanent or temporary structure.

55. Public and Private Elementary, Junior High and Senior High Schools

A. Any school that has greater than one-hundred (100) students must have access onto a major or minor thoroughfare, or through a collector road.

56. Public Safety Station

A. All buildings shall be at least twenty (20) feet from all property lines unless a greater side or rear setback is otherwise required for the zoning district in which it is located and shall be designed and landscaped in such a way as to blend in with the surrounding area.

57. Recreation Facility, Indoor or Outdoor; Country Club; Swim Club

A. All structures (with the exception of swimming pools) shall be located at least twenty (20) feet from any side or rear lot line, except fifty (50) feet shall be required if in or adjacent to a Residential (R) District. Rear and side yard setbacks for outdoor swimming pools shall be fifty (50) feet each, unless adjacent to Residential (R) Districts (see below).

B. Outdoor swimming pools shall be at least one hundred (100) feet from any adjoining Residential (R) Zoning District.

C. Fencing, netting, trees, berms, or other control measures shall be provided around the perimeter of any driving ranges so as to prevent golf balls from going onto adjacent properties. Such devices, where applicable, may be counted towards any required screening provided.

D. A facility designed to accommodate two-hundred (200) or more patrons at one time may only be allowed through securing a conditional use permit or conditional zoning.

E. Hours of operation shall be limited to 7:00 a.m. and 10:00 p.m. only if located in a Residential (R) Zoning District.

F. No direct beam of light from outdoor lighting fixtures or signs shall shine onto any lots located in a Residential (R) district.

58. Recycling Deposit Station (Principal Use)

A. Any preexisting principal residential structure on another lot shall be located at least one-hundred (100) linear feet from the building housing this facility or from any outdoor bins.

B. No outdoor storage of goods to be recycled shall be permitted.

59. Home Occupations

A. No goods, stock in trade, or other commodities may be displayed outside a fully enclosed structure

B. No on-premises retail sales of goods not produced on-site may occur, except that incidental retail sales may be permitted (for example hair products at a beauty shop)

C. No more than two persons not a resident on the premises may be employed in connection with the purported home occupation

D. The use may not create objectionable noise, fumes, odor, dust or electrical interference

E. Not more than twenty-five percent of the total gross floor area of residential buildings plus other buildings housing the purported home occupation, or more than 1,000 square feet of gross floor area (whichever is less), may be used for home occupation purposes

F. Only vehicles used primarily as passenger vehicles may be used in connection with the home occupation.

G. In the RM-1 and RM-2 zoning districts, home occupations shall only be allowed on lots containing single-family residential dwellings.

60. Home for the Aged, Independent Living Center, Nursing Home, Convalescent Home

A. Any facility which is licensed to have greater than fifty (50) residents shall maintain a side setback of at least twenty (20) feet and a rear setback of at least thirty-five (35) feet when the side or rear yard is in or abuts a Residential (R) District or a lot containing a principal residential use, unless a greater setback is otherwise required for the zoning district in which it is located.

61. Restaurant, Fast Food or Drive Through

A. Any free-standing fast-food restaurant building shall maintain a distance of at least two-hundred and fifty (250) linear feet from an existing residence.

B. Freestanding fast food restaurants shall be designed, where practical, to have a joint ingress/egress with adjoining lots.

C. There may be up to two fast food restaurants located at the intersection of any two public streets. However, no two fast food restaurants shall be located on the same side of the same public street within four hundred (400) feet of each other, as measured from the outer extremity of the structure or any appurtenance attached thereto. These spacing provisions shall not apply if the fast food restaurant is: (1) totally enclosed within a convenience store; (2) is not in itself a free-standing building (i.e., it is a use connected to other uses or wholly located within another use in a multi-tenant development) and does not have an outside call box.

62. Restaurants (Within Other Facilities)

A. A restaurant may be allowed as a permitted accessory use in a Office or Commercial District where located within a use allowed in such a district. Such restaurant shall be designed to serve customers or users of such use. Examples of such uses include snack shops in department or variety stores, employee cafeterias, snack shops or canteens in office buildings, bowling alleys, etc.

B. Access to such restaurant shall not be directly available from the outdoors.

C. Separate off-street parking spaces for such use shall not be required.

D. The restaurant shall be allowed up to sixteen (16) square feet of exterior wall identification signage. Said signage shall be included as part of the signage allowed for the principal use. No freestanding signs for said restaurant shall be allowed.

E. The aggregate gross area of all restaurants within any building shall occupy no greater than ten (10) percent of the gross floor area of the building.

63. Roofing Repair and Installation, Sheet Metal

A. All open storage areas shall meet the requirements of Section 9.8.2.

64. Seasonal Outdoor Sales

A. Seasonal outdoor sales, including the sale of such items as Christmas trees and pumpkins, seasonal produce (excluding farmers' market as defined in Section 8), and other similar seasonal products, may take place on a vacant or developed lot. Each seasonal outdoor sales activity is limited to a maximum of forty-five (45) consecutive days. Not more than three events are allowed per calendar year per parcel of land.

B. Seasonal outdoor sales shall comply with the temporary sign standards listed in Section 13.9.12.

C. A temporary zoning use permit is required for the temporary display and/or sale of products that are not contained within the principal building.

D. All temporary seasonal outdoor sales displays shall comply with the following standards:

1. The property shall contain an area that is not actively used that will support the proposed temporary sale of products, without encroaching

into or creating a negative impact on existing buffers, landscaping, traffic movements, or parking space availability.

2. All required setbacks for the zoning district in which the temporary display is located must be met.
3. The proposed display and/or sale of goods, products and/or services for commercial purposes may not occur within one hundred (100) feet of a residential dwelling unit.
4. Tents and other temporary structures shall be located so as not to interfere with the normal operations of any permanent use located on the property.
5. Tents and other temporary structures shall be compatible with the predominant color of the principle structure on the premises. If the lot is vacant, the predominant color of the tents and temporary structures shall be compatible with the environs.
6. Parking shall be adequately provided for the proposed sale of the products. The parking areas shall be located so as to avoid undue interference with the use of public streets and alleys.
7. The temporary sale of products will not cause interference with the movement of emergency vehicles to such an extent that adequate police, fire, or other emergency services cannot be provided.
8. The hours of operation of the temporary sale of products shall be from no earlier than 7:30 AM to no later than 10:00 PM, or the same hours of operation of the principle uses, whichever is more restrictive.
9. Any lighting used for the temporary display / sale of products shall meet the requirements listed in Section 12.12.
10. All signage shall meet the requirements listed in Section 13.9.12.

65. Shopping Center

A. Uses in a shopping center are limited to those that are allowed in the underlying zoning district. Any use shown as a "conditional use" shall require the issuance of a conditional use permit in a shopping center irrespective of the size of that shopping center.

66. Stadiums

A. Stadiums located in a Residential (R) district shall be limited to those constructed for use primarily by teams representing junior high schools, middle schools, high schools, colleges, or universities. Such structures may be either principal or accessory structures.

B. Access to the site shall be provided by major or minor thoroughfares only.

C. No direct beam of light from outdoor lighting fixtures or signs shall shine onto any abutting lots which are located in a Residential (R) district or onto any adjoining residentially developed lot.

D. All principal structures (including bleachers) shall be located a minimum of one hundred (100) feet from all lot lines.

E. Off-street parking requirements shall be met only if the stadium is freestanding and not an accessory use to a school.

F. Stadiums shall be a use by right only if accessory (and on the premises of) a school. Otherwise, the use shall be conditional.

67. Bakeries, Cabinet and Woodwork Shops, Machine Shops, Manufactured Goods (Class 1), Sign Painting Shop, Welding Shop

A. The manufacturing, compounding, or processing of goods or materials shall be conducted within a completely enclosed building.

B. Any outdoor, storage of materials, equipment, or supplies must meet the requirements of Section 9.8.

68. Commercial Vehicle Storage and / or Operations Center

A. Outdoor speakers shall be at least fifty (50) feet from property lines, residential development, or residentially zoned properties (R).

69. Landfill, Demolition (Principal Use)

A. The actual fill area shall be located at least three-hundred (300) linear feet from any pre-existing principal residential structure and at least fifty (50) feet from any lot line. All other structures and facilities (except access driveways) associated with the landfill shall be located at least one-hundred (100) linear feet from any lot line.

B. Direct access to the site shall be provided by major or minor thoroughfares only.

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

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

E. All applicable State permits for the facility should be required.

70. Temporary Construction Trailers/Structures

A. Must meet setback requirements (see setback chart)

71. Rental Center

A. See screening requirements in Section 9.8

72. Manufactured Home Parks

A. The proposed ingress and egress points will not result in a substantial amount of vehicular traffic to be channeled onto adjacent local streets (non-collector/non-arterial streets)

73. Manufacturing Goods, Class 2

A. See Definition in Section 8.2.

B. The use will not overly impact the ability of a public agency to collect and/or treat any wastewater generated by the use or the ability of the public agency to treat and distribute any potable water needed by the use.

C. The use will not overly impact (impact beyond capacity) the system of streets serving the use or that improvements will be made to such streets in consort with the development of said use, the result of which will be adequate handling of the additional traffic generated.

D. That not only will the use meet the minimum screening requirements of this Ordinance, but also that such additional screening will be installed, as necessitated by the visual characteristics of the particular use, such that the use will be screened from view of adjoining residential districts, or that the nature of the topography makes the screening from distance view from such residential areas impossible and that other measures such as heavy on-site landscaping will be taken to lessen any near or distant visual impacts.

74. Multi-Family Developments (RM-1, RM-2 District)

A. <u>Overall Site Design and Layout</u>

1. The site plan must be designed to give adequate consideration to the following factors:

   a. The size and shape of the tract
   b. The topography and necessary grading
   c. The reasonable preservation of the natural features of the land and vegetation
   d. The size of the development and its relationship with adjacent and nearby land uses.

B. Points of Ingress and Egress; Sidewalks

1. Developments with fifty (50) or more dwelling units shall have a direct point of ingress and egress onto a major or minor thoroughfare as shown on the Thoroughfare Plan. Developments with one-hundred (100) or more dwelling units shall have at least two (2) direct points of direct ingress and egress onto a major or minor thoroughfare as shown on the Thoroughfare Plan.
2. Developments with one hundred 100 or more dwelling units shall be provided with a divided ingress-egress driveway with a landscaped median for all entrances from public streets.
3. Any proposed ingress and egress points shall be located and designed so as to not result in a substantial amount of vehicular traffic to be channeled onto adjacent non-thoroughfare local streets.
4. Sidewalks shall be constructed within the development to link the interior of the development with residential buildings within the development and to other destinations such as, but not limited to: adjoining streets, mailboxes, trash disposal areas, onsite amenity areas, etc. These sidewalks shall be constructed in accordance with the standards for sidewalk construction found in Section 9.13
5. Developments containing fifty (50) or more units shall be required by the Town to provide a turn lane and/or a deceleration lane into the development to facilitate ease of traffic into and out of the development.

C. Building Spacing; Exterior Facades

The minimum spacing between multi-family buildings within a development shall be twenty (20) feet, plus one (1) foot for each one (1) foot of height in excess of thirty (30) feet.

In order to provide an interesting and aesthetically attractive development, the following standards shall apply:

1. All multi-family buildings shall have a multi-faceted exterior form in which articulated facades are combined with window and door placements, as well as other detailing, to create an interesting and attractive architectural design which is comprised of more than flat walls with minimum features.
2. With the exceptions of buildings that front the same public street, buildings shall be arranged in patterns that are not strictly linear. Exceptions shall be allowed for buildings that define a common space such as a courtyard or green.
3. Building entryways shall face a street, sidewalk, or common area. Buildings shall not face the rear of other buildings within the same development.

4. The maximum allowable density for any multi-family development shall be eight (8) units per acre.
5. No more than twenty (20%) of the off-street parking associated with the multi-family use may be located in the front yard facing a public street.

D. Other Required Improvements

For all multi-family developments, not specifically developed for the elderly, and containing more than one-hundred (100) dwelling units, a shelter shall be constructed at a location where a public school bus may pick-up and/or drop-off children riding Union County school buses.

75. Communication Towers, Telecommunications Towers

In recognition of the Telecommunications Act of 1996, it is the intent of the Town of Waxhaw to allow communication providers the opportunity to locate towers and related facilities within its jurisdiction in order to provide an adequate level of service to its customers while protecting the health, safety, and welfare of the citizens of Waxhaw. Wireless towers may be considered undesirable with other types of uses; most notably residential, therefore special regulations are necessary to ensure that any adverse effects to existing and future development are mitigated.

A. Wireless telecommunication towers, (including cellular towers, digital towers, and PCS towers), require conditional zoning or the issuance of a Conditional Use Permit in all zoning districts pursuant to the regulation set forth in this section and subject to the requirements in Section 14.

B. All telecommunication towers constructed within Residential districts, and within the OIS and Commercial districts must be of the monopole variety, unless the tower exceeds 199.9 feet, in which case a lattice type tower may be used to insure structural safety. Towers within the I-1, and I-2 districts may be either a monopole or lattice type where the property currently has no structure or is developed for non-residential purposes. Towers constructed on property that includes residential development must be of the monopole variety.

C. It is the intent of the Town to encourage providers to co-locate facilities in an effort to reduce the number of towers in Waxhaw's jurisdiction. The Town shall require providers to construct telecommunication towers such that additional telecommunication providers may be afforded the opportunity to co-locate facilities on the tower. The owners of the towers with co-location space shall negotiate in good faith with other providers, space at a reasonable lease cost, and publicize the fact that space is available on a lease basis. The Town further reserves the right to make co-location a condition of any tower permitted as a Conditional Use under the guidelines listed above.

D. The maximum height of telecommunication towers shall be:

1. In all Residential (R) districts the maximum height will be 199.9 feet unless documentation is provided to show a taller tower is required to meet minimal service levels (i.e. cannot meet reasonable service coverage area).
2. In all other districts, the maximum tower height shall be 199.9 feet unless documentation is provided to show a taller tower is required to meet minimal service levels (i.e. cannot meet reasonable service coverage area). The maximum tower height may be increased by a ratio of one foot for every one linear foot of distance beyond 1,000 linear feet between the base of the proposed tower and any Residential (R) district or platted residential subdivisions lying in Waxhaw and/or in neighboring jurisdiction.

E. No telecommunication tower is allowed to be located within the front yard of any existing development.

F. The Town of Waxhaw, by federal law, cannot prohibit a telecommunication tower nor deny a conditional zoning or Conditional Use permit on the basis of environmental or health concerns relating to radio emissions if the tower complies with the Federal Radio Frequency Emission Standards. The provider must provide documentation proving that the proposed tower does comply with the Federal Radio Frequency Emission Standards.

G. Wherever feasible, all accessory structures on the ground which contain switching equipment or other related equipment must be designed to closely resemble the neighborhood's basis architecture, or the architecture and style of the principal use on the property.

H. In order to minimize the risk of nay danger, an eight (8) foot high black, dark green, or dark brown vinyl coated chain link fence shall be constructed around the structure and all accessory structures housing equipment and switching equipment.

I. Screening is required along all sides of the perimeter of the tower site in the form of an opaque screen from the ground to a height of at least six feet, with intermittent visual obstructions from the opaque portion to a height of at least twenty feet, for towers over 199.9 in height. It will be the responsibility of the provider to keep all landscaping material free from disease and properly maintained in order to fulfill the purpose for which it was established. The owners of the property, and any tenant on the property where screening is

required, shall be jointly and severally responsible for the maintenance of all screen materials. Such maintenance shall include all actions necessary to keep the screened area free of litter and debris, to keep plantings healthy, and to keep planting areas neat in appearance. Any vegetation that constitutes part of the screening shall be replaced in the event it dies.

J. In all districts, a minimum setback requirement, on all sides of the property, shall be 150 feet or one and one-half feet for every one (1) foot of actual tower height (i.e. a 150 foot tower would require a 225 foot setback), whichever is greater. If the applicant can document a reduced collapse area, then the setback shall be the greater of that distance or 150 feet.

K. Telecommunication towers located in all residential districts and having a height of 199.9 feet or less, shall not contain lights or light fixtures at a height exceeding fifteen (15) feet. Furthermore, lighting of all towers in any district shall be directed toward the tower and/or equipment shelters to reduce the effect of glare.

L. Towers and related facilities must be removed if abandoned (i.e. no longer used for its original intent) for a period greater than six (6) consecutive months.

M. Additional provider antennas and equipment shelters to an approved telecommunication tower site may be made with the approval of the Administrator, without additional review by the Planning Board and Board of Commissioners, provided said changes do not increase the height of the tower or the type of tower construction.

N. Free-standing signs are prohibited. One wall sign, for the purpose of identification, is allowed on any equipment shelter provided it does not exceed ten (10) percent of the total wall area of the wall on which it is located.

O. The provider must show proof of adequate insurance coverage for any potential damage caused by or to the telecommunication tower prior to the approval of conditional zoning or the issuance of a Conditional Use permit.

P. Outdoor storage of equipment or other related items is prohibited on a telecommunication tower site.

Q. That the tower will not result in interference with the safe operation of aircraft in relation to existing or planned airport facilities.

R. All applications for a Conditional Use permit for a telecommunication tower must include the following information in addition to any other applicable

information contained in Sections 16.2 (Conditional Zoning) and 14.1, 14.2, and 14.3 (Conditional Use Permit) of the Unified Development Ordinance:

1. Identification of intended provider(s);
2. Documentation by a registered engineer that the tower has sufficient structural integrity to accommodate more than one user, if applicable;
3. A statement from the owner indicating intent to allow shared use of the tower and how others will be accommodated, if applicable;
4. Evidence that the applicant of the proposed tower height and design has notified the property owners of residentially zoned property within 300 feet of the site;
5. Documentation that the telecommunication tower complies with the Federal Radio Frequency Emission Standards;
6. Documentation that towers over 199.9 feet are necessary for a minimal level of service;
7. Screening, if applicable, must be shown on the site plan detailing the type, amount of plantings, and location;
8. Documentation of collapse area; and
9. A statement regarding possible interference, if any, with respect to radio and/or television reception.

76. Circuses, carnivals, exhibition shows, sideshows, races, trade shows, flea markets, banquets, conventions, religious events, arts and craft shows, stage shows, athletic events and other similar events, including temporary living quarters.

A. Temporary living quarters shall be limited to a period of not more than five (5) days longer than the duration of the event.

B. No more than thirty (30) total days in any twelve (1) month period for any one (1) separate event.

77. Planned Residential Developments/ Traditional Neighborhood Developments

In addition to the regulations contained below, regulations for Traditional Neighborhood Developments (TNDs) are included herein. A “TND” shall only be developed as a conditional use in the TND zoning district.

A. <u>Planned Residential Developments</u>

Planned residential developments (P.R.Ds) are permissible only within the R-3, R-4, and RM-1 zoning districts. The purpose of this district is to allow flexible development with a planned neighborhood character. The developer shall meet with the Town staff at least thirty (30) days prior to submittal to review the proposed project and determine the appropriate design approach to meet the intent of this ordinance.

1. R-3: The maximum density of a P.R.D in an R-3 district shall be no greater than that which would be realized had the tract been developed as a conventional R-3 subdivision in accordance with all other applicable regulations contained in this Ordinance. Furthermore, the actual density yield shall be based on the amount of "developable" land within the tract. Lands that cannot be developed due to physical limitations or have other physical constraints (i.e. ponds, lakes, other bodies of water, HUD designated floodways, wetlands, areas with steep slopes.) shall not be included in determining the density yield of the tract in question. For instance, if there were a 100-acre tract that was to be developed for a P.R.D. and tract contained a 20-acre lake, only eighty (80) acres of land would be considered as being developable and used in calculating maximum density. It will be the responsibility of the applicant to provide density yield data for the proposed P.R.D. in order for the Town to consider an application for a P.R.D.

   The tract containing the P.R.D. shall have no minimum acreage requirement. Housing unit types within a P.R.D. shall be limited to detached single-family dwellings and townhomes. No single-family detached lot in a R-3 P.R.D. shall have an area of less than ten-thousand (10,000) square feet. The townhouse portion of a P.R.D. shall be developed more toward the interior rather than the periphery of the tract so that the single-family detached residences border adjacent properties, unless the adjoining property is non-residentially zoned.

2. R-4: The maximum density of a P.R.D. in an R-4 district shall be no greater than that which would be realized had the tract been developed as a conventional R-4 subdivision in accordance with all other applicable regulations contained in this Ordinance. Furthermore, the actual density yield shall be based on the amount of "developable" land within the tract. Lands that cannot be developed due to physical limitations or have other physical constraints (i.e. ponds, lakes, other bodies of water, HUD designated floodways, wetlands, areas with steep slopes) shall not be included in determining the density yield of the tract in question. For instance, if there were 100-acres tract that was to be developed for a P.R.D. and the tract contained a 20 acre lake, only eighty (80) acres of land would be considered as being developable and used in calculating maximum density. It will be the responsibility of the applicant to provide density yield data for the proposed P.R.D. in order for the Town to consider an application for a P.R.D.

The tract containing the P.R.D. shall have no minimum acreage requirement. Housing unit types within a P.R.D. shall be limited to detached single-family dwellings and townhomes. No single-family detached lot in a R-4 P.R.D. shall have an area of less than six-thousand (6,000) square feet. The townhouse portion of a P.R.D. shall be developed more toward the interior rather than the periphery of the tract so that the single-family detached residences border adjacent properties, unless the adjoining property is non-residentially zoned.

3. RM-1: The tract containing a P.R.D. shall have no minimum acreage requirement. The maximum density of a P.R.D. shall be 4.5 units per acre. The density yield (i.e., the maximum number of units allowed on the tract) shall be based on the amount of "developable" land within the tract. Lands that cannot be developed due to physical limitations or have other physical constraints (i.e., ponds, lakes, other bodies of water, HUD designated floodways, wetlands, areas with steep slopes) shall not be included in determining the yield of the tract in question. For instance, if there were a 100-acre tract that was to be developed for a P.R.D. and tract contained a 20-acre lake, only eighty (80) acres of land would be considered as being developable and used in calculating maximum density. It will be the responsibility of the applicant to provide density yield data for the proposed P.R.D. in order for the Town to consider an application for a P.R.D.

   The minimum lot size for any lot containing a detached single-family dwelling shall be five-thousand (5,000) square feet. The P.R.D. can contain single-family detached dwellings, townhouses, or other multi-family dwelling units. Townhomes and other multi-family dwelling units cannot account for greater than fifty (50) percent of all dwelling units within the PRD.

   The townhouse or multi-family portions of a P.R.D. shall be developed more toward the interior rather than the periphery of the tract so that the single-family detached residences border adjacent properties, unless adjoining property that is non-residentially zoned.

   In a P.R.D., the screening requirements that would normally apply where multi-family development adjoins a single-family development shall not apply within the tract developed as a planned residential development, but all screening requirements shall apply between the tract so developed and adjacent lots.

As part of the P.R.D. the developer shall propose to the Town standards and designs that shall become part of the Conditional Use (CU) Permit and/or Conditional Zoning application. These standards and designs shall address architectural standards, streetscape, and landscaping and common area treatments. The standards and requirements shall incorporate the following as a minimum.

1. Curb and gutter on all interior streets shall be provided.
2. Each single-family dwelling unit must comply with the parking regulations in Section 12 of the Unified Development Ordinance.
3. Usable common open space or recreational areas shall be provided within the P.R.D. Common open space area shall consist of a minimum area of at least twenty (20) percent of the total acreage within the entire project. All common open space areas shall be accessible by sidewalk from the residential developed portions of the P.R.D.
4. All of the common open space required under this Section shall be either conveyed to the Town of Waxhaw, if the Town agrees to accept ownership of and maintenance responsibilities, or conveyed to one or more homeowner associations created for the development, or with respect to outdoor recreation facilities to the owner or operator thereof; and
5. Any conveyance to a homeowners association shall be subject to restrictive covenants recorded in the Register of Deeds Office. The covenants shall provide for the establishment of a homeowner's association before recording of the Final Plat, where membership is mandatory for each homebuyer and any successive buyer. The association shall be responsible for liability insurance and local taxes on common open space and recreational facilities owned by it, and any fees levied by the association that remain unpaid will become a lien on the individual property in accordance with procedures established under the dedication or organization document. The covenants and easements shall also prohibit future development of any common open space, for other than open space or recreational purposes, and shall provide for continued maintenance of any common open space and recreational facilities. Such covenants shall also provide that any change of use in the open space may only occur upon consent of the homeowners association and the Town of Waxhaw.
6. The Board of Commissioners can attach fair and reasonable conditions to the Conditional Use Permit and/or Conditional

Zoning application which may address, as a minimum any of the following items:

a. Minimum heated floor areas
b. Foundation treatments
c. Exterior treatments
d. Architectural treatments
e. Roof pitch
f. Garage standards
g. Driveway construction
h. Landscaping
i. Mailboxes, street name signs and streetlights
j. On-site Amenities

7. Yard and setback requirements for a P.R.D. shall be as follows:

Exterior lot setbacks shall apply to those property lines that are contiguous with the exterior boundary of the development. All other setbacks shall meet the interior lot setback requirements. The typical exterior setbacks are as follows:

Front Yard	-	Twenty-five (25) feet
Side Yard	-	Twenty-five (25) feet
Rear Yard	-	Forty (40) feet

For purposes of this subsection, an exterior lot shall be defined as "any lot within the P.R.D. that has one or more lot lines that abut the exterior boundaries of the development."

Notwithstanding the above, a vegetative buffer of 25 feet shall be placed along the external side and rear periphery yards of the P.R.D. when such side and/or rear yards do not abut another P.R.D. Such buffer may be on private or commonly-owned lands but shall be undisturbed (i.e. contain no principal or accessory structures.) Furthermore, the Waxhaw Town Board reserves the right to waive or modify these standards on a case-by-case basis at the time of approval of the P.R.D.

Typical interior lot setbacks are as follows:

Detached Dwellings:

Front Yard-	Twenty (20) feet

Rear Yard-	Thirty (30) feet
Side Yard -	An aggregate side yard width on each lot of fifteen (15) feet. The minimum side yard width shall be five (5) feet.

Notwithstanding the above, the minimum lot width and the minimum front yard, rear yard and side yard setbacks on lots in a Planned Residential Development district may vary and shall be subject to the approval by the Town Board (in association with the approval of a Conditional Use Permit or a Conditional zoning) on a case-by-case basis.

Townhomes:

Front Yard-	Ten (10) feet
Rear Yard-	Twenty (20) feet
Side Yard-	Zero (0) feet
Side Yard (End of Building)-	Five (5) feet

Notwithstanding the above, the minimum lot width and the minimum front yard, rear yard and side yard setbacks on lots in a Planned Residential Development district may vary and shall be subject to approval by the Town Board (in association with the approval of a Conditional Use Permit or a Conditional zoning) on a case-by-case basis.

B. Traditional Neighborhood Developments

If a proposed Planned Residential Subdivision (PRD) sufficiently meets the character and intent of a Traditional Neighborhood Development (TND), and the Town agrees to accept the street for maintenance, TND road standards may be used. The characteristics of TND criteria are listed below. In that case, street standards design guidelines provided in the "TRADITIONAL NEIGHBORHOOD DEVELOPMENT (TND) GUIDELINES", latest edition, as published by the North Carolina Department of Transportation - Division of Highways, shall be used in lieu of the Standards listed in Section 18.9.2.(A) to 18.9.2.(N) herein

TND's shall also meet the following criteria:

1. SIZE: A TND should be designed at a walkable scale - considered to be approximately a 5 to 10 minute walk from core to edge, or a $^{1}/4$ to $^{1}/2$ mile maximum distance. All or most residential development must fall within this

range. The proposed development should be a minimum of 40 acres and a maximum of 400 acres.

2. COMPOSITION: This is a discernible community center or core area. Elementary schools are in important community element. Public structures, such as schools, churches and civic buildings, and public open spaces, such as squares, parks, playgrounds and greenways, shall be integrated into the neighborhood pattern.
3. DENSITY AND INTENSITY: Residential densities, lot sizes and house types may be varied, but the average density of the developed area should be at least 4.5 units per acre. Higher densities, often involving multifamily or attached dwelling units, are generally proposed in, adjacent to or within close proximity to the core area. Lower densities, usually detached single-family dwellings, are generally located towards the edge.
4. STREET PATTERN: All or most streets within the proposed network must be part of a dense, interconnected pattern. TND streets should connect with adjacent street networks as much as possible. The degree of interconnectivity should be assessed by its ability to permit multiple routes, to diffuse traffic and to shorten walking distances. Most TND streets are designed to minimize through traffic. Streets are relatively narrow and often shaded by rows of trees. Alleys may be used to provide site access. Larger vehicular corridors are usually, although not exclusively, found within the core area and near the perimeter of the proposed development.
5. BLOCK LENGTH: All or most low speed, low volume streets should have short block lengths of between 250 and 500 feet. Exceptions may be needed due to topography, environmental protection, preservation of cultural resources, and similar considerations.
6. RIGHT-OF-WAY: Within a TND, the right-of-way is an important design element of the public space or "streetscape." The right-of-way width should be the minimum needed to accommodate the street, median, planting strips, sidewalks, utilities, and maintenance considerations. The right-of-way width should be appropriate for adjacent land uses and building types. Planting strips between curb and sidewalks may be used to provide sufficient space for street trees. Use of alleys and other alternate access or easements for utilities and maintenance vehicles should be taken into account when determining size of right-of-way.
7. RELATIONSHIP OF BUILDINGS TO STREET; Buildings are oriented toward the street. Buildings within the core area are placed close to the street. All lots and sites must have pedestrian connections and the core area must be fully accessible to pedestrians.
8. SIDEWALKS: To comply with the Americans with Disabilities Act, sidewalks are a minimum of 5 feet wide and should be wider in commercial or higher intensity areas, when directly abutting curbs without a planting strip or parked

cars, or when adjacent to walls or other built elements which reduce usable width. Sidewalks should be on both sides of the street. Wherever possible, there should be a continuous pedestrian network adjacent to the streets. Curb cuts should be minimized to reduce conflicts with pedestrians.

9. PEDESTRIAN STREET CROSSINGS: Street crossings must be no longer than are actually necessary. The needs of pedestrians should be balanced with the needs of vehicular traffic. Mid-block crossings, bulb-outs, raised crosswalks and similar techniques are commonly used to accommodate pedestrians when appropriate for traffic conditions and site-specific situations.
10. ON-STREET PARKING: Many streets have on-street parking. On-street parking is a common traffic-calming element of a TND, in that it slows vehicular traffic while providing a buffer between street and sidewalk.
11. CURB CUTS: Curb cuts should be minimized to reduce effects on on-street parking, conflicts with pedestrians and cyclist, and interruptions of traffic flow.
12. HIGHWAYS AND LARGE THROUGH CORRIDORS: The proposed development cannot be penetrated by arterial highways, major collector roads and other corridors with peak hourly traffic flows of 1,200 vehicles, or average daily traffic volumes of 15,000 or more vehicles. Such corridors can only be located at the edge of a TND.

C. Enforcement

If the Board of Commissioners or Administrator determines that there is a violation of the terms of the Conditional Use Permit, Conditional Zoning or Unified Development Ordinance, the Town may cease to issue zoning permits, certificates of occupancy, or any other measure the Town may deem appropriate until said violation is corrected.

78. Automated Teller Machines

Such uses may be allowed as an accessory use on lots containing a principal non-residential use (including those lots which do not contain financial institutions) under the following conditions:

A. A scaled site plan shall be submitted to the Administrator for his review. The site plan, among other things, shall show proposed means of ingress and egress to the ATM from adjoining roads. If located on a lot which abuts a Residential (R) zoning district, the site plan shall show how light and glare spill-over onto adjacent lots is addressed.

B. Irrespective of any other regulations pertaining to accessory structures, a freestanding ATM that serves in an accessory capacity may be allowed in the front yard, so long as the front yard setback of the principal structure is

observed. Similarly, the ATM must observe the required side yard setback of the principal structure.

C. The ATM must front on an arterial or collector road as shown on the most recently adopted version of the Thoroughfare Plan.

D. At least three parking spaces in addition to those required for the principal use, shall be required for the ATM.

E. The placing of an ATM on a lot that does not contain a financial institution shall not in itself result in the creation of a planned multi-tenant development, nor shall it constitute an expansion of the principal use on the lot.

F. All screening and off-street parking requirements for the principal use shall be in conformity with the Unified Development Ordinance prior to the issuance of a zoning permit for the ATM.

79. Prototype Design and Development

A. Work involving noise-producing equipment shall be performed indoors.

B. The noise level at the public sidewalk outside the building in the C-4 Central Business District shall not exceed 70 decibels.

C. All waste products shall be properly disposed of and in no case drained onto the ground. Containers for these substances shall not be visible from any public street.

D. No materials shall be stored outside.

E. Exterior lighting shall be in accordance with Section 12.12 of this Ordinance.

F. Hours of operations shall be defined by the applicant and approved by the Board of Commissioners when adjoining residential zoning districts.

G. Prototype Design and Development uses are not allowed in traditional storefront buildings within the C-4 Central Business District.

80. Accessory Dwelling Units

A. Only one (1) accessory dwelling unit is allowed per lot.

B. The lot on which the accessory dwelling unit resides shall be a minimum of two (2) acres.

C. Accessory dwelling units shall be clearly incidental to the permitted principal structure and may be attached or detached.

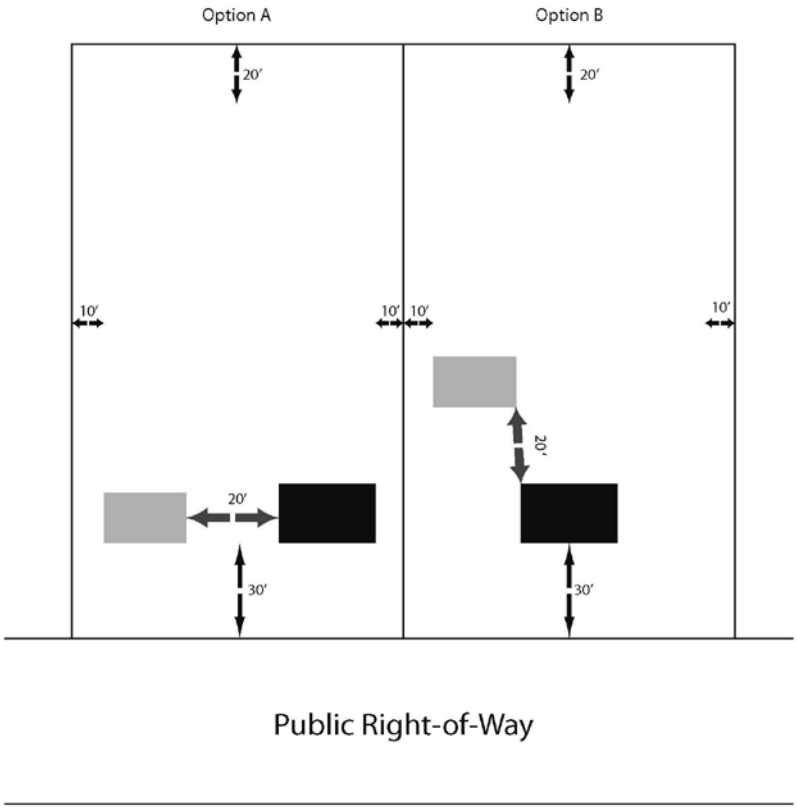
D. Accessory dwelling units shall not exceed the height of the principal structure.

E. Accessory dwelling units shall not be located forward of the principal structure.

F. The accessory dwelling unit shall meet the front, side and rear setback requirements for the zoning district in which it is located. Additionally, the accessory dwelling unit shall be a minimum of twenty (20) feet from the primary structure when detached.

G. An accessory dwelling unit shall be design for year-round habitation, containing self-sufficient bathroom and kitchen facilities, connected to all required utilities, and designed for or used as a residence by one family.

H. Accessory dwelling units shall meet or exceed the architectural standards set forth in this ordinance for single-family residential construction.



81. Farmers' Market

A. All Farmers' Markets and their vendors shall obtain all required operating and health permits, and these permits (or copies) shall be in the possession of the Farmers' Market Manager or vendor, as applicable, on the site of the Farmers' Market during all hours of operation.

B. All Farmers' Markets shall have an established set of operating rules addressing the governance structure of the farmers' market, hours of operation, maintenance and security requirements and responsibilities; and appointment of a Market Manager. The name and telephone number of the Market Manager and a copy of the operating rules shall be kept on file with the Town Planning and Community Development Department.

C. All Farmers' Markets and their vendors are encouraged to accept forms of payment by participants of federal, state, or local food assistance programs, including but not limited to the Food Stamps/Supplemental Nutrition Assistance Program; the Women, Infants, and Children (WIC) Farmers' Market Nutrition Program; and the Senior Farmers' Market Nutrition Program. Such forms of payment include but are not limited to coupons, vouchers, and Electronic Benefit Transfer (EBT) cards.

D. All Farmers' Market signs shall meet Section 13.11 *Signs That Do Not Require a Permit.*

E. All accessory structures on the premise shall meet the requirements set forth in Section 9.20 *Accessory Structures*. The accessory structure shall compliment the surrounding environs.

F. Off-street parking is not required for Farmers' Markets unless the Zoning Administrator determines that public health and safety requires off-street parking to be located within 1000 feet of the site. However, there must be space(s) located on or adjacent to the site for the loading and unloading of materials associated with the market use to prevent impeding traffic flow caused by parking on the side of the street. This space(s) will need to be clearly marked.

G. The site shall be designed and maintained to prevent stormwater runoff from damaging adjacent properties.

H. Farmers' Markets shall be exempt from landscaping and buffering requirements contained in this Ordinance unless the site abuts a residentially zoned property. In this case, the site shall meet the requirements of Section 9.8.4 *Side and Rear Yard Landscaping* along the property line of the abutting residentially zoned property.

I. Fences shall not exceed six (6') feet in height and shall meet the regulations in Section 9.19 *Fences and Walls*.

J. Farmers' Markets shall be exempt from installation of off-site improvements contained in this Ordinance, including but not limited to installation of curb, gutter, and sidewalk or right-of-way dedication. If water and sewer is needed on site, Farmers' Market management shall be responsible for all permitting and construction. This exemption of off-site improvements is from the Town of Waxhaw requirements only. Farmer's Market management will be responsible for obtaining approvals, and/or waivers, for the installation of off-site improvements from NCDOT, or any other agency.

82. Community Garden

A. Site users must have an established set of operating rules addressing the governance structure of the garden, hours of operation, maintenance and security requirements and responsibilities; a garden coordinator to perform the coordinating role for the management of the community gardens; and must assign garden plots according to the operating rules established for that garden. The name and telephone number of the garden coordinator and a copy of the operating rules shall be kept on file with the Town Planning and Community Development Department.

B. The site shall be designed and maintained to prevent stormwater runoff from damaging adjacent properties and to prevent intrusion of fertilizers and pesticides into adjacent properties, storm sewers, etc.

C. There shall be no retail sales on site, except for items produced on site.

D. Fences shall not exceed six feet in height and shall meet the requirements of Section 9.19 *Fences and Walls*.

E. All Community Garden signs shall meet the sign requirements set forth for the zoning district in which they are located.

F. All accessory structures on the premise shall meet the requirements set forth in Section 9.20 *Accessory Structures*. The accessory structure shall compliment the surrounding environs.

G. Off-street parking is not required for Community Gardens unless the Zoning Administrator determines that public health and safety requires off-street parking to be within 1000 feet of the site. However, there must be space(s) located on or adjacent to the site for the loading and unloading of materials associated with the garden use to prevent impeding traffic flow caused by parking on the side of the street. This space(s) will need to be clearly marked.

H. Community Gardens shall be exempt from installation of off-site improvements contained in this Ordinance, including but not limited to installation of curb, gutter, and sidewalk or right-of-way dedication. If water and sewer is needed on site, Community Garden management shall be responsible for all permitting and construction. This exemption of off-site improvements is from the Town of Waxhaw requirements only. Community Garden management will be responsible for obtaining approvals and/or waivers, for the installation of off-site improvements from NCDOT, or any other agency.

I. Community Gardens shall be exempt from landscaping and buffering requirements contained in the UDO unless the site abuts a residentially zoned property. In this case the site shall meet the requirements of Section 9.8.4 *Side and Rear Yard Landscaping* along the property line of the abutting residentially zoned property.

83. Subdivision Sales Office

A. The use shall serve the subdivision in which it is located.

B. The use shall be terminated when either the last home or lot is sold or the use as a sales office has ceased for one hundred eighty (180) days.

C. Parking for the subdivision sales office shall meet the requirements listed in Sections 11.3.84 and 12.3.4.D.

84. Temporary Automobile Parking Lot for Subdivision Sales Office

A. Subdivision sales offices are allowed to utilize a temporary automobile parking lot either on-site or within 1,000 feet to any entrance of the subdivision sales office in accordance with Section 12.3.4.D. If multiple subdivision sales offices are located within 1,000 feet of one another (measured from any entrance of one sales office to any entrance of another sales office following a reasonable and safe walking route) and under the same ownership, a maximum of one temporary automobile parking lot shall be allowed with a maximum of ten (10) parking spaces.

B. All off-site parking shall meet the requirements listed in Section 12.5.2.

C. Landscaping for the temporary parking lot shall be provided in accordance with Section 12.4.2.

D. The temporary automobile parking lot shall be removed when the use is terminated.

85. Event Center

A. All state, county, and/or town licenses or permits required to operate such a facility shall be obtained by the owner/operator of the facility.

B. If live or recorded music is allowed at events, no amplified sound and/or music shall be allowed outdoors after 10 pm or indoors after 1 am.

C. The proposed methods of soundproofing the building must be sufficient to reduce the noise from the interior of the building. The noise level at the property line shall not exceed sixty (60) decibels after 10 pm.

D. Outdoor areas planned to be used in connection with the event center shall be located and buffered in such a manner as to protect neighboring uses from light, noise, and loss of privacy.

E. Exterior lighting shall be in accordance with sect. 12.12 of this ordinance.

F. When located in a residential zoning district, the lot on which the event center is located shall be a minimum of 5 acres.

86. Meeting Facility

A. No food preparation shall be allowed on-site.

B. No lodging or personal care services shall be allowed on-site.

87. Self Enclosed Indoor Storage

A. Driveways providing ingress and egress to the site shall not permit any parking or loading extending to within thirty (30) feet of the adjoining street right of way.

B. Indoor space is to be temperature controlled.

C. No outdoor storage allowed.

D. Security lights are to be shielded from all Residential Zoned property adjacent to the self enclosed indoor storage to prevent undo bright lights shining onto/into houses and all lighting shall meet Section 12 of this ordinance.

SECTION 12
PARKING, LOADING AND LIGHTING

12.1 PURPOSE

In order to relieve traffic congestion in the streets, to minimize any detrimental effects of off-street parking areas on adjacent properties, to provide for safe and adequate space for the temporary storage of vehicles, to promote the efficient use of parking areas, to ensure the safe ingress and egress of vehicles entering and exiting the public street system, to provide for immediate access for fire and emergency services, to minimize storm water run off, and to ensure the proper and uniform development of parking areas throughout the Town of Waxhaw, off-street parking and loading spaces for every use shall be provided in accordance with the standards established in this section.

12.2 APPLICABILITY

Each use or establishment within the Town shall initially and continually provide sufficient off-street parking spaces, in compliance with the requirements of this section, for all residents, employees, customers, visitors, and others who may spend time at the use or establishment. The Zoning Administrator may waive these requirements for uses in the C-4 zoning district.

12.3 OFF-STREET PARKING REQUIREMENTS

1. Certification of Minimum Parking Requirements

Each application for a Zoning Permit submitted to the Zoning Administrator as provided for in this Ordinance shall include information as to the location and dimensions of off-street parking and the means of entrance and exit to such space. This information shall be in submitted to the Administrator as provided in this Ordinance shall include but not limited to:

For any parking lot, garage, vehicle storage area operated on a commercial basis, reconfiguration of an existing parking lot or any other off-street parking area required under this Part (but excluding off-street parking for detached, duplex, triplex and quadraplex dwellings on a single lot), a plan shall be submitted to Planning, Zoning, and Engineering Department to review for compliance with these regulations and any other applicable ordinances. Any such parking plan shall show the number of motor vehicle parking spaces, the percentage of spaces to be designated for use only by compact cars, the number of existing spaces for bicycle parking and the location of bike parking

facilities, the arrangement of parking aisles, the location of driveway entrances, provisions for vehicular and pedestrian circulation, the location of sidewalks and curb on or abutting the property, the location of utilities, barriers, shelters, and signs, the location of landscaped areas and the types of vegetation to be located in them, typical cross sections of pavement, storm water drainage facilities, and any other relevant information requested by Planning, Zoning, and Engineering Departments for review and comment, as appropriate.

2. Definition of a Parking Space

A. The storage space of one (1) automobile. The size of a Parking Space shall be in accordance with generally accepted geometric design principles for the type space and Lot. All off-street parking and loading areas shall be paved. Parking Lot paving shall consist of asphalt, concrete, brick pavers, pervious paving materials, or other paving materials approved by the Zoning Administrator and Town Engineer. In no case shall gravel be a material approved to fulfill the paving requirement. The Zoning Administrator may modify this requirement on developments less than an acre in the OIS zoning district

B. The storage space of one (1) bicycle. The size of a Bicycle Parking Space shall be in accordance with generally accepted geometric design principles for the type space and Lot as provide in Association of Pedestrian and Bicycle Professionals Bicycle Parking Guidelines Acceptable rack elements, rack location and access, rack area and site conditions such as protection from the elements and visibility shall conform to the Association of Pedestrian and Bicycle Professionals Bicycle Parking Guidelines. The guidelines are available at http://www.apbp.org/pdfsanddocs/Resources/Bicycle%20Parking%20Guidelines.pdf

3. Effects on New and Existing Use

Permanent off-street parking spaces shall be provided as specified by this section for all uses occupying land or facilities (or portions thereof). Such parking spaces may be provided in a parking garage. The requirements of this section shall be met:

A. At the time a Certificate of Occupancy is issued for a building or structure in which an approved use takes place;

B. At the time any principal or ancillary use or building is enlarged or increased in capacity, such as by adding dwelling units, guest rooms, seats, floor area, or other units of measurement deemed appropriate by the Zoning Administrator , which follows; or

C. Before conversion from one type of use or occupancy to another, or any change In the manner in which the use is constructed that would result in additional

parking

4. Computation of Off-Street Parking Requirements

A. Calculations

When measurements of the number of required spaces result in fractions, the space requirements shall be rounded upward to the next highest whole number.

B. Different Use Area

Except as provided for in this chapter, parking shall be calculated separately for each different use area in a building or on a site, including all ancillary uses.

C. On-Street Parking

1. On-Street Parking may be utilized to fulfill the parking requirements outlined in this section. However, existing on-street parking may not be used in parking calculations to fulfill the parking requirements outlined in this section. The Zoning Administrator may approve existing on-street parking as a way to fulfill the requirements in this section in the C-4 Zoning District, where applicable.
2. On-Street Parking may be constructed a variety of ways. The applicant may choose to use parallel, back-in/reverse angle parking or drive-in angled parking. Drive-In Angled Parking is only permitted as an intentional design element along the main street(s) of the retail center in a planned development.
3. Parking dimensions are outlined in Section 12.6

D. Off-Street Parking

1. Parking Minimums

   The applicant may request a 20% reduction in the parking maximum required per Section 12.4 of this Ordinance. This request may be approved by the Zoning Administrator.
2. Parking Maximums

   a. No use shall install more than the maximum number of parking spaces allowed per section 12.3 of this Ordinance.
   b. If additional parking is needed, the property owner/applicant may request a waiver from the Town of Waxhaw Zoning Administrator and must construct all parking that exceeds the maximum out of pervious paving materials approved by the Town of Waxhaw Engineer, not to exceed the maximum allowable lot coverage. Any request for parking above the maximum allowed must also provide an additional 5% of

internal tree save. Where no internal tree save is required, a minimum of 10% internal tree save must be accomplished in order for the applicant to receive approval for the additional parking. Where no trees exist, the applicant must create (plant) a continuous canopy on a minimum of 5% of the total acreage of the site. An approved North Carolina Registered Urban Forester or ISA Registered Certified Arborist must work with the applicant to determine the best location for all of the above options, in writing.

c. Maximum Parking Requirements

USE	PARKING SPACES REQUIRED	COMMENTS
Residential		
Single Family Dwelling Unit*	2 per dwelling unit	
1. Multi-family Dwelling Unit		
Studio	1.25 per dwelling unit	
One bedroom	1.5 per dwelling unit	
Two or more bedrooms	2 per dwelling unit	
Accessory Dwelling Unit	1 per dwelling unit	
Commercial Lodgings	1.25 per guest room, plus 10 per 1000sf of restaurant/lounge, plus 30 per 1000sf of meeting/banquet room (<50,000sf per guest room) or 20 per 1000sf meeting/banquet room (>50,000sf per guest room)	Peak spaces for each component shown; use shared parking analysis to determine appropriate parking ratio for particular hotel
Elderly Housing, Independent Living	0.6 per dwelling unit	
Elderly Housing, Assisted Living	0.4 per dwelling unit	
Group, Convalescent, and Nursing Home	1 per room	
Day Care Center	0.35 per person (licensed capacity)	
Hospital/Medical Center	0.4 per employee, plus 1 per 3 beds, plus 1 per 5 average daily outpatient treatments, plus 1 per 4 medical staff, plus 1 per student/faculty/staff	It is understood that all of theses instances may not exist at every hospital/medical center
Subdivision Sales Office	3.5 per 1,000sf of GFA not to exceed five (5) spaces for a single sales office and ten (10) spaces for multiple sales offices.	Off-site parking allowed in accordance with Sections 11.3.84 and 12.5.2
Retail/Service		
General Retail(not shopping center)	3.5 per 1000sf of GFA**	
Grocery (freestanding)	6.0 per 1000sf of GFA	

Discount Superstores/Clubs (freestanding)	6.0 per 1000sf of GFA	
Home Improvement Superstores	5.0 per 1000sf of GFA	
USE	**PARKING SPACES REQUIRED**	**COMMENTS**
Other Heavy/Hard Goods (Furniture, Appliances, Building Materials, etc.	3.0 per 1000sf of GFA	
Retail/Service (Continued)		
Shopping Centers	4.0 per 1000sf of GLA up to 400,000sf; 4.0 to 4.5 per 1000sf of GLA sliding scale between 400,000 and 600,000sf; 4.5 per 1000sf GLA over 600,000sf	With up to 10% GLA in dining/entertainment; over 10%, use shared parking analysis.
Personal Care Services	2 per treatment station but not less than 4.3 per 1000sf	
Coin-Operated Laundries	1 per 2 washing and drying machines	
Motor Vehicle Sales and Service	2.7 per 1000sf GFA interior sales area, plus 1.5 per 1000sf GFA interior or storage/display area, plus 2 per service bay	
Motor Vehicle Laundries	2, plus 1 per each 2 peak shift employees	
Food and Beverage		
Fine Dining	21.5 per 1000sf GFA	
Casual Restaurant (with bar)	22.5 per 1000sf GFA	
Family Restaurant (without bar)	16 per 1000sf GFA	
Fast Food	15 per 1000sf GFA	
Office and Business Services		
General Business Offices Suburban/Low-Rise	3.6 per 1000sf GFA< 250,000sf, 3.35 per 1000sf GLA> 250,000sf	
Office Downtown/Mid-high-Rise Business Center	3 per 1000sf GLA	
Consumer Service Offices (freestanding)	4 per 1000sf GFA	
Data Processing/ Telemarketing/Operations	6 per 1000sf GFA	
Medical Offices (multitenant)	4.5 per 1000sf GFA	
Clinic (medical offices with outpatient treatment; no overnight stays)	5.5 per 1000sf GFA	
Bank Headquarters (with admin offices, etc.)	4.4 per 1000sf GFA	
Industrial/Storage/Wholesale	2 per 1000sf GFA	Add spaces as required for

Utility		office, sales, or similar use where more than 10% GFA
Manufacturing/Light Industrial (single-use)	1.5 per 1000sf	Add spaces as required for office, sales, or similar use where more than 10% GFA
USE	**PARKING SPACES REQUIRED**	**COMMENTS**
Industrial Park (multitenant or mix of service, warehouse)	2 per 1000sf	
Office and Business Services (Continued)		
Warehouse	0.7 per 1000sf GFA	
Mini-Warehouse	0.25 per 1000sf	
Governmental	As determined by the zoning administrator	
Educational		
Elementary and Secondary Schools	0.35 per student	
College and University	Determined by parking study specific to subject institution	
Cultural/Recreational/ Entertainment		
Public Assembly	0.25 per person in permitted capacity	
Museum	1.5 per 1,000 annual visitors	
Library	4.5 per 1000sf GFA	
Religious Centers	0.6 per seat	
Cinemas	Single-Screen: 0.5 per seat; Up to 5 screens: 0.33 per seat; 5 to 10 screens: 0.3 per seat; Over 10 screens: 0.27 per seat	
Theaters (live performance)	0.4 per seat	
Arenas and Stadiums	0.33 per seat	
Health Clubs and Recreational Facilities	2 per player or 1 per 3 persons permitted capacity	

(*Planning and Urban Design Standards,* American Planning Association 2006)
*Single Family Dwelling Units are exempt from Section 12.3.4 (d) (2).

3. Parking Based on Seating

When requirements use seating as a unit of measurement, all calculations shall be based on the design capacity of the areas used for seating.

4. Parking Based on Floor Area

   Except as provided for in this Section, when requirements use amount of square footage in buildings as a unit of measurement, all calculations shall be based on gross floor area or gross leasable area.

5. Parking Based on Students, Staff, and Occupants

   Except as provided for in this chapter, when requirements use number of students, staff, or occupants as a unit of measurement, all calculations shall be based on the maximum enrollment, the largest number of persons working on any single shift, or the maximum fire-rated capacity, whichever is applicable and results in the greater number of required spaces.

6. Single-Family Residence Parking

   For single-family residences only, driveways may be used to satisfy minimum on-site parking requirements, provided that sufficient space is available to satisfy the minimum design standards.

7. Parking for Unlisted Uses

   Parking maximums are listed for a wide variety of uses. Parking requirements for uses not specifically listed in Section 12.3 of this Ordinance shall be determined by the Zoning Administrator based on the requirements for the closest comparable use, as well as on the particular parking demand and trip generation characteristics of the proposed use. The Zoning Administrator may alternately require the submittal of a parking demand study that justifies estimates of parking demand based on the recommendations of a licensed Professional Engineer and includes relevant data collected from uses or combinations of uses that are the same or comparable to the proposed use in terms of density, scale, bulk, area, type of activity, and location.

8. Unimpeded Parking.

   Generally, no parking spaces shall be located so as to require the moving of any vehicle on the premises in order to enter or leave any other space. Notwithstanding the above, the Zoning Administrator may, on a case-by-case basis, allow stacking spaces provided for auto-related uses to count toward the minimum required parking, as long as such spaces are not part of areas required for site ingress or egress, or areas intended for fueling.

12.4 DESIGN AND LOCATION OF PARKING AREAS/STACKING SPACES

1. All parking areas shall be located and designed so as to avoid undue interference with the use of public streets and alleys. Parking areas shall provide suitable maneuvering room so that all vehicles may enter an abutting street in a forward direction. The backing of a motor vehicle onto a public street from a parking area shall be prohibited, except for residential parking not exceeding two spaces per dwelling unit and as part of a planned development on a main street(s). Pedestrian pathways shall be provided within parking areas in accordance with Section 12.11.

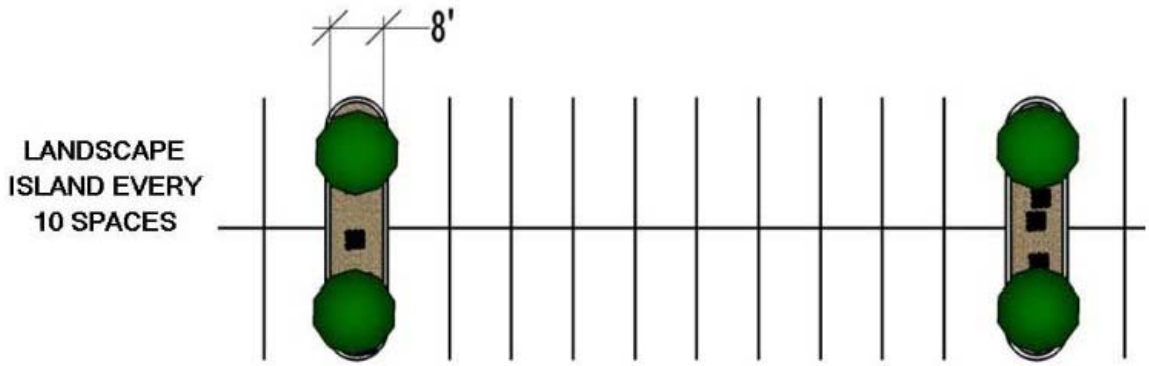
2. Parking Lot Landscaping

A. Applicability

Landscaping in and around parking lots is meant to provide a visual buffer between the vehicular use area, public streets, and surrounding land uses. The intent is to attempt to recapture some of the lost canopy that is a result of development. Parking lot landscaping requirements only apply to those parking areas with five (5) or more spaces.

B. Requirements

1. For every 1,000 square feet of vehicular use area, one (1) tree and four shrubs must be planted. At least seventy-five (75) percent of the required trees must large-maturing, deciduous trees. The species must be from the approved species list in Section 9.21.15 of this Ordinance. Trees and shrubs must be planted within fifteen (15) feet of the vehicular use area to count as parking lot landscaping.
2. When a development contains more than twenty (20) or more parking spaces, fifty (50) percent of the trees and shrubs required by 12.4.2(B)(1) must be planted in islands or medians located within the parking lot. Tree islands shall be evenly distributed throughout the parking lot in order to provide an even tree canopy throughout the lot. At a minimum, such tree islands shall consist of an area equal in size to two (2) parking spaces (324 square feet) with a minimum width of eight (8) feet from inside of curb to inside of curb. Parking bays shall be broken up with landscaped islands or medians to avoid long monotonous rows of parking. Planting trees in groups is encouraged to increase the total amount of planting area for roots to grow.



3. Each parking space must be located within sixty (60) feet of a tree measured from the closest point of the parking space to the tree trunk.
4. Small maturing trees shall be planted where overhead electric lines would interfere with normal growth.
5. Structured parking facilities, or parking decks, shall be excused from the parking lot landscaping requirements contained in this section but shall comply with the provisions of this paragraph. In the event that any openings for ventilation, service or emergency access are located at the first floor level in the building façade, then they shall be an integral part of the overall building design. These openings as well as pedestrian and vehicular entrances shall be designed to minimize visibility of parked cars. All levels of a structured parking facility shall be designed and screened in such a way as to minimize visibility of parked cars. In no instance will rails or cabling alone be sufficient to meet this screening requirement.
6. Small lots, defined as lots with less than one-hundred (100) feet of frontage on a roadway or with less than one-hundred (100) feet of depth, may have site constraints which make strict compliance with the regulations contained in this section a hardship. In such cases, the Zoning Administrator may approve deviations from such regulations so long as the plans of development are consistent with the goals stated herein.
7. The plantings that constitute a landscaped area must be properly maintained in order for the landscaped area to fulfill the purposes for which it is established. The owner of the property shall be responsible for the maintenance of all plant material within the landscaped area. Such maintenance shall include all actions necessary to keep the landscaped areas free of litter and debris and to keep plantings healthy and orderly in appearance. Any required vegetation that constitutes part of a landscaped area shall be replaced in the event that it dies.
8. This section is replicated in Section 9.8.2 D of this Ordinance.
9. All plantings shall meet the requirements in Section 9.21 set forth in this Ordinance.

3. Parking facilities shall be continually maintained in compliance with the approved site and/or subdivision plan and shall be free of litter and debris at all times.

4. Each parking area shall meet all applicable landscaping, screening, and buffering requirements set forth in Section 9 of this Ordinance.

5. All parking areas shall be separated at least ten feet from buildings, in order to allow room for sidewalks, landscaping, and other plantings between the building and the parking area. This separation may be eliminated in the rear of buildings in areas designed for unloading and loading of materials; this applies primarily to industrial and warehousing buildings.

6. The visibility of parking areas shall be reduced by placing parking to the rear or side of buildings facing public streets.

7. All stacking lanes for day care centers shall be located at least ten feet from the principal building with either an on-site turnaround or separate points for ingress and egress

8. Reduction in Number of Required Off-Street Parking Spaces

A. As part of its review and approval of a site plan for a development, the Board of Commissioners may allow a reduction of up to 10 percent in the number of designated parking spaces from the allowed parking minimum (Section 12.3.4 (d)(1)) upon finding that such a reduced number will be sufficient to satisfy the demand for parking expected for the use during the normal shopping season, i.e. times other that November, December, and January, based on the nature of the use, the number of trips generated, the times of day when the use generates the most trips, and the extent to which other establishments are located on the same property and may reduce the number of vehicle trips required between different establishments. A parking study must be submitted to the Board of Commissioners to determine if a reduction in parking is allowable.

9. Handicapped Parking Requirements

A. <u>Residential Uses Handicapped</u>

Accessible parking for residential uses shall be provided at the rate of one space per each dwelling unit that is designed for occupancy by the handicapped.

B. <u>Non-Residential Uses Handicapped</u>

Accessible parking spaces shall be provided for uses other than residential, at the rate shown in Table 12.3.H.b below:

TABLE 12.3.H.b: HANDICAPPED PARKING FOR NON-RESIDENTIAL USES	
Total Number of Required Parking Spaces	Number of Required Handicapped Spaces
0-25	1
26-50	2
51-75	3
76-100	4
101-150	5
151-200	6
201-300	7
301-400	8
401-500	9
501-1,000	2 percent of total spaces
Above 1,000	20 spaces, plus one space for each 100 over 1,000 spaces or fraction thereof.

C. Relationship to General Off-Street Parking Requirements
Handicapped parking required by this section shall count towards the fulfillment of the general off-street parking requirements of this section.

D. Compliance with North Carolina Building Code
In addition to meeting the requirements of this Section, all handicapped parking shall comply with the NC State Building Code Volume 1C (as amended); but the more restrictive of the two shall apply.

10. Stacking Spaces for Drive-Through Uses

In addition to meeting the off-street parking requirements of this section, drive-through facilities specified in Table shall comply with the following minimum stacking space standards:

TABLE 12.4 SCHEDULE OF STACKING SPACES		
Type of Use	Minimum Stacking Spaces	Measured From
Bank, teller lane	4	Teller window
Bank, ATM	3	Teller machine
Restaurant, with drive through	8	Order box *
Car Wash, automatic	6	Bay entrance
Car Wash, self-service	3	Bay entrance
Car Wash, full service	4	Bay entrance
Auto Service Station, gas pump island	30 feet from each end of island	

Unlisted	**

*A minimum 4-vehicle queue shall be provided from the order box to the pick-up window.
** Requirements for uses not specifically listed may be determined by the Zoning Administrator based upon the requirements for comparable uses and upon the particular characteristics of the use. Alternately, the applicant may submit a parking demand study.

12.5 PARKING ALTERNATIVES

The Zoning Administrator shall be authorized to approve alternatives to providing the number of off-street parking spaces recommended by section 12.3 of this Ordinance in accordance with the following standards:

1. Shared Parking

The Zoning Administrator may approve shared parking facilities for developments or uses with different operating hours or different peak business periods if the shared parking complies with all of the following standards:

A. Location

Shared parking spaces must be located within 1000 feet of any entrance of all uses served, unless remote parking shuttle bus service is provided. Shared parking spaces must not be separated from the use they serve by a thoroughfare or collector roadway. In addition, adequate and safe pedestrian access must be provided from and to the shared parking areas.

B. Zoning Classification

Shared parking areas must be located on a site with the same or a more intensive zoning classification than required for the primary uses served.

C. Shared Parking Study

Those wishing to use shared parking as a means of satisfying off-street parking requirements must submit a shared parking request to staff that justifies the feasibility of shared parking. Justification should include information on the size and type of the proposed development, the composition of tenants, the anticipated rate of parking turnover, and the anticipated peak parking and traffic loads for all uses that will be sharing off-street parking spaces.

1. The maximum reduction in the number of parking spaces required for the parking area shall be 25 percent.

2. Directional signage which meets the requirements of this Ordinance must be added to direct the public to the shared parking spaces. It is preferable for the employees of an establishment to utilize these spaces.

D. Agreement for Shared Parking

A shared parking plan will be enforced through written agreement among all owners of record. An attested copy of the agreement between the owners of record must be submitted to the Zoning Administrator for recordation. Recordation of the agreement must take place before issuance of a building permit for any use to be served by the shared parking area. A shared parking agreement may be revoked only if all required off-street parking spaces will be provided in accordance with the requirements of this ordinance

2. Off-Site Parking

If some or all of the off-street parking spaces required by this section cannot reasonably be located on the same lot as the principal use, then such spaces may be provided on land located within 1000 feet of any entrance to such principal use (the required maximum 1000-foot separation of the use from the parking shall be measured from any entrance to the nearest parking lot space following a reasonable and safe walking route), provided that:

A. The land on which the parking facilities are provided is owned by the same person or persons as the principal use.

B. Such land is not separated from the principal use by a thoroughfare or collector street, unless both the use and the parking area are located within the C- 4 district or are specifically approved by Council based on safe pedestrian crosswalks linking the parking with the principal use.

C. Such land is located in a zoning district within which the principal use would be allowed as a permitted or conditional use.

D. Such land shall be used for no other purpose than to provide parking for the principal use.

E. There is a pedestrian walkway or sidewalk connecting the parking area to the use it serves.

F. The provision of off-site parking, whether the spaces are new or existing, shall be indicated and reviewed as part of the site plan approval process.

G. The restrictions of this subsection shall not apply to those uses that share parking spaces pursuant to subsection above.

3. Parking Structures

The off-street parking required by or provided under this section may be located in a parking structure, whether on the same or on a different lot than the uses which it serves. Ground floor parking provided in a parking structure shall be screened, insofar as practicable, from surrounding uses and from public view. In addition, for uses located on the same lot as the structure, the conditions required under this ordinance shall apply.

4. Valet and Tandem Parking

The Zoning Administrator may approve an off-street parking program utilizing limited tandem parking for commercial and industrial uses provided that the development requires 75 or more parking spaces. No more than 30 percent of the total number of spaces shall be designated as tandem. In addition, a valet parking attendant must be on duty during business hours.

5. Other Eligible Alternatives

The Zoning Administrator may approve any other alternative to providing off-street parking spaces on the site of the subject development if the applicant demonstrates to the satisfaction of the Zoning Administrator that the proposed plan will protect surrounding neighborhoods, maintain traffic circulation patterns, and promote quality urban design to at least the same extent as would strict compliance with otherwise applicable off-street parking standards.

12.6 DIMENSIONAL REQUIREMENTS FOR PARKING SPACES, AISLES & DRIVEWAYS

1. All parking spaces, aisles between parking spaces, and parking space modules shall meet the minimum dimensional requirements set forth in this ordinance.

A. On-street parallel parking spaces must be a minimum of eight (8) feet wide by twenty-one (21) feet long.

B. Back-In Reverse-Angled Parking must be a minimum of nine (9) feet wide by thirteen (13) feet long.

C. <u>Drive-In Angled Parking</u>

1. 45° parking spaces must be a minimum of nine (9) feet wide by seventeen (17) feet long.

2. 60° parking spaces must be a minimum of nine (9) feet wide by eighteen (18) feet long.

D. 90° parking spaces within a parking lot must be a minimum of nine (9) feet wide by eighteen (18) feet long.

2. Compact parking spaces may be provided in addition to the required minimum number of spaces on a case-by-case basis. Compact parking spaces must be no less than 8 feet wide and 16 feet long.

To exceed the maximum number of parking spaces allowed per Section 12.4 the applicant must get approval from the Zoning Administrator prior to installation and must construct all parking that exceeding the maximum out of pervious paving materials approved by the Town of Waxhaw Engineer. Any request for parking above the maximum allowed must also provide an additional 5% of internal tree save. Where no internal tree save is required, a minimum of 10% internal tree save must be accomplished in order for the applicant to receive approval for the additional parking. Where no trees exist, the applicant must create (plant) a continuous canopy on a minimum of 5% of the total acreage of the site. An approved North Carolina Registered Urban Forester or ISA Registered Certified Arborist must work with the applicant to determine the best location for all of the above options.

3. Parking structures may be subject to dimensional adjustments based on utilization, but in no case shall the standard space width be less than nine feet, unless providing additional parking under Section 12.6.2 of this Ordinance. Reduction in design standards shall be subject to approval by the Zoning Administrator.

4. Driveways for all uses, except single-family residential, shall maintain a minimum of 20 feet in width along the length of the driveway.

12.7 USE AND IDENTIFICATION OF PARKING AREAS

1. Where parking lots for more than five (5) cars are permitted or required under this Ordinance, the following requirements shall apply:

A. The parking lot may be used only for parking and not for any type of loading, sales, dead storage, repair work, dismantling, or service of vehicles. Notwithstanding the above, the Zoning Administrator may allow the use of a portion or portions of a parking lot for such uses on a case-by-case basis, provided that such spaces are not part of areas required for site ingress or egress.

12.8 LOADING SPACE REQUIREMENTS

1. Number of Required Off-Street Loading Berth

At least the number of berths specified in Table 12.9 below, depending on the gross floor area of the land use, shall be provided on the property. The developer shall evaluate his or her own needs to determine if the use requires a greater number of spaces than those required by this section.

2. Minimum Dimensions

Each loading berth required by this section shall be at least 12 feet wide by 25 feet long, with at least 14 feet of overhead clearance. Each required loading berth shall have adequate, unobstructed means for the ingress and egress of vehicles.

TABLE 12.9: REQUIRED OFF-STREET LOADING BERTHS

Gross Floor Area (in square feet)	Minimum Number of Berths
Less than 40,000	1
40,000-100,000	2
100,000-160,000	3
160,000-240,000	4
240,000-320,000	5
320,000-400,000	6
Above 400,000	1 per each 90,000 above 400,000 gsf of area

3. Waiver or Modification of Requirements

As part of the review and approval of a site plan, the Zoning Administrator may waive or modify the requirements of this section upon finding that the use does not require loading spaces of a number or size required by this section, given the particular operational characteristics of the use and its need or lack thereof for the delivery or shipments of goods to and from the site.

4. Location and Screening of Loading Areas

To the maximum extent possible, all loading berths shall be located between the building and the rear lot line of the property, and/or shall be screened from the view of the street and adjacent properties. All loading areas shall meet the applicable landscaping, screening, and buffering requirements set forth in Section 9.8 The details of such location and screening shall be reviewed and approved as part of the site and/or subdivision plan.

12.9 CONNECTIVITY

1. Purpose and Scope

The purpose of this section is to support the creation of a highly connected transportation system within the town in order to provide choices for drivers, bicyclists, and pedestrians; promote walking and bicycling; connect neighborhoods to each other and to local destinations such as schools, parks, and shopping centers; reduce vehicle miles of travel and travel times; improve air quality; reduce emergency response times; increase effectiveness of municipal service delivery; and free up arterial capacity to better serve regional long distance travel needs. Any additional pedestrian connections required under this Section do not have to address handicap accessibility standards.

2. Consistency with Other Documents

The design and evaluation of vehicular, bicycle, and pedestrian circulation systems built in conjunction with new residential and non-residential development shall adhere to the requirements of this section.

12.10 BICYCLE PARKING STANDARDS

1. Bicycle parking shall meet the following standards:

A. Location.

Bicycle parking should be located along a major building approach line and clearly visible from the approach. The rack area should be no more than a 30-second walk (120 feet) from the entrance it serves and should preferably be within 50 feet. A rack area should be as close, or closer than the nearest non-handicap car parking space. A rack area should be clearly visible from the entrance it serves. A rack area should be provided near each actively used entrance. In general, multiple buildings should not be served with a combined, distant rack area. It is preferred to place smaller rack areas in locations that are more convenient.

B. Minimum Number

All nonresidential developments must install and maintain at least one bike rack per building. The Planning Board may recommend that this number be increased based on the size, type, intensity, and location of the development.

C. Exception

The bicycle parking requirements shall not apply to businesses located in the C-4 district.

2. General standards for all bicycle parking areas:

A. Secured.

Bike lockers and racks shall be securely anchored to the ground and on a hard surface.

B. Maneuvering areas.

Each required bicycle parking space shall be accessible without moving another bicycle. An aisle at least five (5) feet wide is required between the building wall and the bicycle parking rack to allow room for bicycle maneuvering. Bicycle parking spaces should provide a clearance of at least four (4) feet on adjacent sidewalks. Bicycle lockers should be situated so there are no obstructions within 5 feet of the entry door(s) of the locker.

C. Signs.

If required bicycle parking is not clearly visible from the entrance to the building, parking structure, transit station, or lot, a sign shall be posted at the primary entrances indicating the location of the parking.

12.11 STANDARDS FOR PEDESTRIAN FACILITIES

1. In addition to the general provisions of Section 12 above, the following specific standards shall be met in designing and achieving a pedestrian circulation system in new residential and non-residential development:

A. Sidewalks

1. Sidewalks shall be installed on both sides of all arterials, collector streets, and nonresidential cul-de-sacs, and within and along the frontage of all new development or redevelopment. Sidewalks should be located within the street right-of-way. In order for a sidewalk to be located outside the public right-of-way, the Zoning Administrator must approve the location and an approved sidewalk easement must be recorded with the Union County Register of Deeds prior to issuance of final Zoning Compliance.
2. Pedestrian crossings shall be made safer for pedestrians whenever possible by shortening crosswalk distance with curb extensions, reducing sidewalk curb radii, and eliminating free right-turn lanes. Signals that allow longer crossing times in shopping districts, mid-block crossings in high-pedestrians use areas (if well marked and traffic speeds are low), and raised crosswalks and medians shall be provided as appropriate.
3. Within residential and/or non-residential developments, pedestrian ways, crosswalks, or multi-purpose trails no less than five feet in width, shall be constructed near the center and entirely through any block which is 900 feet or more in length where necessary to provide adequate

pedestrian circulation or access to schools, churches, retail stores, personal service establishments, recreational areas, or transportation facilities.

4. Pedestrian walkways shall form an on-site circulation system that minimizes conflict between pedestrians and traffic at all points of pedestrian access to on-site parking and building entrances. Pedestrian walkways shall connect building entrances to one another and from building entrances to public sidewalk connections and existing or planned transit stops. Pedestrian walkways shall be provided to any pedestrian access point or any parking space that is more than 50 feet from the building entrance or principal on-site destination. All developments that contain more than one building shall provide walkways between the principal entrances of the buildings. All non-residential buildings set back more than 100 feet from the public right-of-way shall provide for direct pedestrian access from the building to buildings on adjacent lots.
5. Where residential developments have cul-de-sacs or dead-end streets, such streets shall be connected to the closest local or collector street or to cul-de-sacs in adjoining subdivisions via a sidewalk or multi-use path, except where deemed impractical by the Zoning Administrator.

12.12 EXTERIOR LIGHTING

1. General Requirement

All exterior lighting, such as that used in and around buildings, recreation areas, parking lots, and signs, shall be designed to meet the following general requirements:

A. Protect against the spillover of light to adjacent properties;

B. Protect against glare onto public rights-of-way thereby impairing the vision of motorists and adjoining properties;

C. Shield adjacent properties by thick evergreen vegetated buffers, berms, walls, or fences, and/or the use of directional lighting, lighting shields, special fixtures, timing devices, appropriate light intensities, luminaries, and mountings at appropriate heights.

2. Lighting Plan Required

A. A point-by-point lighting plan is required for site plan approval that indicates the foot-candles at grade grid points that cover the site. The Zoning Administrator can waive this requirement for small independent projects on less than an acre if the fixture types are specified on the plan.

B. Any changes to the lighting plan must be approved by Zoning Administrator through a site and/or subdivision plan revision.

3. Standards

All outdoor lighting shall conform to the standards and provisions found in the standards listed below:

A. Maximum Lighting Height

Outdoor lighting, except Outdoor Sports Fields and Performance Areas (see Section 12.12.3.H), shall be designed, located and mounted at heights no greater than:

1. Eighteen feet above grade for non-cut-off lights;
2. Thirty-five feet above grade for cut-off lights, unless a raised foundation is required to protect the poles, in which case the maximum height shall not exceed thirty-seven feet above grade.

B. Maximum Light Levels at the Property Line

All outdoor lighting and/or indoor lighting visible from outside shall be designed and located such that the maximum illumination measured in foot-candles at a property line shall not exceed the standards in the following table, except Outdoor Sports Fields and Performance Areas as specified in Section 12.12.3.H. Cut-off lighting shall be designed to direct light downward (e.g., shoe box style).

TABLE 12.10.b: MAXIMUM ILLUMINATION VALUES* (REGARDLESS OF LIGHT TYPE)

Property Line	Maximum Illumination (in Foot-Candles)
Residential	0.5
Commercial	2.5
Industrial/Edge of right-of-way	2.5
*These standards may be modified by the zoning administrator	

C. Parking Lot Lighting Standard

For parking lots the minimum light level shall be no less than 0.2 foot-candles. The average foot-candle maintained to the minimum foot-candles ratio shall be no greater than 4:1 (upper to lower limits). All foot-candles are to be measured at ground level.

D. Distance from Property Line

All outdoor lighting fixtures shall be located a minimum of ten feet from a property or five feet from a right-of-way line and should not be located within a required perimeter buffer or streetscape unless it is located at the interior edge.

E. Lighting for Canopies

1. Lighting for canopies shall be restricted to lighting fixtures (including lenses) that do not project below the bottom of the canopy. Lighting for canopies for service stations and other similar uses shall not exceed an average of 12 foot-candles as measured at ground level at the inside of the outside edge of the canopy.
2. Canopies used for building accents over doors, windows, etc. shall not be internally lit (i.e., from underneath or behind the canopy).

F. Floodlights and Spotlights

Lighting fixtures shall be selected, located, aimed, and shielded so that direct illumination is focused exclusively on a portion of the building façade or other intended site feature and away from adjoining properties or the right-of-way. On-site lighting may be used to accent architectural elements but shall not be used to illuminate entire portions of building(s). Such lighting shall be installed in a fixture that is shielded such that no portion of the light bulb extends below the bottom edge of the shield, and that the main beam from the light source is not visible from adjacent properties of the adjacent right-of-way. Floodlights or other type of lighting attached to light poles that illuminate the site and/or building(s) are prohibited.

G. Wall Pack Lights

Wall packs on buildings may be used at entrances to a building to light unsafe areas. They are not intended to draw attention to the building or provide general building or site lighting. "Wall Packs" on the exterior of the building shall be fully shielded (true cut-off type--bulb or light source not visible from off-site) to direct the light vertically downward and be of low wattage (preferably 100 watts or lower).

H. Illumination of Outdoor Sports Fields and Performance Areas

Lighting of outdoor sports fields and performance areas shall be installed in accordance with the following requirements:

The mounting height of outdoor sports field and outdoor performance area lighting fixtures shall not exceed eighty (80) feet from finished grade, including any foundations, etc.

All outdoor sports field and outdoor performance area lighting fixtures shall be equipped with the manufacturer's maximum glare control package (louvers, shields, visors or similar devices). The fixtures must be aimed so that their beams are directed and fall within the primary playing field or performance area.

Events shall be scheduled so that the normal hours of operation for the sports field lighting system for any game or event shall not exceed 8:00AM to 11:00PM. An exception to this time limit may be granted for completion of unusually long games, a performance which has been weather-delayed, or when a tournament or performance is scheduled in advance with a final game or performance to occur beyond 11:00PM. The facility's property owner and management/production authority for the tournament or performance are jointly responsible for providing notice of potential time extension for tournament play to the Town Manager and adjacent property owners/occupants. Written notice may be distributed to adjacent property owners/occupants by first class mail postmarked 48 hours in advance or door hang tags at least 24 hours in advance of the event. Written notice shall be provided to the Town Manager by e-mail and first class mail postmarked 48 hours in advance of the event.

Lighting of playing fields or performance areas shall only be turned on when activity is scheduled and occurring. When scheduled activities are completed prior to 11:00PM, the field or performance area lights shall be turned off (when egress lighting is separate) or reduced in light level by at least fifty percent (50%) within one hour after conclusion of play or other activity. When there are no scheduled activities at a sports field or performance area, the lighting shall not be turned on.
Security and egress illumination lighting systems may remain turned on for any amount of time deemed necessary to remove people safely.

Light levels for outdoor sports field and performance area illumination shall be equal to, but not exceed, the following:

Where new outdoor sports field and performance area lighting is installed adjacent to an existing residentially developed or zoned property, light levels shall not exceed a maximum level of one-half (.5) foot candles at the property line. When not installed adjacent to a residentially developed or zoned parcel, light levels shall not exceed a maximum level of two and one-half (2.5) foot candles at the property line. When installed adjacent to any right-of-way, light levels shall not exceed two and one-half (2.5) foot candles at the property/right-of-way line, except adjacent to rights-of-way that exist interior to the sports field

or performance area. In addition, sports field events shall not exceed the tournament play lighting standards of fifty (50) foot candles in the infield and thirty (30) foot candles in the outfield.

I. Sign Lighting

Lighting fixtures illuminating signs shall comply with the requirements of section 13 of this Ordinance, and such fixtures shall be aimed and shielded so that direct illumination is focused exclusively on the sign face.

J. Location

Light pole/stands shall not be located in planting bed(s) with trees and other vegetation.

SECTION 13

SIGNS

13.1 GENERAL PURPOSE AND INTENT

It is the purpose of this chapter to authorize the use of signs whose size, type, and location are compatible with their surroundings; to ensure signs do not become a public hazard or nuisance or traffic hazard; to preserve the characteristics of each district; to provide direction to visitors; and to protect and enhance the overall appearance of the community. It is not the intent of this chapter to prohibit any sign, display or device containing any lawful noncommercial message.

13.2 APPLICABILITY

A sign may be constructed, erected, placed, established, painted, created, or maintained in the Town only in conformance with the standards, procedures, exemptions, and other requirements of this Ordinance. Except as otherwise provided in this Ordinance, it shall be unlawful to construct, enlarge, move or replace any sign or cause the same to be done, without first obtaining a sign permit for such sign from the Waxhaw Planning & Community Development Department. Notwithstanding the forgoing, a sign permit is not required if a sign is replaced with a duplicate.

1. **Alteration of Sign Face:** The alteration of sign faces by painting or overlay shall be considered as construction of a new sign and shall require a permit and shall conform to all the dimensional requirements of this Ordinance. Change of message on changeable copy signs shall not be considered an alteration of the sign face. Touching up or repainting existing letters or symbols shall be considered maintenance and repair and shall not require a permit.

13.3 PERMITS AND MASTER SIGN PROGRAMS

1. **Permits Required**
   A. Issuance of Permit: Upon the filing of an application for a sign permit, planning staff shall examine the plans and specifications, and, as deemed necessary, may inspect the premises upon which the sign is proposed to be erected or affixed. If the proposed sign is in compliance with all the requirements of this ordinance and other applicable codes, a zoning compliance permit will be issued. When the sign permit is part of a larger development process, it may be issued prior to the completion of new construction and issuance of a Certificate of Occupancy. For new construction, a sign permit application cannot be submitted prior to the submittal for the Development Plan Review application.

B. Permit Period: Any permit issued in accordance with this section shall automatically become null and void unless the work for which it was issued has visibly commenced within 6 months of the date of issue.
C. Fees: To obtain a sign permit, all fees, in accordance with the requirements of the permitting agency, shall be paid.
D. Construction Inspection: The permit holder shall notify the Planning Department upon completion of construction and installation of any sign for which a permit is required.

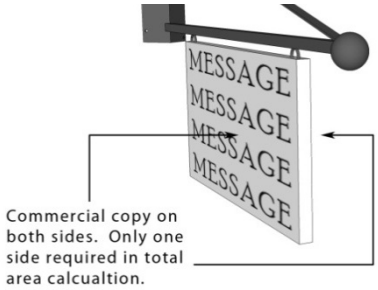
2. Planned Development Flexibility Option: For the purpose of providing flexibility and incentives for coordinated, well-designed sign systems for large-scale development, special provisions varying the standards of this Ordinance may be approved by the Administrator, subject to the following:

A. The development is: a planned residential, nonresidential, or mixed-use development, 10 acres or greater in size; a hospital or other large-scale institutional complex; a large-scale cultural, civic or recreational facility; or a similar large-scale development.
B. Master Sign Program: that includes the following information in booklet form is submitted:
    1. Detailed designs of all proposed signs including the size, height, copy, materials, and colors of such signs.
    2. Proposed number and location of signs.
    3. Sign Illumination Plans.
    4. Plans for landscaping or architectural features to be used in conjunction with such plans.
C. The proposed signs meet the following criteria:
    1. All signs are coordinated in terms of design features.
    2. The maximum size of each sign may exceed the size limit otherwise prescribed in the Ordinance by up to 25%.
    3. For sites with more than one building:
        a. One monument sign per additional building is permitted;
        b. Such sign(s) shall be a maximum of 16 square feet in area (25% size increase does not apply) and 4 feet in height; and
        c. Such sign(s) shall be located internal to the site in front of the associated additional building.
    4. There shall be no more than one offsite directional sign per intersection per PRD.
        a. Offsite directional signs for PRD's shall not be illuminated.
    5. Contractor/ Home Builder signs must be removed no later than 30 days after 98% percent of the homes have been sold. Additionally, one off-premise contractor/homebuilder/subcontractor project sign shall be permitted for a planned residential development provided that the PRD does not have direct frontage on a major thoroughfare. The off-premises contractor/homebuilder/subcontractor project sign may not be illuminated and the maximum sign face area shall be 32 square feet.

6. The maximum height shall not exceed 12 feet.
7. All other requirements in this UDO.
8. Banner signs are not allowed as part of a Master Sign Program.

13.4 COMPUTATION OF SIGN MEASUREMENTS

1. **Computation of Sign Area**
   A. The area of a sign face shall be deemed to be the entire area within the smallest polygon that will encompass the extreme limits of the writing, representation, emblem, or other display on the sign that can be reasonably calculated.
   B. The area shall also include any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed.



   C. Frames or structural members not bearing informational or representational matter shall not be included in computation of the area of a sign face.
   D. All sides of a multi-sided sign shall be included in the computation of area, except that the total area of a two-sided back-to-back sign shall only be calculated as the area of one of the sides as illustrated at right.

2. **Computation of Height**
   A. **Attached Signs:** The sign height for attached signs shall be computed as the distance from the finished grade at the base of the building to which the sign is attached to the top of the highest component of the sign
   B. **Freestanding Signs:** The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed as:
      1. The existing grade prior to construction;
      2. The newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign; or
      3. In cases in which the normal grade cannot reasonably be determined, normal grade shall be assumed as the lesser of: a) the elevation of the nearest point of the crown of a public street; or b) the grade of the land at the principal entrance to the Principal Structure on the lot or parcel.

13.5 GENERAL PROVISIONS

1. **Location and Encroachment**
   A. Permitted signs shall be located outside of the street right-of-way, behind sidewalk areas and outside of required site triangles, except where encroachments are specifically permitted by the provisions of this section.
   B. No non-governmental sign shall be attached to or painted on power poles, light poles, telephone poles, traffic signs or other objects not intended to support a sign except where permitted as Civic Banners (Section 13.9.8.)

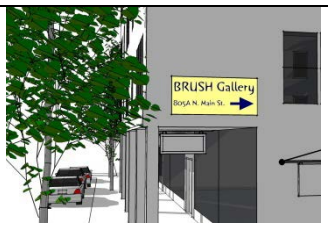
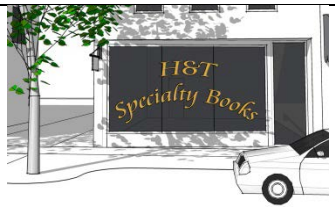
2. **Materials and Structural Requirements**
   A. Except flags, temporary, and portable signs, and window signs conforming in all respects with the requirements of this Ordinance, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure.
   B. All attached signs and sign support frames shall be mounted and attached to a building or the ground in a secure manner, shall not include wire or turnbuckle guy, and shall be maintained in good repair for safety and appearance.

13.6 NONCONFORMING SIGNS

Nonconforming signs shall be governed by the provisions of Section 10.8 of this Ordinance.

13.7 ATTACHED SIGNS

1. Attached Sign Types

A. **Wall Signs:** Flat signs, channel lettering or three-dimensional signs which are painted or attached (parallel) to the wall of a building or structure.	
B. **Window/Door Signs:** Flat signs or lettering which are painted or attached to the inside or outside of the window or door of a building or structure.	
C. **Awning/Canopy Signs:** Signs integrated into traditional storefront awnings that project over a sidewalk from the building façade.	
D. **Theatre Marquee Signs:** Three dimensional signs projecting from the side of a building which may extend above the roof line and/or incorporate changeable type.	
E. **Projecting/Suspended Signs:** Pedestrian-scaled signs on the first floor of a building mounted to the side of the building or underside of a balcony or arcade which can be read from both sides.	
F. **Address/Tenant Identification Signs:** Incidental signs that list tenants, unit numbers, address, contact information, hours of operation, and similar non-commercial characteristics, in a multi-tenant building with common entry.	

2. Attached Sign Standards

Sign Type	Permitted Location	Maximum Area	Max. Height	Encroach-ments	Maximum Number	Additional Requirements/ Provisions
Wall Signs	C-1, OIS, UN	Primary: 1 sq ft per linear ft of building wall (32 sq ft maximum) Secondary: Half the size of primary sign	No sign shall extend above roofline	No encroachment allowed	• Single-Tenant Buildings: 1 sign per building elevation; maximum 3 total per building (1 primary and 2 secondary signs) • Multi-tenant Buildings: 1 sign per building elevation per tenant; maximum of 2 total per tenant (1 primary and 1 secondary sign) • 1 per level	• 12 inch maximum protrusion • For Changeable Copy Signs, see 13.9.4 • For Illuminated Signs, see 13.10
	C-2, C-3, I-1, I-2, NMX, OS	Primary: 10% of wall area (64 sq ft maximum) Secondary: Half the size of primary sign				
	C-4, TC, MS	32 sq ft for ground level; 9 sq ft for upper levels				
Window / Door Signs	Non-residential uses in all Districts	30% of total glass area on any one side of the building	n/a	No encroachment allowed	n/a	• For Neon Signs, see 13.10 (Sign Illumination) • Attached to inside of window or door
Awning / Canopy Signs	C-1, OIS, C-2, C-3, C-4, I-1, I-2, UN, NMX, TC, MS, OS	12 sq ft	n/a	May encroach over sidewalk area to within 4 ft of curb and shall have 8 ft clearance	1 located on elevation which contains principal pedestrian entrance	• Valance shall not exceed 12 inches in height
Theatre Marquee Signs	Theaters only (where allowed)	32 sq ft	n/a	May encroach over sidewalk area to within 4 ft of curb and shall have 8 ft clearance	1 per tenant	• Such signs must be perpendicular to the façade of the building or at a 45 degree angle from the corner of the building. • For Changeable Copy Signs, see 13.9.4
Projecting/ Suspended Signs	C-4,NMX, TC, MS, OS	16 sq ft	n/a	May encroach over sidewalk area to within 4 ft of curb and shall have 8 ft clearance	1 per tenant	n/a
Address / Tenant Identification Signs	All Districts	6 sq ft	n/a	No encroachment allowed	1 per entrance including shared multi-tenant building entrances	n/a

13.8 FREESTANDING SIGNS

1. Freestanding Sign Types

A. **Monument Signs:** A freestanding ground sign having the entire bottom of the sign affixed to the ground.	
B. **Pylon Signs:** A freestanding sign mounted on two posts.	
C. **Post & Arm Signs:** Minor or secondary signs which are used to identify the address of a building, or to identify the profession, family, organization, business, etc., occupying the building.	

2. Freestanding Sign Standards

Sign Type	Permitted Location	Maximum Area	Max. Height	Max. Number	Additional Requirements/Provisions
Monument Signs for Individual Buildings	R-1, R-2, R-3, R-4	4 sq ft	2 ft	1 per street frontage	• 5 ft minimum setback from property line • No proposed ground- mounted sign shall be placed within 50 feet of an existing ground-mounted sign if located on separate parcels. When located on the same parcel this distance requirement shall be increased to 200 feet. This does not apply to those signs permitted by a conditional use process and/or conditional zoning. • For Changeable Copy Signs, see 13.9.4 • For Residential and Campus Development Signs, see 13.9.6 • For Illuminated Signs, see 13.10 • For Off-Premise Monument Signs, see 13.9.10.
	RM-1, RM-2, C-1, OIS, UN, OS	16 sq ft	4 ft	1 per street frontage	
	C-2, C-3, I-1, I-2, NMX, TC	32 sq ft	6 ft	1 per street frontage	
Monument Signs for Non-Residential Sites with Multiple Buildings	R-1, R-2, R-3, R-4, RM-1, RM-2	16 sq ft plus 4 sq ft per additional tenant or building up to a maximum of 32 sq ft	6 ft	1 per street frontage	• 5 ft minimum setback from property line • No proposed ground- mounted sign shall be placed within 50 feet of an existing ground-mounted sign if located on separate parcels. When located on the same parcel this distance requirement shall be increased to 200 feet. This does not apply to those signs permitted by a conditional use process and/or conditional zoning. • For Changeable Copy Signs, see 13.9.4 • For Residential and Campus Development Signs, see 13.9.6 • For Illuminated Signs, see 13.10 • For Off-Premise Monument Signs, see 13.9.10.
	C-1, OIS, OS	32 sq ft plus 8 sq ft per additional tenant or building up to a maximum of 64 sq ft	6 ft	1 per street frontage	
	C-2, C-3, I-1, I-2, NMX, TC	32 sq ft plus 10 sq ft per additional tenant or building up to a maximum of 100 sq ft	15 ft	1 per street frontage	
Pylon Signs	R-1, R-2, R-3, R-4, RM-1, RM-2, C-1, OIS, UN	12 sq ft	6 ft	1 per street frontage	• 5 ft minimum setback from property line • Posts shall be a minimum of 4 inches in width and depth • Sign board shall be at least 1 inch in depth or be mounted in a frame of at least 1 inch in depth
	C-2, C-3, I-1, I-2, NMX, TC, OS	16 sq ft	6 ft		
Post & Arm Signs	R-1, R-2, R-3, R-4 RM-1, RM-2, C-1, OIS, C-2, C-3, C-4, I-1, I-2, UN, NMX, TC	4 sq ft	4.5 ft	1 per lot	• 5 ft minimum setback from property line

13.9 OTHER SIGNS THAT REQUIRE PERMITS

1. Construction Project Signs

A. Permitted Districts: All Districts
B. Maximum Number: 1 per site
C. Surface Area: 32 square feet maximum.
D. Time Limit: These signs are intended to be temporary and must be removed within 7 days of completion of construction.
E. Construction Type: Pylon signs are permissible.

2. Portable Sales Office Signs

A. Permitted Districts: All Districts – only on model home lots used as sales offices for single family residential subdivisions.
B. Surface Area: 8 square feet maximum.
C. Height: 4 feet maximum.
D. Time Limit: Signs may not remain outside overnight. These signs are intended to be temporary and must be removed when the subdivision sales office use is terminated.

3. Electronic Message Boards

A. Permitted Districts: C-1, C-2, C-3, I-1, I-2, OIS
B. Permitted Types: Electronic message boards may be incorporated into a permitted Wall Sign (13.7.2) or Monument Sign (13.8.2) and may function as either a time and temperature sign or a gasoline price sales sign only.
C. Maximum Number: 1 per tenant
D. Surface Area: The electronic message board component shall not comprise more than 40% of the primary sign area.
E. Construction and Dimensions: The electronic message sign must be physically attached to the primary sign and the numerals shall not exceed 18 inches in height. Subject to the preceding height limitation, the electronic message sign may contain up to two horizontal rows of information provided that the total numeral height of both lines does not exceed 26 inches (e.g., one 18 inch line and one 8 inch line).
F. Electronic Message Technology Requirements: All lighted characters, letters or numbers shall be LED (Light Emitting Diodes) and only green or red in color. The background screen shall only be black.
G. Message Variation: The electronic message shall not scroll, blink, or flash. New messages shall be timed to fade in and out slowly.

4. Changeable Copy Signs

A. Permitted Districts: Based on permitted sign type.
B. Permitted Types: Changeable copy signs may be incorporated into a permitted Wall Sign (13.7.2), Monument Sign (13.8.2), Theatre Marquee Sign (13.7.2), or Portable/A-Frame Signs (13.12.2) only.
C. Maximum Number: 1 per tenant.

D. Surface Area: Total surface area shall not exceed 12 square feet, with the changeable copy component covering no more than 40% of the sign surface area.

5. Drive-Thru Menu Boards

A. Permitted Districts: C-1, C-2, C-3, I-1, I-2, OIS
B. Location/Screening: Menu boards may be located to the rear of the building with no screening requirements. If located on a public frontage or side yard, screening is required as follows:
A. Per Section 9.8.2, screening must be provided on the subject property so as to materially screen the menu board, in the form of a berm, wall or fence and/or an appropriate amount of landscape plantings to effectively screen the menu board from view from any adjacent lot or street right-of-way.
C. Surface Area: 32 square feet maximum
D. Height: 6 feet maximum

6. Residential and Campus Development and Signs

A. Applicability: Monument signs for the following development types that are 10 acres or greater in size: subdivisions, traditional neighborhood developments, multi-family developments, hospitals or other large-scale institutional complexes, large-scale cultural, civic or recreation facilities.
B. Maximum Number: 2 signs per major entrance.
C. Surface Area: 32 square feet.
D. Height: 6 feet maximum.
E. Illumination: Permitted in accordance with 13.10.2.A.

7. Promotional Banners:

A. Applicability: Promotional banners for businesses
B. Location: Shall be securely attached to a building or structure.
C. Surface Area: 32 square feet maximum.
D. Time Period: 30 days maximum with a 30-day separation period between permits up to 4 times per calendar year.

8. Civic Banners Located on Utility Poles:

A. Applicability: Banner located on a utility pole that promotes a public or non-profit organization's mission or community events.
B. Location: Permitted on designated utility poles maintained by the town.
C. Time Period: Completed applications shall be received at least 5 days before the event. Shall be removed within 7 days of the end of any event advertised on the banner, unless seasonal in nature.

9. Civic Banners:

A. Applicability: Banner that promotes a public or non-profit organization's mission or community events.

B. Location: For public or non-profit organizations with no associated building, the banner may be located off-premises, at the discretion of the Administrator, under following conditions:
    1. The property owner provides written permission; and
    2. The banner is securely installed.
    3. Shall not be located in the sight triangle or public right-of-way.

C. Time Period: Completed applications shall be received at least 5 days before the event. Approved banners may be erected a maximum of 14 days before the event and shall be removed within 72 hours of the end of the event advertised on the banner.

D. Banner shall not be illuminated and maximum size is 32 square feet.

10. Off-Premise Monument Signs:

A. Applicability: Off-premise monument signs shall only be allowed in instances where a parcel does not have public road frontage (i.e. landlocked) or for PRD's that do not have direct frontage on a major thoroughfare and major subdivisions approved prior to the effective date of this Ordinance that do not have direct frontage on a major thoroughfare. All off-premise ground signs shall obtain the written consent of the owner of the property on which the sign is intended to be located.

B. Location: Shall be posted no more than 1,000 feet from the property on which the use is conducted.

C. Surface Area/Height/Location/Maximum Number: Shall be determined by the zoning district in which the use resides and shall follow the standards of "Monument Signs for Individual Buildings" in 13.8.2, with the exception that off-premise monument signs for PRDs and major subdivisions shall follow the standards for Residential Development Signs in 13.9.6.

11. Murals:

A. Applicability: Murals as herein defined shall be reviewed for compliance with the definition and standards below by the Zoning Administrator and approved by the Waxhaw Beautification Committee and the Waxhaw Board of Commissioners, subject to the standards below:
    1. Location: Attached to the side or rear wall of a building in the C-4, MS, and TC district. A Certificate of Appropriateness in accordance with Section 19.8 of the Town of Waxhaw UDO will be required for locally designated landmarks prior to the issuance of approval.
    2. Maximum Number: 1 per building façade; only permitted on the side or rear façade. A mural may be comprised of multiple panels or components, but not exceed the maximum surface area permitted below.
    3. Surface Area: A mural, inclusive of all space covered, shall not exceed a maximum of 75% of the wall on which it is located.
    4. Content and Design: The mural shall not include specific commercial product or text, although it may include such generic products as automobiles, furniture,

soft drinks or other items where the brand is not apparent. The mural also shall not include legible text, picture, symbol or device of any kind that relates to a commercial business, product or service offered on the premises where the wall is located.

5. Materials: Materials used to produce the mural shall be appropriate for outdoor-use, long-lasting, and graffiti-resistant to the greatest extent possible. Colors should be harmonious with the exterior colors of the building. Neon, fluorescent, or reflective colors or materials are not permitted.
6. Illumination: Murals may be externally lighted with building proportionate spot lighting, gooseneck or similar. Fixtures should be adequately spaced, 4 (four) to 6 (six) feet apart. No ground mounted up lighting is allowed.

12. Seasonal Outdoor Sales:

A. Applicability: Seasonal Outdoor Sales signs shall be allowed for temporary seasonal uses under the regulations of Section 11.3.64 Seasonal Outdoor Sales of the UDO.

1. Location: Shall be located on premise. Shall not be located within a public street right-of-way or within a required sight triangle, and shall not be attached to trees or utility poles.
2. Maximum Number: One (1) sign per temporary use.
3. Surface Area: Thirty-two (32) square feet maximum surface area.
4. Height: Six (6) feet maximum height.
5. Time Period: Temporary sign permits may be granted up to three (3) times a calendar year for a maximum of forty-five (45) consecutive days each time per parcel of land.
6. Illumination: Seasonal Outdoor Sale signs shall not be internally illuminated but the sign may be illuminated from an external source and shall be lit only during the hours of operation.
7. Construction Type: Pylon signs and banners are permissible.

SIGN ILLUMINATION

1. Illumination Type		Permitted Location	Other Requirements
Channel Letter: Light is emitted through the front or face of the letters. Back and casing are aluminum or steel, and facing is plexiglass or acrylic. Interior light source is LED or neon.		C-1, OIS, C-2, C-3, C-4, I-1, I-2, TC, NMX	May be incorporated into a permitted Wall Sign (13.7.2) or Monument Sign (13.8.2) only.
Reverse Channel Letter: Letter faces are aluminum and light source provides halo effect through backlighting. Side casing is translucent plexiglass or polycarbonate. Interior light source is LED or neon.			
Push-Through: Letters are cut out of opaque sign face, with translucent plexiglass or acrylic facing over letters. Interior light source is LED or neon, and shines through letter faces only.			
Internally-Illuminated Cabinet Signs: Sign face is wholly illuminated through translucent polycarbonate casing.		Prohibited in All Districts	n/a

2. Additional Illumination Standards

A. Indirect/External Illumination: Any indirect lighting or spot lighting shall require complete shielding of all light sources so as to illuminate only the face of the sign and prevent glare to off-site.

B. Neon Illumination: Maximum surface area for neon signs shall be 4 square feet, limited to one neon sign per window or door. Window and door coverage by neon signs shall be counted toward the overall 30% coverage maximum per 13.7.2 “Window / Door Signs.” This includes North Carolina Lottery signs.

13.10 ADDITIONAL STANDARDS FOR SIGNS

1. **Historic Buildings**
   A. Applicability: Wall signs on historic buildings, with the exception of signs approved by conditional use permit and/or conditional zoning.
   B. Location: Wall signs on historic buildings shall be placed within the sign frieze, or distinct place within which a wall sign was intended to be located, if the building was designed for such. No wall sign shall extend beyond such space. If there is no sign frieze, the wall sign shall be placed below the typical second floor window area.
   C. Design: The design and coloration of such signs shall be compatible with the character of the building as determined by the Zoning Administrator.

2. **Union County Public Schools**
   A. Signs for Union County Public Schools shall be subject only to the sign regulations in 9.22.3.E.

13.11 SIGNS THAT DO NOT REQUIRE A PERMIT

1. **Temporary Signs:**
   A. Window Signs:
      1. Location: affixed to the inside of a window or door.
      2. Surface Area: Shall not exceed a cumulative total for all signs of 30% of the total glass area on any one side of the building as outlined in Section 13.7.2 "Window/Door Signs."
   B. Temporary Banners for Schools:
      1. Applicability: Elementary and secondary schools
      2. Location: Securely attached to exterior walls of school
      3. Maximum Number: 3 banners
      4. Surface Area: 32 square feet maximum
      5. Time Period: Shall be displayed no earlier than 10 days prior to the first day of school and shall be removed no later than 10 days after the last day of school.
   C. Yard Sale Signs:
      1. Location and Number: One yard sale sign may be posted on premise, and up to three off-premise. May not be located within a public right-of-way nor placed on a tree, street sign or utility pole.
      2. Surface Area: 4 square feet maximum for each sign
      3. Height: 4 feet maximum
      4. Time Period: Limited to 72 hours in any 90 day period
      5. Illumination: Prohibited

2. Portable/A-Frame Signs

A. Applicability: Pedestrian-scaled non-permanent signs which are used to display menus, daily specials, sale announcements and similar messages.
B. Maximum Area: 8 square feet per side
C. Maximum Height: 4 feet
D. Maximum Number: 1 per tenant
E. Location:
   1. C-4, MS, TC, NMX: Signs may be located on a public sidewalk within the same block as the business, but must maintain at least 48 inches of unobstructed pedestrian space.
   2. C-1, OIS, C-2, C-3, I-1, I-2: Signs may be located internal to site only. Signs may be located on a sidewalk, but must maintain at least 48 inches of unobstructed pedestrian space.
F. Additional Requirements:
   1. Signs must be removed at the close of business each day.
   2. Rough-cut plywood is not an acceptable sign material. Decorative trim or molding shall surround the message area. Lettering shall be professionally painted or applied; however, chalkboard signs shall be permitted. Only chalkboard signs shall provide for changeable copy.
   3. Illumination is prohibited.

3. Flags, Etc.

A. Applicability: Flags of the United States of America, the State of North Carolina, Union County, the Town, or foreign nations having diplomatic relations with the U.S. provided that such flag shall not be flown from a pole the top of which is more than 40 feet in height. Such flags shall be flown in accordance with protocol established by the Congress of the United States for the Stars and Stripes.
B. Surface Area: 60 square feet maximum
C. Installation: Flags shall be either mounted to a permanent pole or securely attached to a building face
D. Flags with commercial messages are allowed without a permit at the rate of one per lot at a maximum surface area of 15 square feet and maximum height of 40 feet.
   1. Commercial flags beyond this allowance are prohibited.

4. Directional Signs On Private Property

A. Construction Type: Permanent, freestanding signs only; portable signs prohibited.
B. Location: Must be on the premises to which directions are indicated.
C. Maximum Number: 2 per entrance or exit
D. Height: 3 feet maximum
E. Surface Area: 4 square feet maximum per sign
F. Illumination: Permitted on-premise in accordance with Section 13.10 (Sign Illumination).

5. Off-Premise Directional Signs for Churches

A. Construction Type: Permanent, freestanding signs made of durable wood or non-reflective metal or plastic materials only; pole and pylon signs are permitted. Portable signs prohibited.

B. Number and Location: No more than 2 directional signs shall be allowed at any street corner. More than 1 sign may be placed on the same sign support.

C. Surface Area: 2 square feet maximum per sign; 4 square feet maximum aggregate area of all signs on any sign structure.

D. Spacing: No 2 directional signs shall be located within 5 linear feet of each other.

E. Illumination: Prohibited

6. Outdoor Recreation Facility

A. Signs may be attached to a fence that encloses or partially encloses an individual athletic field within an outdoor recreational facility, a performance area or park not affiliated with a homeowner's association or residential development subject to the following conditions:

1. Signs located at an athletic field, performance area or park are intended to be read only by persons within the athletic field, performance area or park and associated parking areas and not from any right of way, except rights-of-way that exist interior to the sports field, performance area or park. The sign shall not be legible from beyond the lot line of the site on which it is located.
2. No sign shall extend above the top of the enclosing fence.
3. Signs shall not be illuminated other than by the light source(s) for the athletic field, performance area or park when the facility is in use.

7. Incidental Signs

A. Signs containing information necessary or convenient for persons entering a site shall be located on the premises to which the information pertains.

1. No advertising may be affixed to such a sign.
2. Such signs must be single-faced only and wholly attached to a building or structure (may be located on windows or doors).

B. Signs attached to and made an integral part of a vending machine, automatic teller machine or gasoline pump, if advertising or giving information about the products or services dispensed or vended by that business, are permitted.

8. Real Estate Signs

A. Maximum Number: Only 1 sign is allowed per street frontage.

B. Surface Area and Height:

1. Residential properties on less than 2 acres: Such signs may be no greater than 4 square feet in area (all types of signs) and 6 feet in height (if freestanding).
2. Non-residential properties or residential properties exceeding 2 acres: Such signs may be no greater than 24 square feet in area (all types of signs) and 10 feet in height (if freestanding).

C. Location: Such signs shall only be located on property for sale or lease, with the exception of a Planned Residential Development (PRD) that does not have direct frontage on a major thoroughfare. Such properties shall be permitted one off-premise real estate sign.
D. Time Period: Real estate signs shall be removed within 7 days after the closing of the sale, rental or lease of the property. Signs for PRD's shall be removed no later than 30 days after 98% percent of the homes have been sold.
E. Illumination: Prohibited.
F. Construction Type: Pylon signs are permitted.

9. Political Signs

A. Surface Area and Height: Shall not exceed 6 square feet in area and 4 feet in height if freestanding.
B. Location: Political signs shall not be located on any trees, utility poles, publicly-owned property or within a public street right-of-way, except within NCDOT right-of-way according to the standards of NCGS 136-32. All portable and roof mounted signs for political advertisement are prohibited.
C. Time Period: Political signs may be displayed during a period beginning 45 days prior to an election and concluding 48 hours after the election. In the event of a run-off election, political signs for candidates involved may remain on display until 48 hours after the run-off election.
D. Illumination: Prohibited.
E. Construction Type: Pylon signs are permitted.

10. Governmental Signs:

A. Signs posted by various local, state and federal agencies in the performance of their duties such as regulatory signs, welcome signs and traffic signs.
B. Signs installed under governmental authority which note the donation of buildings, structures or streetscape materials (such as, but not limited to benches, park facilities, etc.).
C. Pylon and pole signs are permitted.

11. Temporary Holiday Decorations: Temporary decorations or displays, when such are clearly incidental to and are customarily and commonly associated with any national, local or religious holiday/celebration.

12. Window Displays: Merchandise, pictures or models of products or services that are incorporated as an integral part of a window display inside a building.

13. Building Marker Signs: A sign containing historical data that is cut or etched into masonry, bronze or similar material on a historic building or site.

14. Legal and Warning Signs

A. Signs erected to warn of danger or hazardous conditions such as signs erected by public utility companies or construction companies.

B. Signs required for or specifically authorized for a public purpose by any law, statute or ordinance.
C. Signs that display information pertinent to the safety or legal responsibilities of the general public with regard to a particular piece of property shall be located on the premises to which the information pertains. No advertising may be affixed to such a sign.

15. Occupant/Street Number Signs: Non-illuminated signs affixed to structures, mailboxes, decorative light post, driveway entrances, etc., which serve to identify the address of the structure or occupant. All such signs are required to be placed in such a manner as to be visible from the street.

16. Sponsorship Boards

A. Sponsorship boards, containing multiple sponsor panels, are allowed to be located at an individual athletic field, performance area or park not affiliated with a homeowner's association or residential development. Sponsorship boards may not exceed sixty four (64) square feet in area and eight (8) feet in height. Sponsorship boards are subject to the following:
   1. Shall be located behind the minimum setback, yard and buffer requirements for the district in which it is located.
   2. Shall not be visible from any right-of-way, except rights-of-way that exist interior to the athletic field, performance area or park. Signs may be located so as to be visible from the associated parking areas.
   3. Shall be monument style.
   4. Shall not exceed more than one per athletic field, performance area or park.
   5. Shall be constructed of all-weather material.
   6. Shall be well maintained at all times.
   7. Shall not be lighted other than by the light source(s) for the outdoor sports field, performance area or park when the facility is in use.
   8. The entity responsible for managing the athletic field, performance area or park shall be responsible for determining the size and configuration of the sponsorship panels.
   9. Shall be in harmony with the Town of Waxhaw way finding sign program.

17. Scoreboard Sponsor and Facility Identification Signs

A. Sponsor sign(s) and facility identification signs may be placed on a scoreboard subject to the following:
   1. Sponsor sign(s) shall not exceed twenty-five (25%) percent of the total area of the scoreboard.
   2. Facility identification signs may not exceed fifty (50%) percent of the area of the scoreboard.
   3. Shall be securely attached to the scoreboard face.
   4. Shall be well maintained at all times.

5. Shall not be lighted other than by the light source(s) for the outdoor sports field, performance area or park when the facility is in use.

13.12 PROHIBITED SIGNS

1. Off Premises Signs (including billboards): All off-premises signs, unless specifically allowed elsewhere in this section, are prohibited.

2. Animated/Flashing Signs or Signs of Illusion: Except for electronic message board signs as regulated by 13.9.3, signs displaying blinking, flashing or intermittent lights, animation, and moving parts or signs giving the illusion of movement are prohibited. Time and temperature signs that rotate or move are not permitted.

3. Pennants, Streamers, Balloons, Etc: Signs containing or consisting of pennants, feather flags, ribbons, streamers, festoon light, balloons, inflatable signs, or spinners are prohibited.

4. Roof Signs: Signs erected or maintained in whole or in part upon or over the roof or parapet of a building prohibited, except as allowed by this Ordinance (i.e. theater marquee.)

5. Signs Resembling Official Signs: Any sign that imitates an official governmental sign, or violates the Law of the State relating to outdoor advertising, is prohibited.

6. Signs Resembling Traffic Signals

A. Any sign which by color, location or nature may be confused with official highway signs, warning signs, traffic signals or other regulatory devices are prohibited.
B. Any sign that uses the word "STOP", "SLOW", "CAUTION", "DANGER", or any other word which is likely to be confused with traffic directional and regulatory signs is prohibited.
C. Any sign located in a manner or place which might constitute a traffic hazard is prohibited.

7. Signs on Roadside Appurtenances: Signs attached to or painted on utility poles, telephone poles, trees, parking meters, bridges and overpasses, other signs, benches and refuse containers, etc. are prohibited unless specifically allowed elsewhere in this chapter**.**

8. Abandoned Signs or Sign Structures

A. Signs that advertise an activity or business no longer conducted on the property on which the sign is located are prohibited. Conforming signs designed for changeable copy may be covered instead of removed.
B. Sign structures on which no sign is erected are prohibited.

C. Such signs or sign structures must be removed within 30 days of becoming an abandoned sign or sign structure.

9. **Signs Obstructing Access:** Any sign that obstructs free ingress or egress from a driveway or a required window, door, fire escape, stairway, ladder, or other required opening is prohibited.

10. **Signs with Exposed Electrical Wiring:** All wiring shall be contained in conduit or enclosed in poles or raceways. In no case shall the wiring be exposed to the public.

11. **Signs on Public Property:** Any sign installed or placed on public property or within a public right-of-way, except where encroachments are specifically permitted in this section. This includes vehicles with commercial messages parked in the public right of way or a public parking lot for more than two hours.

12. **Signs erected on poles:** unless specifically allowed elsewhere in this section, pole signs are prohibited.

13. **Signs not specifically mentioned in this section shall be prohibited.**

13.13 MAINTENANCE AND INSPECTION OF SIGNS

Signs shall be kept in proper repair. The following maintenance requirements must be observed for all freestanding, attached, and temporary signs on the exterior of buildings within the jurisdiction of the Town of Waxhaw.

1. **Damaged Signs**

A. **Surface Appearance:** No sign shall have more than 20% of its surface area covered with disfigured, cracked, ripped or peeling paint or poster paper for a period of more than 30 successive days.

B. **Broken Displays:** No sign shall remain with a bent or broken display area, broken supports, loose appendages or struts or stand more than 15 degrees from the perpendicular for a period of more than 30 successive days.

C. **Illuminated Signs:** No indirect or internally illuminated sign shall have only partial illumination for a period of more than 30 successive days.

2. **Inspections:** All signs for which a permit is required shall be subject to inspection by the Town. A representative of the Town shall be authorized to enter at all reasonable times upon any property or premises to ascertain whether the provisions of the Ordinance are being obeyed. The Town may order the removal of any sign that is not in accordance with the provisions of the Ordinance.

3. **Signs on Public Property:** Any sign installed or placed on public property or within a public right-of-way, except where encroachments are specifically permitted in this

section, shall be forfeited to the public and is subject to confiscation and disposal. In addition to other remedies hereunder, the Zoning Administrator shall have the right to charge a fee for sign removal. This fee shall include the cost of removing the sign plus a penalty to dissuade any further violation of this Ordinance. The owner shall pay the town a minimum of $100 for the first sign and $25 dollars for every sign after that collected during the same day. Signs with a different design or collected on two separate days shall be considered a new sign and the owner will be charged $100. Under no circumstance shall penalties exceed $2,000 per month for violating this Ordinance.

13.14 ENFORCEMENT

1. Enforcement Methods

A violation of this article is a violation of the Zoning Ordinance, and is subject to the enforcement procedures and penalties of Section 13.14.3, Section 17, Section 17.5, and or the other subsections of these regulations.

SECTION 14
CONDITIONAL USE PERMITS

This Ordinance provides for a number of uses to be located by right in each general zoning district subject to the use meeting certain area, height, yard and off-street parking and loading requirements. In addition to these uses, the Ordinance allows some uses to be allowed in these districts on a conditional basis subject to issuance of a conditional use permit by the Board of Commissioners. The purpose of having such uses being "conditional" is to ensure that they would be compatible with surrounding development and in keeping with the purposes of the general zoning district in which they are located and would meet other criteria as set forth in this Section.

14.1 PROCEDURES

A conditional use permit application shall be filed with the Administrator for initial staff review at least forty-five (45) days prior to the Planning Board Public Meeting. The application shall be accompanied by a site plan, drawn to scale and necessary supporting text that shall include the following information.

1. Name, address and phone number of the property owner (or his agent) and the tax parcel number of the property. (Note: The property owner or his authorized agent are the only two parties who may initiate a request for a conditional use permit.)

2. A boundary survey and vicinity map, showing the property's total acreage, zoning classification(s), general location in relation to adjoining streets, railroads and/or waterways; date and north arrow.

3. The owner's names and addresses, tax parcel numbers and existing land use(s) of all adjoining properties.

4. Proposed use of all land and structures including the number of residential units (if applicable).

5. Proposed number and location of all structures, their approximate area and their approximate exterior dimensions.

6. A description of all screening and landscaping required by these regulations and/or proposed by the applicant.

7. All existing easements, reservations and rights-of-way.

8. Proposed phasing, if any, and approximate completion time for the project.

9. Delineation of areas within the regulatory floodplain as shown on the official Federal Emergency Management Agency (FEMA) Flood Hazard Boundary Maps for Union County.

10. Traffic, parking and circulation plans, showing the proposed location and arrangement of parking spaces and ingress and egress to adjacent streets.

11. For planned residential developments (P.R.D's) and traditional neighborhood developments (T.N.D.'s), typical building front elevation drawings for residential dwellings (single-family detached, townhouse, or multi-family) proposed for the development that depict exterior features and characteristics of the dwellings proposed for the P.R.D. Such drawings shall also depict the relationship such buildings will have with the streetscape.

14.2 ADDITIONAL INFORMATION

In the course of evaluating the proposed use, the Administrator, the Planning Board or Board of Commissioners may request additional information from the applicant. A request for such additional information shall stay any further consideration of the application by the Board of Commissioners or Planning Board. This information may include (but shall not be limited to) the following:

1. Stormwater drainage plan.

2. Existing and proposed topography at five-foot contour intervals or less.

3. The existing and proposed location of all water and sewer lines and fire hydrants intended to serve the proposed development.

4. Proposed number, type, and location of signs.

5. A traffic impact study of the proposed development prepared by a qualified transportation or traffic engineer or planner. The traffic impact study shall include the following information:

A. Existing traffic conditions within the study area boundary.

B. Traffic volumes generated by the existing and proposed development on the parcel, including the morning peak, afternoon or evening peak, and average annual daily traffic levels.

C. The distribution of existing and proposed trips through the street network.

D. Analyses of the capacities of intersections located within the study area boundary.

E. Recommendations for improvements designed to mitigate traffic impacts and to enhance pedestrian access to the development from the public right-of-way; and

6. An environmental impact statement that contains the following information:

A. A cover sheet which provides, in summary form, a description of the proposed project; and,

B. A statement of purpose and need of the project; and,

C. For projects proposed by public entities, a list of alternatives of the proposed project; and,

D. A succinct description of the environment affected by the project; and,

E. A discussion of short and long-term consequences of the project on the environmental including any adverse environmental impacts which cannot be avoided; and,

F. A list of means that could be employed to mitigate any negative effects on the environment caused by this project; and,

7. Other pertinent information, including but not limited to accidents, noise, and impacts of air quality and other natural resources.

14.3 APPLICATION COMPLETENESS

No application may be deemed complete unless it contains or is accompanied by all items listed in Section 14.1 (and as may be required in Section 14.2) and a fee, in accordance with a fee schedule approved by the Board of Commissioners for the submittal of conditional use permit applications.

The applicant, in submitting an application for a conditional use permit, shall also be responsible for reimbursing the Town for all costs associated with the Town's engineering and/or outside professional consultant services with respect to review of the conditional use permit. No zoning permit shall be issued for any use associated with an approved conditional use permit unless such fee has been paid to the Town.

Ten copies of an application (and all attachments and maps) for a Conditional Use Permit shall be submitted to the Town. Eight (8) copies shall be for Planning Board review, and two (2) copies for staff.

Once complete, the Administrator shall notify the Town that a public hearing shall be scheduled.

14.4 PUBLIC HEARING (CU permit cases are quasi judicial, all witnesses to be sworn in)

Prior to the Board of Commissioners making a decision on a Conditional Use Permit, a public hearing shall be conducted. A quorum of the Board of Commissioners is required for such hearing. Notice of said public hearing shall be as follows:

1. A notice shall be published in a newspaper having general circulation in Waxhaw once a week, for two (2) successive weeks, the first notice to be published not less thank ten (10) days nor more than twenty-five (25) days prior to the date established for the hearing.

2. At least one (1) notice shall be conspicuously posted on the subject property at least ten (10) days prior to the public hearing. The notice shall be removed only after the public hearing has been held. Existing

3. A notice of the public hearing shall be sent by first class mail by the Administrator to all contiguous property owners at least ten (10) days prior to the public hearing.

14.5 PLANNING BOARD REVIEW AND RECOMMENDATION

Once the application has been accepted, the Planning Board shall review the Conditional Use application. The Planning Board may, in its review, suggest reasonable conditions to the location, nature, and extent of the proposed use and its relationship to surrounding properties, parking areas, driveways, pedestrian and vehicular circulation systems, screening and landscaping, timing of development, and any other conditions the Planning Board may find appropriate. Such conditions may include dedication of any rights-of-way or easements for streets, water, sewer, or other public utilities necessary to serve the proposed development.

The Planning Board shall forward its recommendation to the Board of Commissioners within forty-five (45) days of receiving the application. If a recommendation is not made within forty-five (45) days, the application shall be forwarded to the Board of Commissioners without a recommendation from the Planning Board. Notwithstanding the foregoing, the Planning Board may extend a longer time period with consent of the applicant.

14.6 BOARD OF COMMISSIONERS ACTION

Once the recommendation of the Planning Board has been made, or the forty-five (45) day period elapses without a recommendation, the Board of Commissioners shall hold a public hearing to consider the application at its next regularly scheduled meeting, unless another date is agreed to by both the applicant and the Zoning Administrator.

In approving an application for a conditional use permit, the Board of Commissioners may attach fair and reasonable conditions to the approval. The petitioner will have a reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the Board of Commissioners. In no instance shall any of these conditions be less restrictive than any requirements that would pertain to that particular development found elsewhere in a similar zoning district.

The applicant has the burden of producing competent, material and substantial evidence tending to establish the facts and conditions which Section 14.6.2 and 14.6.4 of this Ordinance require.

If any person submits evidence allegedly contrary to any of the facts or conditions listed in Sections 14.6.1 and 14.6.3 of this Ordinance, the burden of proof for overcoming such evidence shall rest with the applicant.

The Board of Commissioners shall issue a conditional use permit if it has evaluated an application and determined that:

1. That the use requested is among those listed as an eligible Conditional Use in the District in which the subject property is located or is to be located.

2. That the Conditional Use will not materially endanger the public health or safety if located where proposed and developed according to the plan as proposed.

3. That the Conditional Use meets all required conditions and specifications; and

4. That the location and character of the Conditional Use if developed according to the plan as proposed will be in harmony with the area in which it is to be located and in general conformity with the plan of development of Waxhaw and its environs.

14.7 EFFECT OF APPROVAL

If an application for a conditional use permit is approved by the Board of Commissioners, the owner of the property shall have the ability to develop the use in accordance with the stipulations contained in the conditional use permit.

Unless otherwise stipulated as part of the approval of a conditional permit, any Conditional Use Permit issued by the Town Board shall be valid for a period of two (2) years. The applicant shall have received a building permit during the two (2) year period or otherwise substantively demonstrate to the Administrator that he/she has made substantial progress in seeking a building permit or otherwise implementing the Conditional Use Permit during this time period. If a building permit is not issued during that time period or if the applicant cannot demonstrate substantial progress having been made towards getting such permit issued, the Conditional Use Permit shall be null and void. The reinstatement of a Conditional Use Permit shall require the applicant to reapply for a Conditional Use Permit in accordance with the procedures listed elsewhere in this Section.

The Town Board shall have the authority to approve Conditional Use permits for a period of greater than two (2) years, on a case-by-case basis, depending on the nature of development associated with the Conditional Use Permit.

14.8 BINDING EFFECT; MINOR CHANGES

Any conditional use permit so authorized shall be perpetually binding to the property included in such permit unless subsequently changed or amended by the Board of Commissioners. However, minor changes in the detail of the approved application which:

1. Will not alter the basic relationship of the proposed development to adjacent property, and

2. For a building, will not increase the gross floor area of any non-residential use by the smaller of ten (10) percent or ten thousand (10,000) square feet, and

3. Will not decrease the off-street parking ratio or reduce the yards provided at the periphery of the site by greater than five (5) feet may be made with the approval of the Administrator on a one-time basis only. Further changes to the development may only be made by the Board of Commissioners in accordance with Section 14.4 of this Ordinance.

For example, if a conditional use permit is issued for a building having a gross floor area of 100,000 square feet, under this provision the property owner could (subject to approval of the Administrator) construct a building with a gross floor area of up to 110,000 square feet. If the property owner subsequently had his conditional use permit amended authorizing him to

construct a building of up to 150,000 square feet, the Administrator could allow the construction of a building having a gross area of up to 160,000 square feet.

14.9 CERTIFICATE OF OCCUPANCY

No certificate of occupancy for a use listed as a conditional use shall be issued for any building or land use on a piece of property which has received a conditional use permit for such particular use unless the building is constructed or used, or the land is developed or used, in conformity with the conditional use permit approved by the Board of Commissioners. In the event that only a segment of a proposed development has been approved, the certificate of occupancy shall be issued only for that portion of the development constructed or used as approved.

14.10 TWELVE-MONTH LIMITATION ON RE-APPLICATION

If a request for conditional use permit is denied by the Board of Commissioners, a similar application for the same property or any portion thereof shall not be filed until the expiration of a twelve (12) month period from the date of the most recent denial by the Board of Commissioners. This waiting period shall not be applicable where the application for a conditional use permit is substantially different from the original application.

The term "substantially different" as herein applied shall mean:

1. The proposed principal use is different than the use contained in the original application; or

2. The gross floor area of the proposed development is fifty (50) percent or more smaller than contained in the original application.

14.11 CHANGES IN CONDITIONAL USE PERMIT

Any request to materially change the conditional use permit once it has been issued must first be reviewed by the Planning Board in accordance with Section 14.5 of this Ordinance. The Board of Commissioners may thereafter change or amend any previously approved conditional use permit, only after having held a public hearing. Notice of public hearing shall be in accordance with Section 14.4 of this Ordinance. Amendment by the Board of Commissioners of a previously issued conditional use permit shall be subject to the same considerations as provided for in Section 14.6 of this Ordinance.

SECTION 15
BOARD OF ADJUSTMENT

15.1 ESTABLISHMENT OF THE BOARD OF ADJUSTMENT

The Board of Adjustment is hereby established under the authority of G.S. Section 160A-388. The Board shall consist of five (5) regular members, and two (2) alternate members to be appointed by the Board of Commissioners who are citizens and residents of the Town of Waxhaw. The members shall serve for overlapping terms of three (3) years or thereafter until their successor is appointed. The Board of Commissioners may appoint certain members to terms of less than three (3) years so that the terms of all members shall not expire at the same time. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment.

The Board of Adjustment will adopt rules and regulations for its own operation necessary to carry out the provisions of this Section.

15.2 POWERS OF THE BOARD OF ADJUSTMENT

The Board of Adjustment shall have the following powers:

1. To hear and decide appeals, where it is alleged there is error in any final order, requirements, decisions, or determinations made by an administrative official in the enforcement of the UDO or any other ordinance that regulates land use or development.
2. Following a determination by the Administrator that a requested action is not in compliance with the Ordinance, to hear and determine variances which related to the establishment or extension of structures or uses of land. The Board may not grant a variance which would allow a change in permitted uses.

15.3 APPLICATION AND PROCESS

1. Before a petition to the Board of Adjustment may be considered, a completed application on a form provided by the Town of Waxhaw shall be submitted and accompanied by a fee in accordance with the fee schedule.
2. When the Zoning Administrator makes a final, binding determination, written notice shall be provided to the property owner 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. The landowner or

applicant may post signs informing the public of the decision in accordance with N.C.G.S. 160A-388.

3. Any person who is aggrieved by the Administrator's decision may make an appeal. Any officer, department, board, or bureau of the town may also make an appeal. An appeal to the Board of Adjustment shall be filed within thirty (30) days of receipt the decision, order, determination, or interpretation made by the Administrator. Appeals to the Board of Adjustment shall be filed with the Town Clerk and shall state the grounds for appeal.
4. The Zoning Administrator shall transmit all documents and exhibits constituting the record upon which the action appealed is taken, to the Board of Adjustment as well as to the appellant and the property owner.
5. An appeal stays all action by the enforcement official seeking enforcement of or compliance with the order or decision being appealed unless the enforcement official certifies to the Board in an affidavit that a stay would cause imminent peril to life or property, or because the violation is transitory in nature, a stay would seriously interfere with the enforcement of the ordinance. In that case, enforcement proceedings shall not be stayed except by restraining order. If enforcement is not stayed, the appellant may request an expedited hearing.
6. The official who made the decision shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing to another date.
7. The Chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses by subpoena, subpoenas may be appealed to the full Board of Adjustment.
8. The Town shall prominently post a notice on the site that is the subject of the hearing or on an adjacent public right-of-way. Notice shall be mailed by first class mail to the person or entity whose appeal, application, or request is the subject of the hearing, to the property owner if the owner did not initiate the hearing, and to owners of all parcels abutting and/or directly across any public right-of-way adjacent to subject parcel, at the last addresses listed for such owners on the county tax records. Such notice must be posted and mailed at least ten (10), but not more than twenty-five (25) days, prior to the date of the hearing.

15.4 NECESSARY FINDINGS FOR VARIANCES

Variances may be granted for "zoning" related matters (i.e., any matter other than one dealing with Section 18 of this Ordinance and the approval of subdivision plats) in such individual case of undue and unnecessary hardship upon a finding by the Board of Adjustment that each of the following are met:

(1) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
(2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
(3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
(4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

When dealing with Subdivision Plat approval matters, the Town Board shall have the authority to issue variances as called for in Section 18.11.3 of this Ordinance.

When dealing with the Flood Damage Prevention Ordinance variance, the Board of Adjustment shall apply the standards in Section 6.5(4)(E).

In granting a variance, the Board may attach thereto any conditions and safeguards it deems necessary or desirable in furthering the purposes of this Ordinance. Departure from or violation of any of those conditions or safeguards shall be deemed a violation of this Ordinance, and shall be subject to the penalties, as provided in Section 17.5.

A variance, once granted, shall continue for an indefinite period of time unless otherwise specified at the time granted.

15.5 HEARINGS; ACTION BY BOARD OF ADJUSTMENT

1. The hearing before the Board of Adjustment will be quasi-judicial based upon competent, material and substantial evidence presented by sworn-in witnesses. The chair of the Board, any person acting as chair or the clerk to the Board may authorize oaths.
2. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its hearing and other official actions, all of which shall be immediately thereafter filed in the office of the Town Clerk and shall be a public record.
3. All actions by the Board of Adjustment must be in accordance with N.C.G.S. 160A-388 and said statute shall govern and control in the event of any conflict with this Section.
4. The concurring vote of four-fifths of the Board shall be necessary to grant a variance on each of the four necessary findings set forth in this Section. A variance is denied if there is no concurring vote of four-fifths of the Board on each of the four necessary findings.

A motion to deny a variance may also be made on the basis that one or more of the necessary findings are not satisfied. The Board may by a majority vote of the Board reverse or affirm, wholly or in part, or may modify the order, requirements, decision, or determination of the Administrator, and may direct the issuance of a Zoning Compliance Permit. A motion to uphold the decision may also be made.

5. Following a determination of the Board of Adjustment on quasi-judicial matters, written decisions shall be provided that reflects the determination of contested facts and the application of the standards in the UDO, signed by the Board of Adjustment Chairman or duly authorized member of the Board, filed by the Town Clerk, and delivered by personal delivery, electronic mail, or by first-class mail to the applicant, landowner, and/or other party submitting written request for decision.

15.6 APPEALS FROM DECISIONS OF THE BOARD OF ADJUSTMENT

Any person who may have a substantial interest in any decision of the Board may appeal from any decision of the Board to the Superior Court by filing with the Court Clerk a petition in writing setting forth plainly, and distinctly wherein such decision is contrary to law. Such appeal may only be filed within thirty (30) days from receipt of written notice. Any party at interest who is aggrieved by the judgment rendered by the Superior Court upon such appeal may appeal in the same manner as provided by law for appeals from other judgments of the Superior Court.

SECTION 16
AMENDMENT TO UNIFIED DEVELOPMENT ORINANCE; CONDITIONAL ZONING

16.1 TEXTUAL AND MAP AMENDMENTS

1. Statement of Intent

For the purpose of establishing and maintaining sound, stable and desirable development within the Town of Waxhaw this Ordinance shall not be amended except to correct an error in the Ordinance or, because of changed or changing conditions in a particular area or in the Town generally, or to extend the boundary of an existing Zoning District or to rezone an area to a different Zoning District, or to change the regulation and restrictions of the Unified Development Ordinance. These amendments shall be reasonably necessary to promote the public health, safety and general welfare and to achieve the purposes of this Ordinance.

2. Amendment Initiation

Subject to the limitations of the foregoing Statement of Intent an amendment to this Ordinance may be initiated by:

A. Textual Amendment

1. The Board of Commissioners;
2. The Planning Board;
3. Planning staff;
4. Any person having a substantial interest in the UDO.

B. Map Amendment

1. The Board of Commissioners;
2. The Planning Board;
3. Planning staff;
4. The affected property owner and/or agent of the owner or a third party with the property owner's written consent.

3. Procedure for Submission and Consideration of Applications for Amendment

A. Submitted to the Administrator

All applications for amendments to this Ordinance shall be in writing signed and filed with the Administrator.

The Administrator shall ensure that the application contains all the required information as specified in this Ordinance and on the application. Applications which are not complete, or otherwise do not comply with the provisions of this Ordinance, shall be returned to the applicant with a notation of the deficiencies in the application. A copy of said notation shall be placed in the applicant's file and be maintained at Town Hall.

Completed applications shall be received a minimum of twenty-five (25) days prior to the planning board meeting at which the proposed amendment is scheduled to be considered.

B. Contents of Application

All applications for amendments to this Ordinance without limiting the right to file additional material shall contain at least the following:

1. If the proposed amendment would require a change in the Zoning Map, a map at a scale of not less than four hundred feet to the inch nor more than twenty feet to the inch showing the land which would be covered by the proposed amendment.
2. A legal description of such land.
3. The names and addresses of any abutting property owners including those directly across any street.
4. Payment of applicable fee in accordance with the approved fee schedule.

Certain zoning classifications or uses may require additional material as set forth in the specific section of this UDO.

C. Conditional Use District Rezoning

Conditional Use zoning (referred to as CU) will not be applied to any new zoning requests upon the adoption date (11/10/2009) of this amendment. All parcels zoned CU prior to the amendment adoption date may go through the conditional use process or the owner/applicant may choose to go for Conditional Zoning District (referred to as CD).

No Permit shall be issued for any development within a Conditional Use District except in accordance with an approved Conditional Use Permit.

D. Conditional Zoning District

It is the intent of this Section that the applicant for rezoning to any District other than a Conditional Zoning District (referred to as CD) shall be prohibited from offering any testimony or evidence concerning the specific manner in which he intends to use or develop the property. If the applicant believes that the development of his/her property in a specific manner will lessen adverse effects upon surrounding properties or otherwise make the rezoning more in

accordance with principles underlying the Town's comprehensive zoning plan, he shall apply for rezoning to the appropriate Conditional Zoning District and specify the nature of his proposed development.

4. Planning Board Review and Recommendations

The Planning Board shall consider the application for amendment at the Planning Board Meeting. The Planning Board shall have a maximum of forty-five (45) days from the date of the public meeting to make a recommendation on the application, except for the sixty-two (62) day requirement for Conditional Zoning Districts. If a recommendation is not made during said time period, the application shall be forwarded to the Board of Commissioners without a recommendation from the Planning Board. Notwithstanding the forgoing, the Planning Board may extend a longer time period with consent of the applicant.

A. If a recommendation is made to the Board of Commissioners by the Planning Board concerning an application for rezoning said recommendation shall be as follows:

1. Grant the rezoning as requested, or
2. Grant the rezoning with a reduction of the area requested, or
3. Grant the rezoning to a more restrictive general zoning district or districts, or
4. Grant the rezoning with a combination of Section 16.1.4(A)(2), or 16.1.4(A)(3), or
5. Deny the rezoning as requested.

The list of general zoning districts in descending order of restrictiveness shall be:

1.	OS	12.	C-1
2.	R-1	13.	C-2
3.	R-2	14.	C-3
4.	R-3	15.	TC
5.	R-4	16.	MS
6.	TND	17.	C-4
7.	RM-1	18.	CPUD
8.	RM-2	19.	IPUD
9.	UN	20.	I-1
10.	OIS	21.	I-2
11.	NMX		

B. If a recommendation is made to the Board of Commissioners by the Planning Board concerning an amendment to change the text or map of this Ordinance, said recommendation shall be as follows:

1. Adoption of the amendment as written, or mapped.
2. Adoption of the amendment as revised by the Planning Board, or
3. Denial of the amendment.

5. The Board of Commissioners Shall Hold a Public Hearing

The Board of Commissioners shall receive public comment on applications for amendments to this Ordinance in a Public Hearing at a time and place to be announced by public notice. A Quorum of the Commissioners is required for such hearing.

6. Public Hearing and Notice Thereof

A public hearing as mentioned above shall be held by the Board of Commissioners before adoption of any proposed amendment to this Ordinance. Notice of the public hearing shall be given as follows:

A. A notice of the public hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the town. The notice shall be published the first time not less than ten (10) days nor more than twenty-five (25) days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.

B. Whenever there is a zoning classification action involving a parcel of land, the owner of that parcel of land as shown on the county tax listing, and the owners of all parcels of land abutting that parcel of land as shown on the county tax listing, shall be mailed a notice of the proposed classification by first class mail at the last addresses listed for such owners on the county tax abstracts; provided that this sentence does not apply in the case of a total rezoning of all property within the corporate boundaries of a municipality. The person or persons mailing such notices shall certify to the Board of Commissioners that fact, and such certificate shall be deemed conclusive in the absence of fraud.

C. When a zoning map amendment is proposed, at least (1) notice shall be conspicuously posted on the subject property at least ten (10) days prior to the public hearing. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the town shall post sufficient notices to provide reasonable notice to interested persons.

7. Board of Commissioners Action

The Board of Commissioners shall not consider the adoption of any proposed application for amendment until after the Planning Board makes a recommendation, or fails to make a recommendation within the time allowed.

Once the Board of Commissioners has received the recommendation of the Planning Board or the forty-five (45) day period elapses without a recommendation, the Board of Commissioners shall consider the application at its next regularly scheduled meeting, unless a later date is mutually agreed upon by the Zoning Administrator and Applicant or when the application is not complete because of plan revisions or requirements suggested by the Planning Board or the Zoning Administrator. The Board of Commissioners shall render a decision on the application in the form of any of the various options listed in Subsection 16.1.4(A) or 16.1.4(B). Alternatively, the Board of Commissioners may send the application back to the Planning Board for further study and consideration.

The Board of Commissioners shall have the authority to call for additional public hearings on any amended application brought before them. The forty-five (45) day Planning Board review period shall be in effect after the close of the first, or any subsequent public hearings called for by the Board of Commissioners on a particular application.

8. Withdrawal of Application

An applicant may withdraw his application at any time by written notice to the Administrator. However, any withdrawal of an application after the giving of the first notice as required in Subsection 16.1.6 shall be considered, for the purposes of Subsection 16.1.9, a denial of the petition. An applicant shall remain liable for any and all fees and costs regardless of withdrawal.

9. Effect of Denial on Subsequent Petitions

When the Board of Commissioners shall have denied a map application or the application shall have been withdrawn after the first notice of the public hearing thereon, the Board of Commissioners shall not entertain another application for the same or similar map amendment, affecting the same property or a portion of it until the expiration of a one year period, extending from the date of denial or withdrawal, as applicable. This waiting period shall not be applicable for the same property or a portion of it if the first application was not for a Conditional Zoning District and the second application is for a Zoning District designated as a Conditional Zoning District or the Administrator determines at least one of the following has occurred:

A. There has been a significant change in the zoning district classification of an adjacent piece of property.

B. The Town has adopted a plan that changes policy regarding how the property affected by the amendment should be developed.

C. Construction or expansion of a road, water line, sewer line, or other such facilities has occurred to serve the property and can comfortably accommodate the intensity of development allowed under the proposed classification.

16.2 CONDITIONAL ZONING DISTRICTS

It will be noticed that a Conditional Zoning District (bearing the designation CD) corresponds to each of the other primary Districts authorized in this Ordinance

1. Purpose

Conditional zoning districts provide for those situations where a particular use, properly planned, may be appropriate for a particular site, but where the general district has insufficient standards to mitigate the site-specific impact on surrounding areas. Uses which may be considered for a conditional zoning district are restricted to those uses permitted in the corresponding general zoning district. Conditional Zoning Districts are established on an individualized basis, only in response to a petition by the owners of all the property to be included. Zoning of a conditional zoning district is not intended for securing early or speculative reclassification of property.

2. General Requirements

A. Application

Application

Rezoning to a Conditional Zoning shall only be considered upon written consent or request of all the owners of the property being rezoned.

Minimum Standards

Within a Conditional Zoning District, all standards and requirements of the corresponding general Zoning District shall be met, except to the extent that the conditions imposed are more restrictive than those standards.

B. Procedures

Applicants for conditional zoning must first meet with Waxhaw Planning and Community Development staff for a pre-application review of the project proposal. During the pre-application meeting, staff will discuss procedural and substantive matters related to the proposed application.

A conditional zoning application shall be filed with the Administrator, a minimum of ninety (90) days prior to the Planning Board Meeting at which the application is to be heard. The application shall be accompanied by a site plan, drawn to scale and supporting information and text that specifies the actual use or uses intended for the property and any rules, regulations, and conditions that, in

addition to all predetermined ordinance requirements, will govern the development and use of the property. *This information must also be submitted in digital format.* The following information shall be provided, if applicable:

1. Name, address and phone number of the property owner (or his agent) and the tax parcel number of the property. This information should be obtained from Union County tax records. (Note: The property owner or his authorized agents are the only two parties who may initiate a request for conditional zoning.)
2. A boundary survey and vicinity map, showing the property's total acreage, zoning classification(s), general location in relation to adjoining streets, railroads and/or waterways; date and north arrow.
3. Existing and proposed topography at two-foot contour intervals or less on the site and within 300 feet of the site boundary.
4. The owner's names and addresses, tax parcel numbers and existing land use(s) of all adjoining properties. This information should be obtained from Union County tax records.
5. Proposed use of all land and structures including the number of residential units (if applicable).
6. Proposed number and location of all structures, their approximate area and their approximate exterior dimensions, to include height of structure.
7. A description of all screening and landscaping required by these regulations and/or proposed by the applicant.
8. All existing easements, reservations and rights-of-way.
9. Proposed phasing, if any, and approximate completion time for the project.
10. Delineation of areas within the regulatory floodplain as shown on the official Federal Emergency Management Agency (FEMA) Flood Hazard Boundary Maps for Union County.
11. Traffic, parking and circulation plans, showing the proposed location and arrangement of parking spaces and ingress and egress to adjacent streets, existing and proposed.
12. Typical building front elevation drawings proposed for the development that depicts exterior features and characteristics of the buildings**.** Such drawings shall also depict the relationship such buildings will have with the streetscape.
13. Proposed number, type, and location of signs.
14. Tree Survey (Section 9.21.7(F) Tree Survey Requirements)

The Zoning Administrator has the authority to waive any application requirement where the type of use or scale of proposal makes providing that information unnecessary or

impractical. In the event that such a waiver is granted by the Zoning Administrator, a substantive explanation for said waiver shall accompany the application.

C. Additional Information

In the course of evaluating the proposed rezoning, the Administrator, the Planning Board or Board of Commissioners may request additional information from the applicant. A request for such additional information shall stay any further consideration of the application by the Board of Commissioners or Planning Board until the requested information is submitted. This information may include (but shall not be limited to) the following:

1. Stormwater drainage plan.
2. The existing and proposed location of all water and sewer lines and fire hydrants intended to serve the proposed development.
3. A traffic impact study of the proposed development prepared by a qualified transportation or traffic engineer or planner. The traffic impact study may, as requested, include any or all of the following information:

    a. Existing traffic conditions within the study area boundary.
    b. Traffic volumes generated by the existing and proposed development on the parcel, including the morning peak, afternoon or evening peak, and average annual daily traffic levels.
    c. The distribution of existing and proposed trips through the street network.
    d. Analyses of the capacities of intersections located within the study area boundary.
    e. Recommendations for improvements designed to mitigate traffic impacts and to enhance pedestrian access to the development from the public right-of-way; and

4. An environmental impact statement from a qualified entity that contains the following information:

    a. A cover sheet which provides, in summary form, a description of the proposed project; and,
    b. A statement of purpose and need of the project; and,
    c. For projects proposed by public entities, a list of alternatives of the proposed project; and,
    d. A succinct description of the environment affected by the project; and,
    e. A discussion of short and long-term consequences of the project on the environment including any adverse environmental impacts which cannot be avoided; and,

f. A list of means that could be employed to mitigate any negative effects on the environment caused by this project; and,

5. Other pertinent information, including but not limited to safety, noise, and impacts of air quality and other natural resources.

D. Application Completeness

No application may be deemed complete unless it contains or is accompanied by all items listed in Section 16.2.2(B) (and as may be required in Section 16.2.2(C)) and a fee, in accordance with a fee schedule approved by the Board of Commissioners for the submittal of conditional zoning application. Applications which are not complete, or otherwise do not comply with the provisions of this Ordinance, shall be returned to the applicant with a notation of the deficiencies in the application. A copy of said notation shall be placed in the applicant's file and be maintained at Town Hall.

The applicant, in submitting an application for a conditional zoning, shall also be responsible for reimbursing the Town for all costs associated with the Town's engineering, legal, and/or outside professional consultant services with respect to review of the conditional zoning application. No application is deemed complete until all fees have been paid to the Town of Waxhaw.

Three (3) copies of a complete application (including all required attachments and maps) for a Conditional Zoning shall be submitted to the Town for initial staff review at least ninety (90) days prior to the Planning Board meeting. Ten (10) copies shall be submitted for the Planning Board at least 10 days prior to the meeting date. Twelve (12) copies shall be submitted for the Board of Commissioners at least 15 days prior to the meeting date. Submissions shall be in a PDF file format or, other electronic format at the request of the Zoning Administrator. The applicant is responsible for providing printed copies of the application and required attachments. If the Town must print electronic submissions the applicant will reimburse the Town for printing costs. Once complete, the Administrator shall notify the applicant to schedule a neighborhood meeting.

E. Neighborhood Meeting

Once the requisite copies of the application have been submitted to the Town and the requisite fees have been paid, one or more Neighborhood Meetings, as determined by the Zoning Administrator, shall be scheduled and held. As used herein, neighborhood meeting shall mean and refer to a meeting with participation from interested parties and complying with the requirements described herein. Such meeting shall occur prior to any recommendation by the Planning Staff and prior to going before the Planning Board and Board of

Commissioners. The neighborhood meeting is designed to provide an opportunity for community involvement in accordance with the following requirements:

1. The applicant shall provide an agenda, schedule, location and list of participants such as landscape architects, engineers, etc. to answer questions from citizens and service providers (NCDOT, utilities, DENR) for the project in cooperation with the Planning Staff.
2. All meetings shall be held at the proposed development and/or in the Town of Waxhaw municipal limits. The applicant shall hold a minimum of one (1) neighborhood meeting, unless additional meetings are necessary as determined by the Zoning Administrator. The applicant is responsible for all costs associated with the neighborhood meeting, including notification requirements, venue rental, etc.
3. Notice of Public Involvement Meetings shall at a minimum, be given as follows:

    a. A notice shall be sent by first class mail by the applicant to the owners of all properties that lie within three hundred (300) feet from the exterior boundaries of the proposed development. The notice shall include the date, time, and location of the meeting and a brief description of the project, current and proposed zoning of the property, site and vicinity maps. The notice shall be sent at least 10 days but not more than 25 days prior to the neighborhood meeting. Proof of mailings shall be provided to the Town of Waxhaw either by submitting a notarized photo copy of the postmarked envelopes to be mailed or sending the notices certified mail and providing copies of the return receipts to the Town.
    b. A Neighborhood Meeting notification sign shall be posted by the applicant in a conspicuous place at the property not less than 10 days prior to the Neighborhood Meeting. The sign shall indicate date, time, and location(s) of the neighborhood meeting.

4. At a minimum, the following shall be covered in the meeting:

    a. Introduction of the neighborhood meeting organizer (i.e. developer, property owner, etc.);
    b. Description of the proposed project;
    c. Existing Features Analysis (slopes, wetlands, trees, natural design constrains); and
    d. Explanation of how comments made at the neighborhood meeting are used.

Town of Waxhaw staff will attend the neighborhood meeting to observe and answer questions specific to Waxhaw's planning and approval process.

5. The applicant shall provide to the Town a written summary of the neighborhood meeting. The summary shall include:

   a. A copy of the mailed notice of the neighborhood meeting (list of persons and addresses)
   b. An attendance roster or listing of participants;
   c. A summary of concerns, issues, and problems voiced at the meeting along with the applicant's responses thereto; and
   d. A summary of proposed modifications, or site plan revisions, based on the feedback/ concerns from the meeting.

After Town review, this information will be available at Town Hall and at subsequent meetings concerning the project. When practical, comments, ideas, and suggestions presented during the Neighborhood Meeting should be incorporated by the developer into the proposed development.

6. Following the Neighborhood Meeting, the applicant shall have the opportunity to make changes to the application to take into account information and comments received. The applicant shall notify the Zoning Administrator of his/her intent regarding changes to the application within five (5) days following the Neighborhood Meeting. If revised, one or more revised copies of the application shall be submitted to the Zoning Administrator for review. No additional fee shall be required to be paid for making such changes provided the Zoning Administrator receives the revised application within ten (10) days following the Neighborhood Meeting. If a revised application is not received during said ten (10) day period, or if the applicant otherwise notifies the Zoning Administrator in writing that no revised application will be submitted, the Zoning Administrator shall review the original application.

3. Planning Board Review and Recommendation

Once a complete application has been received and reviewed by staff, the Planning Board shall review the Conditional Zoning application. When reviewing an application to rezone property to a conditional zoning district, the Planning Board may request additional information [in addition to that required in Subsections 16.2.2(B), 16.2.2(C), as they deem necessary. The Planning Board may make one of the following recommendations to the Board of Commissioners:

A. Recommend approval of the application as requested, or

B. Recommend approval of the application with fair and reasonable conditions as proposed by the applicant and/or as recommended by the Planning Board.

C. Recommend denial of the application.

Upon making a recommendation, the Planning Board shall advise and comment on whether the proposed amendment is consistent with any land use plan that has been adopted and any other officially adopted plan that is applicable. The Planning Board shall provide a written recommendation to the Board of Commissioners that addresses plan consistency, a statement of reasonableness, and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the land use plan shall not preclude consideration or approval of the proposed amendment by the governing board.

The Planning Board shall forward its recommendation to the Board of Commissioners within sixty-two (62) days of having first heard the application (except where additional information is requested by the Planning Board as outlined in Section 16.2.2(C)). If a recommendation is not made within sixty-two (62) days, the application shall be forwarded to the Board of Commissioners without a recommendation from the Planning Board.

4. Public Hearing (Conditional Zoning cases are legislative)

The Zoning Administrator shall transmit any decision of the Planning Board to the Board of Commissioners. Once action has been taken by the Planning Board or the time for action by the Planning Board has expired, and subject to the election provisions in section 16.2.5, the Board of Commissioners shall, no later than their next regularly scheduled meeting (unless a later date is agreed to by both the applicant and the Zoning Administrator), hold a public hearing or consider a requested zoning change. Notification of the public hearing shall be made in the following manner:

A. A notice shall be published in a newspaper having general circulation in Waxhaw once a week, for two (2) successive weeks, the first notice to be published not less than ten (10) days nor more than twenty-five (25) days prior to the date established for the hearing.

B. At least one (1) notice shall be conspicuously posted on the subject property at least ten (10) days prior to the public hearing. The notice shall be removed only after the public hearing has been held.

C. A notice of the public hearing shall be sent by first class mail by the Administrator to all property owners within three hundred (300) feet from the exterior boundaries of the proposed development at least ten (10) and no more than twenty-five (25) days prior to the public hearing.

D. Prior to the public hearing, all fees incurred for the review of the conditional zoning application must be paid in full. Applications with outstanding fees will not be forwarded to the Board of Commissioners.

The Zoning Administrator shall certify that the requirements of this section have been met.

5. Board of Commissioners Action

In approving the rezoning application, the Board of Commissioners may attach fair and reasonable conditions to the approval. The applicant must agree to any additional requirements prior to approval or denial by the Board of Commissioners. In no instance shall any of these conditions be less restrictive than any requirements that would pertain to that particular development found elsewhere in a similar zoning district.

Conditional zoning decisions may be made in consideration of identified relevant adopted land use plans for the area, including, but not limited to, comprehensive plans, strategic plans, district plans, area plans, neighborhood plans, corridor plans, and other land-use policy considerations.

The Board of Commissioners may choose to submit the application to the Planning Board for further study. The application may be resubmitted to the Planning Board with any modifications that are agreed to by the applicant. The Planning Board shall have up to forty-five (45) days from the date of such submission to make a report to the Board of Commissioners. Once the Planning Board issues its report, or if no report is issued within that time period, the Board of Commissioners can take action on the application in accordance with this Section

Prior to adopting or rejecting any zoning amendment, the Board of Commissioners shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and explaining why the Board of Commissioners considers the action taken to be reasonable and in the public interest.

The Board of Commissioners may not vote to rezone property to a conditional zoning district during the time period beginning on a date of a municipal general election and concluding on the date immediately following the date on which the Board of Commissioners holds its organizational meeting following a municipal general election unless no person spoke against the rezoning at the public hearing and no valid protest

petition under G.S. 160A-368 was filed. If a valid protest petition under G.S. 160A-386 has been filed against a zoning petition which would otherwise have been scheduled for a public hearing during the period beginning on the first day of October prior to a municipal general election, but prior to the new Board of Commissioners taking office, then the public hearing on such petition and any decision on such petition shall both be postponed until after the new Board of Commissioners take office.

6. Uses Within District

Conditional zoning districts shall be "parallel" to general districts. Uses allowed in the corresponding general district shall be permitted in CD districts, provided that they meet all additional conditions associated with the conditional zoning district.

7. Conditions

In approving an application for a rezoning request to a conditional zoning district, the Board of Commissioners upon receiving recommendations from the Planning Board, Staff, and public comments, may specify the location on the property of the proposed Use, the number of units / square footage, the location and extent of supporting facilities such as parking lots, driveways, and access streets, the location and extent of buffer areas and other special purpose areas, the timing of development, the location and extent of rights-of-way and other areas to be dedicated for public purposes, public dedications, and other such matters as the applicant and the Board of Commissioners find appropriate. The applicant will have a reasonable opportunity to consider and respond to any additional requirements prior to approval or denial of the application by the Board of Commissioners. In no instance shall any of these conditions be less restrictive than any requirements that would pertain to that particular development found elsewhere in a similar general zoning district**.** <u>All conditions must be mutually agreed upon by both the Board of Commissioners and the applicant for the rezoning to take effect, otherwise the proposed rezoning is invalid and the existing zoning shall remain in effect.</u>

8. Effect of Approval

A. If a petition for conditional zoning is approved, the development and use of the property shall be governed by the predetermined ordinance requirements applicable to the district's classification, the approved site plan or master plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district and are binding on the property as an amendment to these regulations and to the zoning maps.

B. If a petition is approved, the petitioner shall comply with all requirements established in the Unified Development Ordinance for the Town of Waxhaw. Only those uses and structures indicated in the approved petition and site plan

shall be allowed on the subject property. A change of location of the structures may be authorized pursuant to Alterations to Approval, Sect. 16.2.9.

C. Following the approval of the petition for a conditional zoning district, the subject property shall be identified on the Zoning Maps by the appropriate district designation. A parallel conditional zoning shall be identified by the same designation as the underlying general district preceded by the letters "CD" (for example CD-C3).

9. Alterations to Approval

Except as provided in this section, a request to change the site plan or the conditions governing an approved conditional zoning district shall be processed in accordance with Section 16.2.2 of this Ordinance as a new application to rezone property to a conditional zoning district.

The Zoning Administrator shall have the delegated authority to approve an administrative amendment to an approved conditional zoning district site plan or to the governing conditions without the requested change having to be approved as a new application in accordance with Section 16.2.2. Such administrative amendments shall include only those changes that (i) do not significantly alter the site plan or its conditions and (ii) do not significantly impact abutting properties.

No administrative amendment may increase the amount of allowed non-residential development by more than ten percent (10%) of the approved square footage or one thousand (1,000) square feet, whichever is less. No administrative amendment (i) may increase the amount of residential development by more than ten percent (10%) of the approved square footage, if a maximum square footage for residential development was imposed, or (ii) may increase the maximum number of allowed dwelling units by more than five percent (5%).

Any request for an administrative amendment shall be in writing, signed by the property owner, and it shall detail the requested change. The applicant must provide any additional information requested by the Zoning Administrator. Accompanying the written request must be the applicable fee for administrative review, if any, that is required by the current Town of Waxhaw fee schedule. Any decision by the Zoning Administrator to approve or deny a request for an administrative amendment must be in writing and must state the grounds for approval or denial. The Zoning Administrator shall always have the discretion to decline to exercise the authority delegated by this section because the Zoning Administrator is uncertain if the requested change would qualify as an administrative amendment or because the Zoning Administrator determines that a public hearing and Board of Commissioners consideration is appropriate under the circumstances. If the Zoning Administrator declines to exercise

the authority delegated by this section, the applicant can only apply for a rezoning in accordance with Section 16.2.2 of this Ordinance.

Review of approval of a conditional zoning district

It is intended that property shall be reclassified to a conditional zoning district only in the event of firm plans to develop the property. Therefore, no sooner than two (2) years after the date of approval of the petition, the Planning Board may under its own initiation or through direction from the Board of Commissioners examine the progress made toward developing the property in accordance with the approved petition and any conditions attached to the approval. If the Planning Board determines that progress has not been made in accordance with the approved petition and conditions, the Planning Board shall forward to the Board of Commissioners a report which may recommend that the property be classified to another district, including but not limited to the zoning designation assigned to the property prior to the existing conditional zoning.

10. Certificate of Occupancy

No certificate of occupancy for a use listed as a use shall be issued for any building or land use on a piece of property which has received a permit for such particular use unless the building is constructed or used, or the land is developed or used, in conformity with the conditional zoning requirements approved by the Board of Commissioners. In the event that only a segment of a proposed development has been approved, the certificate of occupancy shall be issued only for that portion of the development constructed or used as approved.

11. Twelve-Month Limitation on Re-application

If a request for rezoning to conditional zoning is denied by the Board of Commissioners, a similar application for the same property or any portion thereof shall not be filed until the expiration of a twelve (12) month period from the date of the most recent denial by the Board of Commissioners. This waiting period shall not be applicable where the application for a conditional zoning is substantially different from the original application or the Administrator determines that at least one of the following has occurred:

A. There has been a significant change in the zoning district classification of an adjacent piece of property.

B. The Town has adopted a plan that changes policy regarding how the property affected by the amendment should be developed.

C. Construction or expansion of a road, water line, sewer line, or other such facilities has occurred to serve the property and can comfortably accommodate the intensity of development allowed under the proposed classification.

The term "substantially different" as herein applied shall mean:

A. The proposed principal use is different than the use contained in the original application; or

B. The gross floor area of the proposed development is fifty (50) percent or more smaller than contained in the original application.

16.3 PROTEST PETITION

A written petition of protest may be filed with reference to any proposed zoning map amendment in accordance with North Carolina General Statute 160A-385 and 160A-386. A protest petition must be signed by the owners of either (i) twenty percent (20%) or more of the area included in the proposed change, or (ii) five percent (5%) of a one-hundred foot wide buffer extending the entire boundary of each discrete or separate area proposed to be rezoned. An amendment shall not become effective except by a favorable vote of three-fourths (3/4) of all members of the Board of Commissioners. This section shall not be applicable to any amendment that initially zones property added to the territorial coverage of this ordinance as a result of annexation or otherwise.

1. No protest against any proposed change shall be valid or effective unless it be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment, and unless it shall have been received by the Town Clerk in sufficient time to allow the town at least two normal work days, excluding Saturdays, Sundays and legal holidays, before the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition. All protest petitions shall be on a form prescribed and furnished by the Administrator, and such form may prescribe any reasonable information deemed necessary to permit the Administrator to determine the sufficiency and accuracy of the petition.

SECTION 17
ADMINISTRATION

17.1 ADMINISTRATOR

This Ordinance shall be administered and enforced by the Administrator. If the Administrator shall find that any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal Use of land, buildings, or structures; removal of illegal buildings or structures or addition, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violations of its provisions.

17.2 CERTIFICATE OF ZONING COMPLIANCE FOR USES ALLOWED BY RIGHT

No land shall be excavated, filled, paved, used or occupied and no building hereafter structurally altered, erected, or moved, shall be used, or its use changed until a Zoning Permit shall have been issued by the Administrator stating that the building, structure, and/or the proposed use thereof complies with the provisions of this Ordinance. No zoning permit shall be issued except in conformity with the provisions of this Ordinance unless after written order from the Board of Adjustment.

A record of all zoning permits shall be kept on file in the office of the Administrator and copies shall be furnished, on request, to any persons having a proprietary or tenancy interest in the building erected.

1. Application Procedures for Uses by Right

Each application for a Zoning Permit shall be accompanied by a plan in duplicate, drawn to scale, one (1) copy of which shall be returned to the Owner upon approval. A zoning permit application form can be obtained at Town Hall, and shall contain the information listed below.

A fee for processing each application for a zoning permit or certificate of zoning compliance shall be charged by the Town.

A. <u>Single-Family and Two-Family Residential Structures</u>

Two (2) copies of a scaled dimensional survey drawn by and certified as true and correct by a surveyor or engineer registered with the State of North Carolina which shows (a) the exact shape, dimensions and location of the lot to be built upon, and (b) the exact shape, dimensions, use and location of existing

structures on the lot. Upon this survey shall be sketched the following: (a) the exact shape, dimensions and area of proposed location of the proposed structure(s) to be placed upon the lot; (b) all setback lines on the lot once the proposed residence is completed, affirmatively showing that the area of proposed location will meet all setback requirements; and (c) any other information that may be needed to insure that the proposed structure is in compliance with all applicable provisions of this Ordinance.

Provided, however, that if the tract that the residence is being constructed contains ten (10) acres or more, then the person applying for the zoning permit shall not be required to provide a drawing certified by an engineer or surveyor, but shall be allowed to present a non-certified sketch in lieu thereof; provided that the residence is not to be located closer than 200 feet from any of the boundaries of the tract. In the event that the proposed residence is to be located closer than 200 feet from any of the boundaries of the tract, then the applicant shall submit a certified survey with respect to those boundaries only. The sketch submitted shall in all other respects comply with the requirements set forth above.

B. Non-Residential and Other Residential Structures/Uses

A development plan, in accordance with Section 9.18, shall be submitted to the Administrator for review and approval.

C. Accessory Buildings on Residential

Two (2) copies of a sketch which shows: (a) the shape, dimensions and location of the lot to be built upon; (b) the shape, dimensions, use and location of existing structures on the lot; (c) the shape, dimensions, use and location of the accessory or agricultural structure(s) to be placed upon the lot: (d) all setback lines on the lot once the proposed accessory building is completed; and (e) any other information that may be needed to insure that the proposed accessory structure(s) will be in compliance with all applicable provisions of the Ordinance.

A fee for processing each application for a zoning permit shall be charged by the Town. The fee shall be as established from time to time by resolution of the Board of Commissioners, and must be paid by check or cash at the time an application for a zoning permit is received by the Town. Additional fees for engineering or other consultant review with respect to Development Plan review shall be paid to the Town prior to the zoning permit for such development being issued.

2. Approval Process for Uses Allowed by Right

The Administrator shall review the application, examine the plans and specifications, and may inspect the premises upon which the proposed structure is to be built. A permit shall be issued or denied within thirty (30) working days of receipt of application. After obtaining a zoning permit from the Administrator, the applicant shall apply to the Town of Waxhaw for a building permit. All building inspections in the Town of Waxhaw shall be done by the Town's Building Inspection Department.

3. Conditions for Approval for Uses Allowed by Right

Zoning permits issued on the basis of dimensional plans approved by the Administrator authorize only the use, arrangement, and construction set forth in such approved plans and applications. Use, arrangement, or construction that differs from that authorized shall be deemed a violation of this Ordinance and is subject to any and all sanctions as indicated under Section 17.5.

4. Expiration of Zoning Permit for Uses Allowed by Right

Any zoning permit shall become invalid unless the work authorized by it shall have been substantially begun within a period of six (6) months of the date of issuance of the permit. Once a zoning permit has expired, construction work on the lot(s) in question cannot proceed until a new zoning permit is issued.

5. Certificate of Compliance

No building hereafter erected or structurally altered or changed in use shall be used or occupied until the Administrator has issued a certificate of compliance. The certificate of compliance shall state that the building or portion of a building is in compliance with the provisions of this Ordinance, and with the information stated on the zoning permit.

6. Application for a Certificate of Compliance

A certificate of compliance may only be issued after written application for same has been made in which the applicant must state that the building or structure erected or altered or changed complies in all respects with this Ordinance and the zoning permit previously issued. If the application for certificate of compliance is for any building the application shall include a scaled, dimensional plat drawn by and certified as accurate by a surveyor or engineer registered with the State of North Carolina that affirmatively shows that the building or structure was erected in compliance with this Ordinance and the zoning permit previously issued. Provided, however, for residential properties only, that the tract that the residence is constructed contains ten (10) acres or more, then the person applying for the certificate of compliance shall be allowed to present a non-certified sketch in lieu thereof, provided that the residence is not to be located closer than 200 feet from any of the boundaries of the tract. In the event that the proposed residence is to be located closer than 200 feet from any of the boundaries of the tract, then the applicant shall submit a certified survey of the improvements with respect to those boundaries only. The sketch submitted shall in all other respects comply with the requirements set forth above.

7. Right of Appeal

If the Zoning Permit or Certificate of Zoning Compliance is denied, the applicant may appeal the action of the Administrator to the Board of Adjustment.

17.3 DUTIES OF ADMINISTRATOR, BOARD OF ADJUSTMENT, COURTS AND BOARD OF COMMISSIONERS AS TO MATTERS OF APPEAL

It is the intention of this Ordinance that all questions arising in connection with the enforcement of this Ordinance shall be presented first to the Administrator and that such questions shall be presented to the Board of Adjustment only on appeal from the Administrator; and that from the decision of the Board of Adjustment recourse shall be to courts as provided by law. It is further the intention of this Ordinance that the duties of the Board of Commissioners in connection with the Ordinance shall not include the hearing and passing upon disputed questions that may rise in connection with the enforcement thereof, but the procedure for determining such questions shall be as herein set out in the Ordinance, and that the duties of Board of Commissioners in connection with this Ordinance shall be only the duty of considering and passing upon any proposed amendment or repeal of the Ordinance as provided by law.

17.4 EARLY VESTING OF DEVELOPMENT RIGHTS UPON APPROVAL OF SITE PLAN

Pursuant to G.S. 160A-385.1 and not withstanding any other provision of this Ordinance or amendment thereto, a landowner may apply for a site specific development plan approval which shall entitle said landowner to develop properly in accordance with said site specific development plan. The procedure for establishing a vested right is set forth in this section.

1. Definitions

For the purpose of this section only, the following definitions shall apply:

A. Landowner

Any owner of a legal or equitable interest in real property, including the heirs, devisers, successors, assigns, and personal representative of such owner. The landowner may allow a person holding a valid option to purchase to act as his agent or representative for purposes of submitting a proposed site-specific development plan in the manner allowed by Ordinance.

B. Property

All real property subject to the regulations contained in this Ordinance.

C. Vested Right
The right to undertake and complete the development and use of property under the terms and conditions of an approved site-specific development plan.

2. Submission of a Site Specific Development Plan

To apply for vested right, a landowner shall first submit to the Administrator a site-specific development plan. The plan shall be submitted in completed form (i.e., contain all information as herein prescribed) at least twenty-five (25) days prior to the date of a regularly scheduled meeting of the Board of Commissioners. The site-specific development plan shall be considered complete if submitted with a fee (in accordance with a fee schedule adopted by the Board of Commissioners) and an accompanying application that, at a minimum, contains all information necessary for review of a Conditional Use Permit or Conditional Zoning application.

3. Public Hearing

Notice of any Board of Commissioners public hearing shall be given as follows:

A. A notice shall be published in a newspaper having general circulation in the Waxhaw area once a week, for two (2) successive weeks, the first notice to be published not less than ten (10) days nor more than twenty-five (25) days prior to the date established for the hearing.

B. A notice of the public hearing shall be sent by first class mail by the Administrator to all contiguous property owners at least ten (10) days prior to the public hearing.

4. Board of Commissioners Action

Once the public hearing has been conducted and concluded, and a recommendation received from the Planning Board (except as herein provided) the Board of Commissioners shall determine whether or not to approve the site-specific development plan and accord the vested right. In approving an application for vested rights of a site specific development plan, the Board of Commissioners may attach fair and reasonable ad hoc conditions which tend to support the requiring finding of facts as herein listed. The petitioner shall be given reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the Board of Commissioners. The Board of Commissioners may not require the landowner to waive his vested right as a condition of developmental approval.

The Board of Commissioners may approve the site-specific development plan if it has evaluated an application and determined that:

A. The use meets all required specifications of the Unified Development Ordinance, and

B. The use will not materially endanger the public health or safety and will not substantially injure the value of adjoining property if located where proposed. Conditions, if any, placed on the site-specific development plan by the Board of Commissioners shall be adequate to meet this requirement.

C. If the site-specific development plan is vested for a period of greater than two (2) years, this shall be based on one or more factors so described in Section 17.4.5.

The burden of proof of producing evidence to support these findings (and to overcome any challenges that approval of the site plan would be contrary to one or more of these findings) shall rest entirely with the landowner.

If the use or development for which the site specific development plan is submitted is a conditional use, the Board of Commissioners may approve the site specific development plan contemporaneously with the approval of the Conditional Use Permit or Conditional Zoning. In no case, however, may a site specific development plan be approved for a use or development which requires the issuance of a Conditional Use Permit without the Conditional Use Permit having first been issued or approval of the Conditional Zoning.

5. Effect of Approval

The effect of the Board of Commissioners approving a site-specific development plan shall be to vest such site plan for a period of two (2) years from the date of approval. If the landowner requests, however, the Board of Commissioners may approve a vesting period not to exceed five (5) years from the date of approval. The vesting of any site plan beyond a two (2) year period may only be authorized by the Board of Commissioners where it is found that due to (1) the sizing and phasing of the development; or (2) the level of Investment; or (3) the need for the development; or (4) economic cycles; or (5) market conditions, building permits for all phases of the development cannot be secured within two years.

A vested right shall confer upon the landowner the right to undertake and complete the development and use or said property under the terms and conditions of the site specific development plan as provided for in this Section. Failure to abide by the terms and conditions placed upon such approval will result in the forfeiture of the vested right previously accorded.

A vested right, once established as herein provided, shall preclude any zoning action by the Town which would change, alter, impair, prevent, diminish or otherwise delay the development or use of the property as set forth in the approved site specific development except under the following conditions:

A. The affected landowner provides written consent to the Town of his desire to terminate the vested right; or,

B. The Town determines, after having advertised and held a public hearing, that natural or man made hazards exist on or in the immediate vicinity of the property which pose a serious threat to the public health, safety and welfare if the project were to proceed as indicated in the site specific development plan; or,

C. Compensation is made by the Town to the landowner for all costs, expenses, and other losses incurred, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and any other consultant's fees incurred after approval together with interest thereon at the legal rate until paid; or,

D. The Town determines, after having advertised and held a public hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the Town of the site specific development plan; or,

E. Upon the enactment or promulgation of a State of Federal law or regulation that precludes development as contemplated in the site-specific development plan. In such case the Town may (after having advertised and conducted a public hearing) modify the affected provisions upon a finding that the change in State or Federal law has a fundamental effect on the plan.

Once a vested right is granted to a particular site specific development plan, nothing in this section shall preclude the Town from conducting subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided such reviews and approvals are not inconsistent with the original approval.

6. Revocation or Expiration of a Vested Right

The vested right resulting from the approval of a site specific development plan may be revoked by the Board of Commissioners as provided for in Section 17.4.6. In addition, a

revocation may occur if the Board of Commissioners determines that the landowner has failed to comply with the terms and conditions of the approval or with any other applicable portion of the Unified Development Ordinance. The vested right shall otherwise expire at the end of the approval period established by the Board of Commissioners.

7. Revocation of County Building Permit

A building permit issued by Union County or the Town of Waxhaw pursuant to G.S. 160A-417 may not be revoked because of the running of time on a piece of property for which a site specific development plan has been approved and the vested right period has not otherwise expired.

8. Amendments to the Unified Development Ordinance

The establishment of a vested right on a piece of property for a site specific development plan shall not preclude the Town from establishing and putting into place one or more overlay districts which may impose additional restrictions on said property, provided such restrictions do not affect the allowable type or intensity or use. Otherwise such regulations shall become effective with respect to the subject property upon the expiration or termination of the vested right. The Town may also enforce on the property any additional regulations (adopted during the time the vested right was in effect) that are general in nature and applicable to all property subject to the regulations of this Ordinance.

17.5 VIOLATIONS

Upon determination of a violation of any Section of this Ordinance, the Administrator or his designee may cause a warning citation to be issued to the violator setting out the nature of the violation, the Section violated, the date of the violation, an order to immediately cease the violation, or if the violation is in the nature of an infraction for which an order or abatement would be appropriate in a civil proceeding, a reasonable period of time is stated in which the violation must be abated. The warning citation shall specify that a second citation shall incur a civil penalty, together with costs, and attorney fees.

If the violator fails to obey the warning citation a civil citation shall be issued by the Administrator and either served directly on the violator, his duly designated agent, or registered agent if a corporation, either in person or posted in the United States mail service by first class mail addressed to the last known address of the violator as contained in the records of the County or obtained from the violator at the time of issuance of the warning citation. The violator shall be deemed to have been served upon the mailing of said citation. The citation shall direct the violator to cure the violation and pay the citation to the Town Clerk of Waxhaw, located in the Town Hall, within fifteen (15) days of the date of the citation, or alternatively to pay the citation by mail. The violation for which the citation is issued must have been corrected

by the time the citation is paid, otherwise further citations may be issued. Citations may be issued for each day the offense continues until the prohibited activity is ceased or abated.

Except as otherwise provided herein, violations of the provisions of this Ordinance shall constitute a civil penalty in the amount of ($500) dollars for each violation. The civil penalty, if not paid to the Town Clerk within fifteen (15) days of the issuance of a citation, may be recovered by the Town in a civil action in the nature of debt for the collection of the penalty, costs, attorneys' fees and such other relief as permitted by law.

In addition to the penalty set out above, any provision of this ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. In such case, the general court of justice shall have jurisdiction to issue such orders as may be appropriate, and it shall not be a defense to the application of the Town for equitable relief that there is an adequate remedy at law.

Any provision of this ordinance that makes unlawful a condition existing upon or Use made of real property may be enforced by injunction and order of abatement by general court of justice. When a violation of such a provision occurs, the Town may apply to the appropriate division of the general court of justice for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful Use of the property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular.

In addition to an injunction, the Town may seek an order of abatement as a part of the judgment in the cause. An order of abatement may direct that Buildings or other Structures on the property be closed, demolished or removed; that fixtures, furniture or other movable property be removed from Buildings on the property; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with this Ordinance. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt, and the Town may execute the order of abatement. The Town shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and materialman's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the Clerk of Superior Court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

The provisions of the Ordinance may be enforced by one, all or a combination of the remedies authorized and prescribed by this Section.

Each day's continuing violation of any provision of this Ordinance shall be a separate and distinct offense.

17.6 IMPROPER SUBDIVISION OF LAND

After the effective date of this Ordinance, any person who, being the owner or agent of the owner of any land located within the territorial jurisdiction of this Ordinance, hereafter subdivides his land in violation of this Ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under the terms of this Ordinance and recorded in the Office of the Register of Deeds of Union County, shall be a violation of this Ordinance. The descriptions 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 of Waxhaw, through its attorney or other official designated by the Town may enjoin illegal subdivision, transfer, or sale of land by action for injunction. Further, violators of this Ordinance shall be subject to civil penalties as set forth in Section 17.5.

17.7 EFFECTS UPON OUTSTANDING BUILDING PERMITS

Nothing herein contained shall require any change in the plans, constructions, size or designated Use of any Building, Structure or part thereof for which a Building Permit has been granted by the Building Inspector prior to the time of passage of this Ordinance; provided, however, that where construction is not begun under such outstanding permit within a period of one hundred and eight (180) days subsequent to the passage of this Ordinance or where it has not been prosecuted to completion within eighteen (18) months subsequent to passage of this Ordinance, any further construction or Use shall be in conformity with the provisions of this Ordinance.

17.8 INTERPRETATION, PURPOSE AND CONFLICT

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity, and general welfare. It is not intended that this Ordinance repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, or permits previously adopted or issued pursuant to law. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern.

17.9 VALIDITY

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this

Ordinance. The Board of Commissioners hereby declares that it would have passed this Ordinance and each section, subsection, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

It is not intended that this Ordinance repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, or permits previously adopted or issued pursuant to law. Notwithstanding, whenever the regulations of this Ordinance require a greater width or size of yards, or other open space, or require a lower height of buildings or fewer number of stories or require a greater percentage of lot to be left unoccupied, or impose other more restrictive standards than are required in or under any other statute or agreement, the regulations and requirements of this Ordinance shall govern. Whenever the provisions of any other statute or agreement require more restrictive standards than are required by this Ordinance, the provisions of such statute or agreement shall govern.

This Ordinance is in part carried forward by re-enactment of some of the provisions of the Zoning Ordinance of the Town of Waxhaw (made effective by the Board of Commissioners on March 1, 1991, as amended) and the Subdivision Ordinance of the Town of Waxhaw (adopted on January 22, 1991, as amended.) It is not the intention to repeal but rather to re-enact and continue in force such existing provisions so that all rights and liabilities that have accrued there under are preserved and may be enforced. All provisions of the Zoning Ordinance of the Town of Waxhaw, enacted in 1991, as amended, and the Subdivision Ordinance of the Town of Waxhaw, enacted in 1991, as amended, which are not re-enacted herein are hereby repealed. All suits at law or in equity and/or all prosecutions resulting from the violation of any Zoning Ordinance or Subdivision Ordinance heretofore in effect, which are now pending in any of the courts of this State or of the United States, shall not be abated or abandoned by reason of the adoption of this Unified Development Ordinance but shall be prosecuted to their finality, the same as if this Ordinance had not been adopted, and any and all violations of the existing Zoning Ordinance and Subdivision Ordinance, prosecutions for which have not yet been initiated, may be hereafter filed and prosecuted. Nothing in this Ordinance shall be construed as to abandon, abate or dismiss any litigation or prosecution now pending, and/or which may heretofore have been instituted or prosecuted.

SECTION 18
SUBDIVISION AND BONDING REGULATIONS

The purpose of this Section is to establish procedures and standards for the development and subdivision of real property within the corporate limits of the Town of Waxhaw, NC, in an effort to, among other things, insure proper legal description, identification, monumentation, and recordation of real property boundaries. Further, this Ordinance will promote the orderly layout and appropriate use of the land; provide safe, convenient, and economic circulation of vehicular traffic; provide suitable building sites which are readily accessible to emergency vehicles; assure the proper installation of streets and utilities; promote the eventual elimination of unsafe or unsanitary conditions arising from undue concentration of population; and help conserve and protect the physical and economic resources of the Town of Waxhaw.

18.1 PREQUISITE TO PLAT RECORDATION

After the effective date of this Ordinance, each individual subdivision of land within the Town of Waxhaw's Corporate Limits shall comply with the requirements specified in this text before any plat can be recorded or lots sold.

18.2 HOMEOWNERS ASSOCIATION

A homeowners association shall be required for maintenance of those improvements not dedicated for public use that are associated with a subdivision. The Homeowners Association must have clear legal authority to maintain and exercise control over the common areas and facilities. The Homeowners Association must have the power to compel contributions from residents of the development to cover their proportionate share of the cost associated with the maintenance and upkeep of such common areas and facilities. A copy of such document must be submitted to the Town before final plat approval. Homeowners Association documents must be recorded in the Union County Register of Deeds before any lot is sold or any building occupied.

18.3 PLAT REVIEW PROCEDURE - GENERAL

Subdivision review is a four (4) stage review process. As an initial step, a developer shall prepare an informal sketch plan and have it reviewed by the Administrator. The purpose of this informal process is not to approve any plans but to provide an opportunity to exchange information between the developer and the Administrator.

The formal review process begins with the preliminary plan. A plan shall be submitted in accordance with specific development standards as listed in Sections 18.9 and 18.10. - Minimum Standards of Design and Required Improvements. Initially, the plan is to be reviewed by the Administrator and all applicable review agencies, to determine whether or not it complies with the requirements of this

Ordinance. Once the Administrator is satisfied, the plan shall be submitted to the Planning Board. After reviewing the comments from the Administrator, the Planning Board recommends to the Waxhaw Board of Commissioners to approve, approve conditionally, or disapprove the plan.

Once the preliminary plan has been approved, the subdivider may begin constructing the subdivision. Prior to any development, all construction plans shall be approved by the proper regulatory agencies.

Within twelve (12) months after approval of the preliminary plan by the Waxhaw Board of Commissioners, the subdivider shall submit a final plat showing that he has completed the subdivision according to the preliminary plan. The final plat shall be reviewed and approved by the Administrator. Only after the final plat has been approved by the Administrator and recorded at the Union County Register of Deeds office shall any lots be transferred or conveyed. The Administrator must record the plat within thirty (30) days after approval.

In order to expedite the review process, minor subdivisions may complete an abbreviated review procedure. As in the full review process, the Administrator shall review informally the project to insure compliance with the general development goals of the community. Instead of then submitting a preliminary plan for review and approval, the subdivider submits only the final plat for approval by the Administrator.

1. Sketch Design Plan

As stated above, the sketch plan review is an informal process that allows an exchange of information between the developer and the Administrator. Consequently, no formal application or fee is required. It is suggested, however, that plans should be on the same size paper and scale as required for preliminary plans and final plats. Two (2) paper copies shall be submitted to the Administrator. The Administrator and developer shall review the project to evaluate its feasibility in light of the Town's development practices and requirements. Once the review process has been completed, one (1) copy shall be returned to the subdivider and one (1) copy retained by the Administrator. It is important to remember that this review shall not in any way be construed as constituting an official action of approval for recording of the subdivision by the Town of Waxhaw.

2. Preliminary Plan

A. Review Procedure

The subdivider or his authorized agent shall submit copies of the preliminary plan to the Administrator at least fourteen (14) days prior to a regular meeting of the Planning Board. During this period, the Administrator shall evaluate the plan to determine whether or not it meets the requirements of this Ordinance. The Administrator may receive comments from other persons or agencies before making final recommendations. After the Administrator determines the plan meets the requirements of this Ordinance, it shall be submitted to the Planning Board for recommendation to the Waxhaw Board of Commissioners for approval. This

body shall provide to the Waxhaw Board of Commissioners recommendation of approve, approve with conditions, or disapprove the plan within forty-five (45) days after first consideration by them. When the Planning Board fails to act within the forty-five (45) day period, the subdivider may appeal directly to the Waxhaw Board of Commissioners. If the preliminary plan is not submitted to the Administrator at least fourteen (14) days prior to the regular meeting of the Planning Board, the Administrator will not have sufficient time to review the proposal, so the plan will not be submitted to the Planning Board until their next regular meeting.

B. Number of Copies and Graphic Media

Six (6) black or blue line prints of the proposed subdivision shall be submitted.

C. Scale and Size of Sheets

The preliminary plan shall be at a scale not to exceed one (1) inch to one hundred (100) feet and be drawn on a sheet with an outside dimension or not more than twenty-four (24) inches by thirty-six (36) inches and shall include a one-half (1/2) inch border on each side. Preliminary plan shall also be submitted in digital format.

D. Administrative Fees

At the time of submission of the preliminary plan, the subdivider shall pay to the Town of Waxhaw a filing fee as established by the Board of Commissioners. The applicant, in submitting an application for a preliminary plat, shall also be responsible for reimbursing the Town for all costs associated with the Town's engineering and/or outside professional consultant services with respect to review of the preliminary plat. Said fees shall be paid to the Town within thirty (30) days of preliminary plat approval. Otherwise, preliminary plat approval shall be null and void. Furthermore, no application for final plat approval shall be processed until such fee has been paid.

E. Submission to Planning Board

The Administrator shall evaluate the preliminary plan to determine whether or not it meets the requirements of this Ordinance. After review by the Administrator, the Waxhaw Planning Board shall send to the Waxhaw Board of Commissioners with a recommendation to approve, approve conditionally, or disapprove the preliminary plan. If approved or approved conditionally, the Planning Board shall certify their recommendation of approval on three (3) paper copies of the plan. This certification shall be placed on the plan by the subdivider and shall read as follows:

CERTIFICATION OF RECOMMENDATION FOR APPROVAL OF THE PRELIMINARY PLAN BY THE WAXHAW PLANNING BOARD

The Waxhaw Planning Board hereby recommends to the Waxhaw Board of Commissioners that it approves or approves conditionally the _____ Subdivision.
If approved conditionally, the specific conditions shall be listed.

_____ _____
Date Chairman - Waxhaw Planning Board

F. Contents Required
The preliminary plan shall depict or contain the information specified in Section 18.6 (Plans not illustrating or containing the information required therein shall be returned to the subdivider or his authorized agent for completion and resubmission.)

G. Disposition of Copies
If the preliminary plan is approved or approved conditionally, the Planning Board Chairman shall note approval and conditions on at least three (3) copies of the plan. One (1) copy shall be returned to the subdivider and the Planning Board shall retain two (2) copies. If the preliminary plan is disapproved, the Planning Board shall specify the reasons for such action in writing. One (1) copy of such reasons shall be returned to the subdivider and two (2) copies retained by the Planning Board. If the preliminary plan is disapproved, the subdivider may make the recommended changes and submit a revised preliminary plan to the Planning Board.

18.4 IMPROVEMENTS

All site improvements shall be in accordance with applicable standards, including without limitation the provisions of this Ordinance, the standards of Union County Public Works Department (and all applicable rules, regulations, and policies of Union County), and the North Carolina Department of Transportation (and all applicable rules, regulations, and policies of NCDOT). Except as herein provided, before a final plat is eligible for approval by the Administrator, all improvements shall be installed, approved, and completed. All plans and specifications for site improvements, including but not limited to grading, drainage, sidewalks, utilities, and street improvements shall be inspected and approved by the proper agency prior to final plat approval.

1. Improvement Guarantees

A. Agreement and Security Required

The Town of Waxhaw may enter into an agreement allowing the applicant to complete all required improvements in the subdivision / on the parcel at a later date. Such agreement can call for the completion of improvements for only a portion (i.e. phase) of the subdivision. Once said agreement is approved by the Zoning Administrator and is signed by both the Town and the applicant and the applicant provides the security required herein, the final plat, or portion thereof, may be approved by the Town, if all other requirements of this Ordinance are met. To secure this agreement, the applicant shall provide to the Zoning Administrator, either one, or a combination of the following guarantees shown. The amount of such guarantee shall be equal to 1.25 times the cost of installing all required improvements. The Town's Engineer shall verify such amount furnished by the applicant. A fee, in accordance with the Town's fee schedule, shall be paid by the applicant to cover the costs associated with such review.

The following is a list of monetary guarantees, which shall be considered for approval by the Zoning Administrator. All such guarantees shall be made payable to the Town of Waxhaw on such terms and conditions as approved by the Zoning Administrator.

1. Surety Performance Bond(s)

   The applicant shall obtain one or more performance bond(s) from a surety bonding company authorized to do business in North Carolina. The duration of the bond(s) shall be until such time as the Zoning Administrator accepts the improvements.

2. Cash or Equivalent Security

   The applicant shall deposit cash, an irrevocable letter of credit, or other instrument readily convertible into cash at face value, either with the Town or in escrow with a financial institution designated as an official depository of the Town of Waxhaw. If cash or other instrument is deposited in escrow with a financial institution as herein provided, the applicant shall then file with the Zoning Administrator an agreement between the financial institution and himself guaranteeing the following:

   a. That said escrow account shall be held in trust until released by the Zoning Administrator and may not be used or pledged by the applicant in any other matter during the term of the escrow; and
   b. That in case of a failure on the part of the applicant to properly construct or complete said improvements, the financial institution shall, upon notification by the Zoning Administrator, immediately either pay to the Town the funds estimated to complete the improvements, up to the full balance of the escrow account, or

deliver to the Town any other instruments fully endorsed or otherwise made payable in full to the Town.

B. Default

Upon default, meaning failure on the part of the applicant to complete the required improvements within twelve months after the date of final plat approval, unless this time period is extended by the Zoning Administrator, then the surety, or the financial institution, holding the escrow account, shall, if requested by the Zoning Administrator, pay all or any portion of the bond or escrow fund to the Town of Waxhaw up to the amount needed to complete the improvements. Upon payment, the Zoning Administrator, in its discretion, may expend such portion of said funds as it deems necessary to complete all or any portion of the required improvements. The Town shall return to the bonding firm any funds not spent in completing the improvements. Should the amount of funds needed to complete the installation of all required improvements exceed the amount in the bond or escrow account, the applicant shall nonetheless be responsible for providing the funds to cover such costs. The applicant shall at all times bear the financial burden for the installation of all required improvements.

C. Partial Release

The Zoning Administrator may release a portion of any security posted as the improvements are completed and approved by the responsible agencies. The applicant shall submit the request for releasing a portion of the security in writing to the Zoning Administrator and shall only be allowed one such request for each recorded plat. Such funds shall then be released within ten (10) days after the corresponding improvements have been so approved.

D. Maintenance of Dedicated Areas until Acceptance

Facilities and improvements with respect to which the owner makes an offer of dedication to public use shall be maintained by the owner for a warranty period of one year from the date of acceptance of dedication by the Town Commission. Notwithstanding the foregoing, the owner of any development containing streets or sidewalks intended for public dedication shall maintain the streets and/or sidewalks for a warranty period until 80% of the lots on the street petitioned for acceptance have received a Certificate of Occupancy.

In order to properly secure such maintenance and warranty, the owner of any development containing improvements intended for public dedication shall post a maintenance bond or other sufficient surety to guarantee that such improvements will be properly maintained until (i) the date that 80% of the lots on the street and/or sidewalk petitioned for acceptance have received a Certificate of Occupancy and (ii) one-year of formal acceptance by resolution of the Town of Waxhaw. The amount of the security shall be $10,000plus 5% of the

cost of stone base, paving, curb & gutter, sidewalk and street trees. The owner shall provide information sufficient for the Town of Waxhaw Zoning Administrator to determine the actual cost of such improvements. If the surety/bond described herein is not provided, the Town of Waxhaw may not issue Zoning Permits to any properties on the said street(s) without (i) a showing of undue hardship (ii) the grant will not materially affect the Town's future enforcement of this provision on the improvements at issue; (iii) approval by both the Zoning Administrator and the Director of Planning and Community Development; and (iv) compliance with any policy adopted by the Board of Commissioners related to maintenance of dedicated areas. The Zoning Administrator may relieve the owner of the requirements of this Section, if it determines that a property owners association has been established for the development, and that this association has requested responsibility for the subject improvements, and is capable of performing the obligations set forth in Section 18.4.1 above. The Zoning Administrator may require the property owners association post the bond referred to above.

The above bond/surety shall be posted with the Town of Waxhaw prior to the release of any Guarantee Surety referred to in Section 18.4.1-A (1) and (2). The Town shall have the right to increase the warranty period for atypical construction materials or construction techniques or sub-standard construction.

No street shall be petitioned for acceptance of dedication until sixty percent (60%) of the lots on the street have been issued a Certificate of Occupancy by the Town of Waxhaw.

Prior to the expiration of the maintenance guarantee instrument, any defects in workmanship and/or materials shall be repaired to the satisfaction of the Zoning Administrator or his/her designee. Any repairs not completed within thirty (30) days prior to the expiration of the maintenance guarantee shall require the renewal of the maintenance guarantee. The Town shall, upon final acceptance at the end of the applicable warranty period, release the applicant's bond or letter of credit.

E. Renewal of Bonds

Whenever a surety bond or letter of credit has been submitted, the Zoning Administrator may notify the applicant / property owners association up to sixty (60) days prior to the time said guarantee is about to expire. If the applicant / property owners association does not extend or replace said guarantee within the time parameters set forth in said notification, the Zoning Administrator begin proceedings for calling upon the guarantee.

18.5 FINAL PLAT

1. Review Procedure

The subdivider or his authorized agent shall submit copies of the final plat to the Administrator for review and approval. The Administrator shall determine whether or not the final plat substantially agrees with the approved preliminary plan. If substantial differences exist, the plat shall be resubmitted as a new preliminary plan. After receiving a correct plat, the Administrator shall approve or disapprove the final plat within thirty (30) days after its submittal.

2. Certifications Required From Subdivider

Before the Administrator shall accept a final plat, the following certifications shall appear on all seven (7) copies:

CERTIFICATE OF OWNERSHIP AND DEDICATION

I hereby certify that I am the owner of the property shown and described hereon, which is located in the Corporate Limits of the Town of Waxhaw and that I hereby adopt this plan of subdivision with my free consent, establish minimum building setback lines, and dedicate all streets, walks, parks, and other sites and easements to public or private use as noted. Furthermore, I hereby dedicate all infrastructure being the whole system of improvements required for the use of the subdivision that allow it to be used for its intended subdivided purpose. This includes but is not limited to public streets, street curb and gutter, sidewalks, public sewer, public water, storm water detention, drainage features, traffic control devices, street lighting, street signs, and landscaping to the appropriate agency.

_____ _____

Date Owner

CERTIFICATE OF SURVEY AND ACCURACY

I, _____ , certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in Book , page , etc.) (other, specify); that the error of closure as calculated by latitudes and departures is 1: ; that the boundaries not surveyed are shown as broken lines plotted from information found in Book _ , page ; that this map was prepared in accordance with G.S. 47-30 as amended,

Witness my hand and seal this__day of __, AD, 20__.

_____ _____

Surveyor License or Registration #

CERTIFICATION OF APPROVAL

I hereby certify that this Final Plat is in substantial compliance with the Preliminary Plan as approved, that all required improvements have been installed in accordance with the Waxhaw Unified Development Ordinance and that this plat is finally approved provided it is recorded with the Union County Register of Deeds within thirty (30) days of this date.

_____ _____

Date Administrator

3. Plat Submittal Time Limit

The final plat shall be submitted not more than twelve (12) months after the date on which the preliminary plan was approved; otherwise, the approval of the preliminary plan shall be null and void. In that case, the preliminary plat shall be resubmitted as if it were a new subdivision.

4. Number of Copies and Graphic Media

Seven (7) copies of the final plat shall be submitted: the original, three (3) mylar copies, and three (3) blue line paper copies. The mylar shall be 3 ml., suitable for reproduction. The four (4) reproducible copies shall each have original signatures.

5. Plat Prepared by Licensed Surveyor

The final plat shall be prepared by a surveyor licensed and registered to practice in the State of North Carolina. The final plat shall substantially conform to the preliminary plat as it was approved. It shall also conform to the provisions of plats, subdivisions, and mapping requirements as set forth in General Statutes 47-30, as amended, and the "Standards of Practice of Land Surveying in North Carolina".

6. Administrative Fees

At the time of submission of the final plat, the subdivider or his authorized agent shall pay the Town of Waxhaw a filing fee as established by the Waxhaw Board of Commissioners. The applicant, in submitting an application for a final plat, shall also be responsible for reimbursing the Town for all costs associated with the Town's engineering and/or outside professional consultant services with respect to review of the final plat. The Administrator shall not sign the "Certification of Approval" for any approved final plat unless such fees have been paid in full to the Town.

7. Contents Required

The final plat shall depict or contain the information specified in Section 18.6. Plats not illustrating or containing the information required in Section 18.6 shall be returned to the subdivider or his authorized agent for completion and resubmission.

8. Disposition of Final Plats

The original and three (3) mylar copies shall be signed and executed as required for recording by the Register of Deeds Office of Union County within thirty (30) days after approval by the Administrator. The original copy shall be returned to the subdivider, two (2) mylar copies shall be recorded at the Register of Deeds Office, and one (1) copy shall be returned to the Administrator.

9. Re-subdivision Procedures

For any re-platting or re-subdivision of land, the same procedures, rules, and regulations shall apply as prescribed herein for an original subdivision.

18.6 INFORMATION TO BE CONTAINED IN OR DEPICTED ON PRIMARY PLAN AND FINAL PLATS

The preliminary plan and final plats shall depict or contain the information indicated in the following table. An X indicates that the information is required.

Information	*Preliminary Plat*	*Final Plat*
A. Information Block Containing:		
Name of Subdivision	X	X
Name of Owner / Subdivider	X	X
Location (including township, county, state)	X	X
Scale of drawing in feet per inch listed in words and figures	X	X
Graphic Scale Bar	X	X
Name, Address, phone number, registration number of The registered land surveyor		X
Name, Address, phone number of the preparer	X	X

Information	*Preliminary Plat*	*Final Plat*
B. A sketch vicinity map showing the relationship between the proposed sub division and surrounding area.	X	X
C. Corporate Limits, township boundaries, county lines if on subdivision tract.	X	X
D. Names, addresses and phone numbers of all owners, registered land surveyors, architects, landscape architects, and professional engineers responsible for subdivision.		X
E. Seal of the registered land surveyor	X	
F. Dates of plan/plat preparation	X	X
G. North arrow and source of data	X	X
H. Boundaries of the tract or portion thereof to be subdivided, distinctly and accurately represented with all bearings and distances shown.	X	X
I. The exact boundary lines of the lots to be subdivided, fully dimensioned by lengths and bearings; and the location of existing boundary lines of adjoining lands.		X
J. The names of owners of adjoining properties	X	X
K. The names of any adjoining subdivisions of record or proposed and under review.	X	X
L. Minimum building setback lines		X
M. The zoning classifications of the tract to be subdivided and on adjoining properties.	X	
N. Existing property lines on the tract to be subdivided and on adjoining properties.	X	
O. Existing buildings or other structures, water courses, railroads, bridges, culverts, storm drains, both on the land to be subdivided and land immediately adjoining.	X	X
P. Proposed lot lines, lot and block numbers and approximate dimensions.	X	
Q. The lots numbered consecutively throughout the subdivision.	X	X
R. Wooded areas, marshes, swamps, rock outcrops, ponds or lakes, streams or streambeds, and any other natural features affecting the site.	X	
S. The exact location of the flood hazard, floodway, and floodway fringe areas from the community's FEMA maps or other approved maps.	X	X
Information	*Preliminary Plat*	*Final Plat*
T. Following data concerning streets:		
Proposed streets	X	X
Existing and platted streets on adjoining properties and in the proposed subdivision.	X	X

Rights-of-way, location and dimensions	X	X
Pavement widths	X	X
Approximate grades	X	X
Curb and gutter detail	X	X
Sidewalks	X	X
Traffic Control Devices	X	X
Street lighting (location and type used in subdivision)	X	X
Street signs (type used in subdivision)	X	X
Mailboxes (type used in subdivision)	X	X
Landscaping	X	X
Design engineering data for all corners and curves		X
Typical street cross sections	X	X
Street names (if any street is proposed to intersect with a state maintained road, the subdivider shall apply for driveway approval as required by the North Carolina Department of Transportation (NCDOT), Division of Highways' Manual on Driveway regulations. Evidence that the subdivider has obtained such approval must accompany the plat)	X	X
U. Location and dimensions of all:		
Utility and other easements	X	X
Natural buffers	X	X
Pedestrian or bicycle paths, if applicable	X	X
Parks and recreation areas with specific type indicated	X	X
School sites, if applicable	X	X
Areas to be dedicated to or reserved for public use	X	X
Areas to be used for purposes other than residential with the purpose of each stated.	X	X
Proposed homeowners association documents	X	
Recorded homeowners association documents		X
The future ownership (dedication or reservation for public use to governmental body, for owners to duly constituted homeowners' association, or for tenants remaining in the subdivider's ownership) of recreation and open space lands.		X
V. Utility layouts:		
Sanitary sewers	X	X
Storm sewers	X	X
Information	***Preliminary Plat***	***Final Plat***
Other drainage facilities, if any	X	X
Water distribution lines	X	X
Natural gas lines	X	X
Underground telephone lines	X	X
Underground electric lines	X	X
Underground cable TV	X	X
W. Utility Systems:		
Pans for individual water supply and sewage disposal	X	X

systems if any		
Profiles based upon mean sea level datum for sanitary sewers and storm sewers	X	
X. Site Calculations:		
Acreage in total tract to be subdivided	X	X
Acreage in parks and recreation areas and other nonresidential uses	X	X
Total number of parcels created	X	X
Acreage in smallest lot in the subdivision	X	X
Linear feet in streets	X	X
Y. Sufficient engineering data to determine readily and reproduce on the ground every straight or curved line, street line, lot line, right-of-way line, easement line, and setback line, including dimensions, bearings, or deflection angles, radii, central angles, and tangent distance for the center dimensions shall be measures to the nearest one-hundredth (1/100) of a foot all angles to the nearest thirty (30) seconds.		X
Z. Any historical properties identifies on the National Register of Historic Places	X	X
AA. The accurate locations and descriptions of all monuments, markers and control points.		
BB. A copy of the erosion control plan submitted to the appropriate authority, if such a plan is required. (Plan shall be submitted to the State Division of Land Quality, Regional Office.)		

18.7 REVIEW PROCEDURE FOR MINOR SUBDIVISIONS

1. Objective

An abbreviated process shall be permitted to simplify and speed up the review procedure for handling minor subdivisions without undermining the objectives of the subdivision regulations.

2. Procedure

A. The developer shall submit a sketch development plan to the Administrator. At this stage the Administrator and the developer shall informally review the proposal.

B. After this initial review has been completed, the subdivider or his authorized representative shall prepare a final plat as specified in Section 18.6 and submit it to the Administrator for review and approval.

18.8 INSTALLATION OF PERMANENT REFERENCE

1. Permanent Reference Points

A. Subdivision Corner Tie

At least one (1) corner of the subdivision shall be designated by course and distance (tie) from a readily designated by course and distance (tie) from a readily discernible reference marker. If a corner is within two thousand (2,000) feet of a United States Coast and Geodetic Station or North Carolina Grid System coordinated monument, then this corner shall be marked with a monument so designated by computed x and y coordinates which shall appear on the map with a statement identifying this station or monument to an accuracy of 1:10,000. When such a monument or station is not available, the tie shall be made to some pertinent and readily recognizable landmark or identifiable point, physical object, or structure.

B. Monuments

Within each block of a subdivision at least two (2) monuments designed and designated as Control Corners shall be installed. The surveyor shall employ additional monuments if and when required by the Town. All monuments shall be of concrete or granite. Granite monuments shall be at least four (4) inches square and not less than thirty (30) inches in length. A hole not less than one-half (1/2) inch in depth and one-eighth (1/8) inch in width shall be bored in the top of the monument to serve as the point. Concrete monuments shall be at least four (4) inches in diameter or square and not less than three (3) feet in length. Each concrete monument shall have a metal disk with stem six (6) inches long embedded in the concrete with the disk flush with the top. The disk shall be marked to show the corner or the monument shall have a three-fourths (3/4) inch solid metal steel pin six (6) inches long, with four (4) inches embedded in the concrete and two (2) inches sticking out the top of the marker. The pin shall have a hole not less than one-half (1/2) inch in depth and one-eighth (1/8) inch in width drilled in the top to designate the corner.

C. Property Markers

A steel pin or wrought iron pipe not less than three-fourths (3/4) inch in diameter and at least thirty (30) inches in length shall be set at all corners, except those located by monuments. A marker shall also be set at a point of curve, point of intersection, property corner, point of tangency, and reference point unless a monument has already been placed at said points. Additional markers shall be placed at other points when required.

D. Accuracy

Land Surveys shall be as follows:

1. Angular error closure shall not exceed twenty (20) seconds times the square root of the number of angles turned.
2. Linear error of closure shall not exceed one (1) foot per ten thousand (10,000) feet of perimeter of the lot of land.

18.9 MINIMUM STANDARDS OF DESIGN

1. General Requirements

A. Zoning and Other Laws

All subdivisions and lots created under this Ordinance must comply with all other local, State and Federal laws.

B. Flood Hazard Areas

Land located within the 100-year flood hazard area shall be subdivided in such a way as to minimize the impact of a flood on developed property. No part of the buildable area of any lot shall be located in a floodway. Development activity in land below the 100-year flood contour may require a permit from the US Army Corps of Engineers or other Federal and State agencies. In addition, all properties located in a FP Flood Hazard Overlay District shall meet the requirements of Section 6.5 of this Ordinance.

C. Sedimentation Pollution Control

In order to prevent soil erosion and sedimentation pollution of waterways, the subdivider shall comply with all requirements of the North Carolina Pollution Control Act.

D. Name Duplication

The subdivision name shall not duplicate or closely approximate the name of an existing subdivision within Union County.

E. Site Improvement Standards

All site improvements shall be done in accordance with standards established by the Town of Waxhaw. Plans for such improvement shall be approved prior to any site work commencement.

F. Sidewalks

Sidewalks shall be required in subdivisions on both sides of the street and on the perimeter of the development along any existing streets. Sidewalks shall provide public access and be dedicated to the Town upon request. All sidewalks shall be connected to existing sidewalks within 500 feet. Sidewalks should be located within the street right-of-way. In order for a sidewalk to be located outside the public right-of-way, the Zoning Administrator must approve the location and an approved sidewalk easement must be recorded with the Union County Register of Deeds prior to issuance of final Zoning Compliance.

1. On all thoroughfare, collector, and commercial streets where sidewalks are provided, there shall be a planting strip placed between the inner edge of the sidewalk and the outer edge of the curb. Said planting strip shall be a minimum of five (5) feet in depth. All sidewalks shall otherwise be built in compliance with current NCDOT Standards for sidewalks in public rights-of-way.
2. The Administrator, in approving plats, shall have the ability to waive or modify the requirements of this Section in particular situations where strict application would serve no meaningful purpose.

2. Streets

A. Coordination and Continuation of Streets and Greenways

The proposed street and greenway layout within a subdivision shall be coordinated with the existing street and greenway system of the surrounding area and where possible, existing principal streets and greenways shall be extended.

B. Access to Adjacent Properties

Where, in the opinion of the Planning Board, Administrator or the Board of Commissioners, it is necessary to provide for street and greenway access to an adjoining property, proposed streets and greenways shall be extended to the boundary of such adjoining property and barricaded with signage indicating it. Said street access shall be professionally engineered allowing a street extension into the adjoining property, a minimum of three hundred feet.

C. Reserve Strips

There shall be no reserve strips platted in any subdivision

D. Marginal Access Streets

Where a tract of land to be subdivided adjoins a major thoroughfare, the subdivider may be required to provide a marginal access street parallel to the major thoroughfare or reverse frontage on a local street for the lots to be developed adjacent to the major thoroughfare. Where reverse frontage is established, private driveways shall be prevented from having direct access to the major thoroughfare.

E. Street Names

Proposed streets that are obviously in alignment with existing streets shall be given the same name. In assigning new names, duplication of existing names shall be avoided and in no case shall the proposed name be phonetically similar to existing names irrespective of the use of a suffix such as street, road, drive, place, court, etc. Street names shall be subject to the approval of Union County EMS. The applicant shall provide evidence of such approval prior to the preliminary plat being approved.

F. Right-of-Way Widths

Minimum street right-of-way widths shall not be less than the following:

1. Major thoroughfares- 120 feet
2. Minor thoroughfares- 80 feet
3. Collectors- 50 feet
4. Local streets- 40 feet
5. Cul-de-sacs- 87 feet

G. Pavement Widths

Minimal pavement widths shall be in accordance with the standards of the North Carolina Department of Transportation except that the end of any cul-de-sac street shall have a minimum pavement width (i.e., diameter) of sixty-seven (67) feet.

H. Grades

1. Street grades shall not be less than one (1) percent.
2. Grades approaching intersections shall not exceed five (5) percent for a distance of not less than one hundred (100) feet from the centerline of the intersection. This requirement shall only apply to the road required to stop at the intersection.

I. Horizontal Curves

Where a centerline deflection angle of more than ten (10) degrees occurs, a circular curve shall be introduced, having a centerline radius of not less than the following:

1. Major thoroughfare- 500 feet
2. Minor thoroughfare & collectors 300 feet
3. Local streets 150 feet

J. Vertical Curves

All vertical curves shall have such length as necessary to provide safe sight distance.

K. Intersections

1. Streets shall be laid out so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at an angle less than seventy (70) degrees.

2. Property lines at street intersections shall be round with a minimum radius of twenty (20) feet. At an angle of intersection of less than seventy-five (75) degrees, a greater radius may be required. Where a street intersects a highway, the design standards of the North Carolina Department of Transportation, Division of Highways, shall apply.

3. Offset intersections are to be avoided unless exception is granted. Intersections, which cannot be aligned, should be separated by a minimum length of two hundred (200) feet between survey centerlines.
4. Intersections with major or minor thoroughfares should meet applicable NCDOT distance requirements.

L. Cul-de-sacs

Permanent dead-end streets shall not exceed eight hundred (800) feet in length and shall be provided with a turnaround of a diameter of 67 feet.

M. Alleys

Alleys shall be allowed where approved as part of a Conditional Use Permit or Conditional Zoning. Alleys shall conform to the following standards as a minimum:

Easement,	30 feet
Pavement Width	20 feet
Crown '/4 inch/foot -	positive or negative
Pavement Design	1-1/2 inch 1-2, Minimum 6 inch stone base

Any accessory structure shall be at least fifteen (15) feet from the edge of the pavement of the alley. The standards of construction shall be per NCDOT requirements. A certified letter from a registered Professional Engineer qualified in such work shall be submitted to the Town prior to placement of stone base and prior to installation of asphalt. The letter shall certify the results of a NCDOT quality proof roll as witnessed by that Professional Engineer.

Alternative alley design standards shall apply for alleys in TND's per applicable NCDOT TND guidelines.

N. Street Construction and Curb and Gutter

Except as may otherwise be provided in this Ordinance, all streets within the proposed subdivision shall be graded and paved by the developer in accordance with Town of Waxhaw typical design standard for paved streets. Curb and gutter shall be required on all new subdivision road segments. All associated storm drainage is to be contained within the street right-of-way and shall be in accordance with the Town of Waxhaw *Stormwater Design Manual*.

Proof rolls are required for streets and curb and gutter. A proof roll is a method used by a municipality to test the subgrade soil strength for any deflection that would identify poor weight bearing capacity of a soil prior to the installation of a road or street. Proof rolling identifies areas of poor compaction, high moisture content that is indicated by the truck tires "pumping" as it passes over the soil and areas where organic material may be present.

Town of Waxhaw staff must be present to observe proof rolls. General guidelines and procedures for proof rolls are outlined in the *Proof Roll Guidelines* document. The property owner is responsible for the associated proof roll fee as delineated in the Town of Waxhaw *Proof Roll Guidelines*.

3. Block Length and Width

A. Blocks shall not exceed a perimeter length of five thousand (5,000) feet, perimeter length being the shortest perimeter measurement along the abutting right-of-way line.

B. Blocks shall be at least wide enough to allow two (2) tiers of lots of minimum depth, except where prevented by topographical conditions or the size of the property. A single tier of lots may be used adjoining a major thoroughfare where access is provided from a minor interior street.

4. Lot Dimensions

The size, shape, and orientation of lots shall be appropriate for the location of the proposed subdivision and for the type of development contemplated, and shall conform to the following:

A. Every lot or parcel of land shall abut a public street for at least twenty-five (25) feet, except for lots in approved special developments, which may abut common area or lots used for public utility facility for the health, safety, and welfare of the general public.

B. Insofar as practical, side lot lines shall be at right angles to straight street lines or radial to curved street lines.

C. Lots intended for business uses only may be arranged in convenient units of width and to a depth that is appropriate to the development contemplated.

D. Every lot shall have sufficient area, dimensions, and street access to permit a principal building to be erected thereon in compliance with all lot size and dimensions, yard space, setback, and other requirements of the Waxhaw Unified Development Ordinance.

E. Panhandle lots shall not be allowed in subdivisions except in cases where such lots would serve to provide lot access to a body of water, golf course, or similar recreational facility. In no case shall the majority of lots within a subdivision consist of panhandle lots. All panhandle lots shall have a minimum road frontage of twenty-five (25) feet. The length of the panhandle strip in the lots shall not exceed one hundred (100) feet. Said strip shall not be used to determine lot area, lot width, or

required setback lines. Said strip, at all times, shall be at least twenty-five (25) feet in width.

F. Every structure shall be clearly marked with its numerical street address. The street address numbers must be placed on the building unless otherwise authorized by the Zoning Administrator. Each number shall be a minimum of four (4) inches in height and shall be displayed in such a manner to be plainly visible and legible from the street or roadway.

5. Reserved

6. Easements

A. Utility Easements

Utility easements shall be provided, where necessary, across lots or centered on rear or lot lines and shall be at least twenty (20) feet minimum width for water and sanitary sewer lines and as required by the companies involved for telephone, gas, power lines and cable television. The Administrator will determine whether one (1) easement is sufficient or whether several easements are necessary to accommodate the various facilities, and the subdivider shall provide the required easements.

B. Drainage

Where a parcel of land is traversed by a stream, open drainage channel, subsurface drainage or any combination thereof, a drainage easement of sufficient width shall be provided along said drainage feature when located outside of public rights-of-way. Drainage easements shall apply to both existing and proposed drainage features used to convey stormwater runoff across a property and shall be maintained by the individual property owner, Homeowners Association or Business Association, whichever will apply. See Section 18.10.5 for minimum drainage easement standards.

7. Points of Ingress and Egress

Each subdivision shall be provided with two external points of ingress and egress on a public road at the subdivision's periphery, except under the following conditions:

A. When the exterior frontage of the subdivision on a particular public road is less than five-hundred (500) feet; or,

B. When the subdivision contains less than fifty (50) lots; or,

C. When the Planning Board determines that there are unique physical characteristics of the property which would render a second entrance impractical; or,

D. Where the NCDOT would not allow such second entrance.

18.10 REQUIRED IMPROVEMENTS

1. Streets

All streets within the proposed subdivision and any street upon which any lot within the proposed subdivision has its required frontage and which is not a Town or State maintained street shall be graded and paved by the developer in accordance with Town of Waxhaw typical design standard for paved streets with curb and gutter and offered for dedication to the Town. The Planning Board may modify the requirement for curb and gutter where in the opinion of the Board, based upon the recommendation of the Town Engineer, curb and gutter would not be in the best interest of the Town and would not be the best manner to handle storm water runoff for the specific subdivision. All storm drainage to be contained within the street right-of-way shall be in accordance with the Town of Waxhaw *Stormwater Design Manual*.

2. Water and Sewer

Any subdivision which has either public water or public sewer system or both legally available or to be made available within three hundred (300) feet of its boundary shall have such available systems extended by the developer to provide service to each lot in the subdivision. Water and sewer installations shall be in accordance with the standards of the Union County Public Works Department. When not in conflict with such standards, fire hydrants shall be installed at intervals of five hundred (500) feet along such water lines. Where water and/or sewer is not made available to each lot a certificate shall appear on the final plat from the Union County Health Department indicating the appropriateness of the lots to support whatever alternate systems are to be permitted.

3. Street Name Signs and Mailboxes

Street name signs shall be installed by the developer at each street intersection as appropriate to identify all street names. Approved mailboxes will be installed before any residence can be occupied. Street name signs, poles and brackets and mailboxes shall be of a decorative type and shall be subject to approval by the Town in the preliminary subdivision plat review process. Where feasible and practical, street name signs and mailboxes shall be of a common design or theme throughout the subdivision or in individual phases of the subdivision.

4. Traffic Control Devices

A. Traffic control devices such as stop, yield and speed limit signs (but not including electric or electronic traffic signals) shall be installed on public streets by the developer at the appropriate locations as determined by NCDOT. Installation standards and materials shall be in conformance with NCDOT standards for such devices.

B. The construction of new roadway intersections and existing roadway intersections on which traffic light signalization is installed initially or replaced in whole shall utilize "mast arm" type supports. The utilization of mast arm type supports shall also apply to the replacement of existing street light signals on projects involving intersection improvements or street widening. The utilization of mast arm type supports pursuant to the preceding requirements shall apply to all projects, including those resulting from private development and projects of public entities. The design of mast arms installed shall be approved by Waxhaw Planning Staff. Any exception to this policy must be approved by the Waxhaw Board of Commissioners.

All construction of "mast arm" metal utility poles and/or supports shall conform with NCDOT Design Standards, be approved by NCDOT and be in conformance with any and all requirements by NCDOT and the Town of Waxhaw.

5. Storm Drainage Not Contained in Street Right-of-Way

During the 10 year storm, convey stormwater runoff across more than two (2) lots in a defined channel/swale or convey stormwater runoff within subsurface drains which are not situated within public street rights-of-way shall be treated by the developer in one or more of the following ways:

A. Enclosed in subsurface drains. Subsurface drain material shall be of a type approved for use by NC DOT and shall be sized in accordance with calculations made by a Registered Professional Engineer using the twenty-five (25) year storm. A maintenance and utility easement shall be placed on the final plat approximately centered on the drain and the outside edge of the easement shall be no closer than five (5) feet to the outer wall of the drain. In no case shall the maintenance and utility easement be less than fifteen (15) feet when maintained by an individual, Homeowners Association or Business Association. Storm drainage systems located outside of public street rights-of-way will not be maintained by the Town unless specifically approved otherwise. Minimum storm drainage easement widths for Town maintenance and acceptance are as follows:

Pipe Diameter	Width
15"-36"	20"
42-48"	25'
54"+	30'

B. Open Channel in Dedicated Flood Plain and Open Space. This option shall only be available when the Town of Waxhaw agrees to accept the dedication. The dedicated floodplain and open space shall include the drainage channel and the land between the channel and the natural one hundred (100) year flood contour as determined by calculations made by a Registered Professional Engineer, provided that in no case shall the average minimum width be less than two hundred (200) feet plus the width of the

channel. The area to be dedicated shall be left in its natural condition by the subdivider unless the Town Board approves some other treatment. The dedicated flood plain and open space shall abut public street right-of-way on at least thirty (30) percent of its perimeter except when the Town Board determines that adequate access is otherwise provided. The minimum length of street frontage at each location where floodplain and open space abuts public street right-of-way shall be sixty (60) feet.

C. Open Channel on Private Property Within a Drainage and Maintenance Easement. The drainage maintenance and utility easement shall include the drainage channel and the land between the channel and the natural one hundred (100) year flood contour as determined above. The Town Board may permit modification of an existing drainage channel by the subdivider provided that the modification will be designed to carry the 100 year storm, all disturbed slopes will be adequately stabilized and the applicable local, state and federal permits are obtained for the specified impact to any jurisdictional waters/wetlands. The use of masonry paving, rip rap or other approved materials shall line all modified drainage channel slopes when slopes are greater than 2:1 (horizontal to vertical). In no case shall the minimum drainage maintenance and utility easement be less than the following:

Drainage Area	Width
1-45 Acres	20’
45-120 Acres	30’
120-500 Acres	40’
500 +	Determined by Town

6. Street Lighting

All public streets, sidewalks, and other common areas or facilities in subdivisions shall be sufficiently illuminated to ensure the security of property and the safety of persons using such streets, sidewalks, and other common areas or facilities.

A. Streetlights shall be rated a minimum of 9500-lumen, and shall be 100 watt high pressure sodium vapor located at all intersections and mid-block locations with intervals not exceeding 250 feet.

B. All roads, driveways, sidewalks, parking lots, and other common areas and facilities in un-subdivided developments shall be sufficiently illuminated to ensure the security of property and the safety of persons using such roads, driveways, sidewalks, parking lots, and other common areas and facilities.

C. All entrances and exits in substantial buildings used for non-residential purposes and in multi-family residential dwellings containing more than four dwelling units shall be adequately lighted to ensure the safety of persons and the security of the building.

Streetlights, poles and brackets are to be decorative and shall be subject to approval in the preliminary plat. Where feasible and practical, street light varieties shall be the same throughout the subdivision or individual phases of the subdivision.

All streetlights shall be placed at least two (2) feet inward (i.e., away from the street) from the sidewalk.

7. Reserved

8. Utility Lines

All utility lines (water, sewer, telephone, gas, cable television and electric) shall be located underground in all subdivisions.

18.11 LEGAL PROVISIONS

1. Procedure for Plat Approval

After the effective date of this Ordinance, no subdivision plat of land within the Town's jurisdiction shall be filed or recorded until it has been submitted to and approved by the appropriate agencies, and until this approval is entered in writing on the face of the plat by the Chairman or head of that agency.

A plat shall not be filed or recorded by the Union County Register of Deeds of any subdivision located within the Town's jurisdiction that has not been approved in accordance with this Ordinance, nor shall the Clerk of Superior Court order or direct the recording of a plat if the recording would be in conflict with the requirements of this Ordinance.

2. Effect of Plat Approval on Dedications

Pursuant to General Statute 160A-374, the approval of a plat shall not be deemed to constitute or effect 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 Waxhaw Board of Commissioners may, by resolution, accept any dedication made to the public of lands or facilities for streets, parks, public utility lines, or other public purposes, when the lands or facilities are located within its corporate limits.

3. Variances

The Town Board may authorize a variance from the regulations contained in this Section (for all other variances, refer to Section 15), if, in its opinion, undue hardship may result from strict

compliance with these regulations. Such variance shall be granted only to the extent that it is absolutely necessary and not to an extent which would violate the intent of this Ordinance.

A petition for such variance shall be submitted in writing by the subdivider to the Administrator. The petition shall include:

A. The nature of the proposed variance

B. The reason that the variance is needed

The Administrator shall review the petition and submit his written comments and recommendations to the Planning Board. The Planning Board shall consider the request and make a recommendation regarding the variance to the Town Board. The variance request may be handled simultaneously by either the Planning Board and/or the Town Board as part of the plat review process. Such review shall be subject to all submittal and recommendation deadlines otherwise called for in this Ordinance.

The Town Board may only approve a variance if each of the following findings is first made:

A. There are special circumstances or conditions affecting the property such that the strict application of the provisions of this ordinance would deprive the applicant of reasonable use of his land.

B. The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.

C. The circumstances giving rise to the need of the variance are peculiar to the tract in question and are generally not characteristics of other tracts in Waxhaw.

D. The granting of the variance will not be detrimental to the public health, welfare and safety.

E. The variance will not vary any of the provisions of this Ordinance outside of those contained in Section 18 herein.

In approving a variance, the Town Board may apply fair and reasonable conditions that support one or more of the findings listed above. The Town Board shall not be required to hold a public hearing with association with the petition for a variance as herein called for.

4. Appeals

An aggrieved party may appeal to the Board of Adjustment a decision of the Administrator made with respect to the provisions of Section 18 of this Ordinance. Such appeal shall be made in a manner as prescribed in Section 15 of this Ordinance.

SECTION 19
HISTORIC PRESERVATION

19.1 PURPOSE

The historical heritage of the Town is one of its most valued and important assets. Conservation of historic properties will stabilize and increase property values in their areas and strengthen the overall economy of the Town, county and state. By means of listing, regulation and acquisition of historic properties, the Town seeks, within its zoning jurisdiction, to:

1. Safeguard its heritage by preserving any property therein that embodies important elements of its culture, history, architectural history or prehistory; and

2. Promote the use and conservation of such district or landmark for the education, pleasure and enrichment of the residents of the Town, county and state as a whole.

19.2 CONFLICT WITH OTHER LAWS

Whenever this Section requires a longer waiting period or imposes other higher standards with respect to a designated historic property than are established under any other Charter provision, regulation or ordinance, this Section shall govern. Whenever the provisions of any other Charter provision, ordinance or regulation require a longer waiting period or impose other higher standards than are established under this Section, such other Charter provision, ordinance or regulation shall govern.

19.3 REMEDIES

In case any building, structure, site, area or object designated as a historic landmark or located within a historic district designated pursuant to this Section is about to be demolished, whether as the result of deliberate neglect or otherwise, materially altered, remodeled or removed, except in compliance with this Section, the Town, the historic preservation commission, or other party aggrieved by such action may institute any appropriate action or proceedings to prevent such unlawful demolition, material alteration, remodeling or removal, to refrain, correct or abate such violation, or to prevent any illegal act or conduct with respect to such building, structure, site, area or object. Such remedies shall be in addition to any others authorized by this Section and the Waxhaw Unified Development Ordinance.

19.4 APPLICABILITY TO PUBLICLY OWNED PROPERTY

All of the provisions of this Section are applicable to construction, alteration, moving and demolition by the state, its political subdivisions, agencies and instrumentalities; provided, however, that they shall not apply to interiors of buildings or structures owned by the state. The state shall have a right of appeal to the state Historical Commission, or as otherwise specified by state law.

19.5 ORGANIZATION; MEMBERSHIP OF HISTORICAL COMMISSION

1. Creation; Compensation; Appointments

There is hereby established, by the authority of G.S. 160A-400.1 et seq., the Town historic preservation commission, hereafter referred to as "the historic preservation commission," or "commission," to consist of seven members appointed by the Town Board of Commissioners. The commission shall serve without monetary compensation. In establishing the commission and making appointments to it, the Town Board of Commissioners may seek the advice of such state or local historical agencies, societies or organizations as it may deem appropriate.

2. Qualifications of Members

All members of the historic preservation commission shall be residents of the territory subject to the zoning jurisdiction of the Town, and a majority of the members shall have demonstrated special interest, experience or education in history, architecture, archaeology or related fields.

3. Tenure

Members of the historic preservation commission shall serve overlapping terms of three years. The initial members shall serve staggered terms; thereafter, all appointments shall be for a term of three years. Notwithstanding the foregoing, the Town Board of Commissioners may remove any member of the historic preservation commission with or without cause.

4. Rules of Procedure; Annual Report

The historic preservation commission shall adopt rules of procedure for the conduct of its business, and an annual report shall be prepared and submitted by March 1 of each year to the planning board and the Town Commissioners. Such report shall include a comprehensive and detailed review of the activities, problems and actions of the commission as well as any budget requests or recommendations. The commission shall keep a record of its members' attendance and of its resolutions, findings and recommendations, which record shall be a public record.

5. Powers

The historic preservation commission is authorized and empowered to undertake such actions reasonably necessary to the discharge and conduct of its duties and responsibilities as outlined in this Section and G.S. 160A-400.1 et seq., including, but not limited to, the following:

A. As a guide for the identification and evaluation of landmarks or historic districts, the commission, at the earliest possible time and consistent with the resources available to it, shall undertake an inventory of properties of historical, architectural, prehistorical and cultural significance within its jurisdiction. Such inventories and any additions or revisions thereof shall be submitted as expeditiously as possible to the Office of Archives and History.

B. Recommend to the Town Board of Commissioners areas to be designated by ordinance as an "historic district," and buildings, structures, sites, areas or objects within its zoning jurisdiction to be designated by ordinance as "landmarks."

C. Acquire by any lawful means the fee or any lesser included interest, including options to purchase, to properties within established districts or to any such properties designated as landmarks, to hold, manage, preserve, restore and improve the same, and to exchange or dispose of the same by public or private sale, lease or otherwise, subject to covenants or other legally binding restrictions which will secure appropriate rights of public access and promote the preservation of the property.

D. Restore, preserve and operate such historic properties.

E. Recommend to the Town Board of Commissioners that the designation of any area as a historic district or part thereof, or designation of any building, structure, site, area or object as a historic landmark be revoked or removed for cause.

F. Conduct an educational program with respect to historic properties within its jurisdiction.

G. Cooperate with the state, federal and local governments in the pursuance of the purposes of this Section. The Town Board of Commissioners or the commission, when authorized by the Town Board of Commissioners, may contract with the state or the United States of America, or any agency of either, or with any other organization, provided the terms are not inconsistent with state or federal law.

H. Enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member,

employee or agent of the commission may enter any private building or structure without the express consent of the owner or occupant thereof.

I. Prepare and recommend the official adoption of a preservation element as part of the municipality's comprehensive plan.

J. Review and act upon proposals for alterations, demolitions or new construction within historic districts, or for the alteration or demolition of designated landmarks, pursuant to this Section.

K. Negotiate at any time with the owner of a building, structure, site area, area, or object for its acquisition or its preservation, when such action is reasonably necessary or appropriate.

L. Accept funds granted to the commission for preservation purposes from private individuals and organizations.

M. Adopt by rule design guidelines whose purpose shall be to ensure, insofar as possible, that changes in designated historic properties shall be in harmony with the reasons for their designation.

N. Adopt rules of procedure for the conduct of its business.

6. Receipt and Expenditure of Funds

The Board of Commissioners may make appropriations to the historic commission in any amount that it may determine necessary for the expenses of the operation of the commission. The commission, within the limits of funds appropriated for its use, may expend funds for the operation of the commission affairs and for the acquisition, restoration, preservation, operation and management of buildings, structures, sites, areas or objects located within a historic district or designated as such historic landmark, or of land on which such buildings or structures are located or to which they may be removed. The Board of Commissioners may require that any properties obtained with funds appropriated by the Board of Commissioners be titled to and owned by the Town.

7. Staff and Technical Services

The commission may recommend to the Town Commissioners suitable arrangements for the procurement or provision of staff or technical services to the commission.

19.6 DESIGNATION OF LANDMARKS

1. Generally, Adoption of Ordinance

Upon compliance with the procedures set out in subsection 3 of this section, the Town Board of Commissioners may adopt and from time to time amend or repeal an ordinance designating one or more historic landmarks. The ordinance shall describe

each property designated therein, the name of the owner of the property, those elements of the property that are integral to its historical, architectural or prehistorical value, including the land area of the property so designated, and any other information the Town Board of Commissioners deems necessary. For each building, structure, site, area or object so designated as a historic landmark, the ordinance shall require that the waiting period set forth in this Section be observed prior to its demolition. For each designated landmark, the ordinance may also provide for a suitable sign on the property indicating that the property has been so designated. If the owner consents, the sign shall be placed upon the property. If the owner objects, the sign shall be placed on a nearby public right-of-way.

2. Criteria for Commission's Recommendation of Designation

No property shall be recommended for designation as a historic landmark unless (i) the property owner consents and (ii) it is deemed and found by the historic preservation commission to be of special significance in terms of its historical, prehistorical, architectural or cultural importance, and to possess integrity of design, setting, workmanship, materials, feeling and/or association.

3. Required Procedures

No ordinance designating a historic building, structure, site, area or object as a landmark nor any amendment thereto may be adopted, nor may any property be accepted or acquired by the commission or the Town Board of Commissioners, until the following procedural steps have been taken:

A. The commission shall prepare and adopt rules of procedure and prepare and adopt principles and guidelines not inconsistent with state law or this Section, for altering, restoring, moving or demolishing properties designated as landmarks.

B. The commission or property owner shall make or cause to be made an investigation and report on the historic, architectural, prehistoric educational or cultural significance of each building, structure, site, area or object proposed for designation or acquisition. The investigation and report shall contain such information as required by rules of procedure and/or guidelines adopted by the commission in addition to the following (i) the name of the property, both common and historic names if they can be determined; (ii) the name and address of the current property owner; (iii) the location of the property and a justification of the land proposed to be designated historic; (iv) the date of construction and of any later alterations, if any; and (v) an overall photograph that clearly depicts the property proposed to be designated and supplementary photographs showing facades, details and siting. Such investigation or report shall be submitted to the Office of Archives and History, North Carolina Department of Cultural Resources.

1. Once the designation report has been prepared, either by the commission or by the owner, the commission shall consider the report. The commission may accept it, amend it, reject it or recommend further study.

2. A designation report prepared by or for the commission may be considered at any meeting of the commission provided the notification requirements contained in subsection 3.B.3 of this section are met. A complete application for designation prepared by the property owner must be received at least 30 calendar days prior to the next meeting of the commission to be considered at the meeting.

3. When a designation report is prepared by the commission and is to be considered at a commissioners' meeting, the chairperson or his designee shall notify by certified mail, mailed not less than seven calendar days prior to the meeting at which the matter is to be heard, the owners of the property and the owners of abutting property. When an application for designation is submitted by the owner, the chairperson or his designee, using stamped, addressed envelopes provided by the owner, shall notify the abutting property owners by certified mail, mailed not less than seven calendar days prior to the meeting at which the matter is to be heard.

C. The Department of Cultural Resources, acting through the State Historic Preservation Officer, shall, either upon request of the department or at the initiative of the commission, be given an opportunity to review and comment upon the substance and effect of the designation of any landmark pursuant to this Section. Any comments shall be provided in writing. If the Department of Cultural Resources does not submit its comments or recommendations in connection with any designation within 30 days following receipt by the Department of the investigation and report of the commission, the commission and the Town Board of Commissioners shall be relieved of any responsibility to consider such comments.

D. The commission and the Town Board of Commissioners shall hold a joint public hearing or separate public hearings on the proposed ordinance of designation. Reasonable notice of the time and place thereof shall be given. All meetings of the commission shall be open to the public, in accordance with the North Carolina Open Meetings Law, G.S. 143-318.9 et seq.

E. Following the joint public hearing or separate public hearings, the Town Board of Commissioners may adopt the ordinance of designation as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance.

F. Upon adoption of the ordinance of designation, the owners and occupants of each designated landmark shall be given written notification of such designation by the Town, insofar as reasonable diligence permits. One copy of the ordinance and all amendments thereto shall be filed by the commission in the office of the register of deeds of the county. Each designated landmark shall be indexed according to the name of the owner of the property in the grantee and grantor indexes in the register of deeds office, and the commission shall pay a reasonable fee for filing and indexing. A second copy of the ordinance and all amendments thereto shall be kept on file in the office of the Town Clerk and be made available for public inspection at any reasonable time. A third copy of the ordinance and all amendments thereto shall be given to the code enforcement officer. The fact that a building, structure, site, area or object has been designated a landmark shall be clearly indicated on all tax maps maintained by the Town and county for such period as the designation remains in effect.

G. Upon adoption of an ordinance designating a landmark or any amendment thereto, it shall be the duty of the commission to give notice thereof to the county tax supervisor.

19.7 HISTORIC DISTRICTS

1. Character of Historic Districts

Historic districts established pursuant to this Section shall consist of areas which are deemed to be of special significance in terms of their history, prehistory, architecture and/or culture, and to possess integrity of design, setting materials, feeling and association.

2. Procedures for Designation

A. Investigation and recommendation by historic preservation commission. The commission shall determine whether any areas within the zoning jurisdiction of the Town possess the character of historic districts as specified in 19.7.1 of this section. If the commission makes such a determination, it shall cause to be made an investigation and report describing the significance of the buildings, structures, features, sites or surroundings included in any such proposed district, including therein the boundaries of such proposed district.

B. Review by the Department of Cultural Resources. The historic preservation commission shall cause a copy of this report, along with a written request for an analysis thereof, to be provided to the Department of Cultural Resources. The Department, acting through the State Historic Preservation Officer or his designee, shall make an analysis of and recommendations concerning such report. Failure of the Department to submit its written analysis and

recommendations to the Town Board of Commissioners within 30 calendar days, after receipt of the written request and report, shall relieve the Town of any responsibility for awaiting such analysis, and the Town Board of Commissioners may at any time thereafter take any necessary action to adopt or amend its zoning ordinance and thereby designate, or modify designation of, a historic district.

C. Review and comment by the planning board. The historic preservation commission shall also cause a copy of this report to be provided to the planning board who will review it and make comments upon it in accordance with the procedures set forth in the zoning ordinance.

3. Designation by Town Board of Commissioners

The Town Board of Commissioners may, as part of a zoning appropriateness other ordinance enacted or amended pursuant to this Section, designate and from time to time amend one or more historic districts within the zoning jurisdiction of the Town. Such ordinance may treat historic districts either as a separate use district classification or as districts which overlay other zoning districts. Where historic districts are designated as separate use districts, the zoning ordinance may include as uses by right or as conditional uses those uses found by the historic preservation commission to have existed during the period sought to be restored or preserved, or to be compatible with the restoration of the district.

4. Changes in District Boundaries

Proposed changes in the boundaries of a designated historic district must comply with the requirements of this section.

19.8 CERTIFICATE OF APPROPRIATENESS

1. Activities Requiring a Certificate of Appropriateness

From and after the designation of a landmark or a historic district, no exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps and pavement or other appurtenant features), nor aboveground utility structure nor any type of outdoor advertising sign shall be erected, altered, restored, moved or demolished on such landmark or within such district until after an application for a certificate of appropriateness as to exterior features has been submitted to and approved by the preservation commission. The Town shall require such a certificate to be issued by the commission prior to the issuance of a building permit or other permit granted for the purposes of constructing, altering, moving or demolishing structures, which certificate may be issued subject to reasonable conditions necessary to carry out

the purposes of this Section. A certificate of appropriateness shall be required whether or not a building or other permit is required.

For purposes of this section, the term "exterior features" shall include the architectural style, general design and general arrangement of the exterior of the building or other structure, including the kind and texture of the building material, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs and other appurtenant fixtures. In the case of outdoor advertising signs, the term "exterior features" shall be construed to mean the style, material, size and location of all such signs. Such exterior features shall include significant landscape, archaeological and natural features of the area.

2. Jurisdiction Limited to Exterior Features

Except as provided in 19.8.3 of this section, the commission shall have no jurisdiction over interior arrangement and shall take no action under this section except to prevent the construction, reconstruction, alteration, restoration, moving or demolition of buildings, structures, appurtenant fixtures, outdoor advertising, signs or other significant features in the district which would be incongruous with the special character of the landmark or district.

3. Regulation of Interior Features with Landowner Consent

Notwithstanding subsection 19.8.2 of this section, jurisdiction of the commission over interior spaces shall be limited to specific interior features of architectural, artistic or historical significance in public-owned landmarks and of privately owned historic landmarks for which consent for interior review has been given in writing by the owner. Such written consent of an owner for interior review shall bind future owners and/or successors in title, provided such consent has been filed in the office of the register of deeds of the county in the grantee and grantor indexes. The landmark designation shall specify the interior features to be reviewed and the specific nature of the commission's jurisdiction over the interior.

4. Relocation, Demolition or Destruction of Designated Properties

An application for a certificate of appropriateness authorizing the relocation, demolition or destruction of a designated landmark or a building, structure or site within a designated historic district may not be denied except as provided in subsection 4.A of this section. However, the effective date of such a certificate may be delayed for a period of up to 365 days from the date of approval. The maximum period of delay authorized by this section shall be reduced by the commission where it finds that the owner would suffer extreme hardship or be deprived of all beneficial use of or return from such property by virtue of the delay. During such period the commission may negotiate with the owner and with any other parties in an effort to find a means of preserving the building or site. If the commission finds that a building or site within a district has no special significance or value toward maintaining the character of a

district, it shall waive all or parts of such period and authorize earlier demolition or removal.

A. Denial of certificate. An application for a certificate of appropriateness authorizing the demolition or destruction of a building, site or structure determined by the state historic preservation officer as having statewide significance, as defined in the criteria of the National Register of Historic Places, may be denied except where the commission finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial.

5. Ordinary Maintenance or Repair

Nothing in this Section shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in a historic district or of a landmark which does not involve a change in design, material or appearance thereof, nor to prevent the construction, reconstruction, alteration, restoration, moving or demolition of any such feature when the building inspector certifies to the commission that such action is required for the public safety because of an unsafe or dangerous condition. Nothing in this Section shall be construed to prevent (i) the maintenance or (ii) in the event of an emergency, the immediate restoration, of any existing above-ground utility structure without approval by the preservation commission.

6. Prior to any action to enforce any landmark or historic district provisions set forth in this Section, the commission shall (i) prepare and adopt rules of procedure, and (ii) prepare and adopt principles and guidelines not inconsistent with this Section for new construction, alterations, additions, moving and demolition.

7. All applications for a certificate of appropriateness shall be reviewed and acted upon within a reasonable time, not to exceed 90 days from the date the application for a certificate of appropriateness is filed. An applicant may at any time demand in writing that the commission take final action as soon as possible. Upon receipt of such written demand, the commission shall take final action at the next commission meeting which is at least 21 days in the future. Applications shall be filed with the Town's planning department. The commission shall, by uniform rules in its rules of procedure, require data as is reasonably necessary to determine the nature of the application. An application for a certificate of appropriateness shall not be considered complete until all required data has been submitted.

A. Prior to issuance or denial of a certificate of appropriateness, the commission shall take such action as may reasonably be required to inform the owners of any property likely to be materially affected by the application and shall give the applicant and such owners an opportunity to be heard. The commission shall notify all adjacent property owners seven business days prior to the meeting for

which the application is scheduled. A property shall be deemed adjacent notwithstanding the intervention of a street right-of-way that is 100 feet wide or less.

B. In cases where the commission deems it necessary, it may hold a public hearing concerning the application.

C. The commission shall take action on the application and in doing so shall apply the requirements of this Section and the design guidelines adopted by the commission. The commission's action on the application shall be approval, approval with modifications or disapproval. Prior to final action on an application, the commission, using the guidelines, shall make findings of fact indicating the extent to which the application is or is not in compliance with the review criteria.

8. Minor Works

The commission shall delegate to their professional staff, hereafter referred to as their "coordinator," approval of minor works. Minor works are defined as those exterior changes that do not involve a change to the visual character of the property and do not involve substantial alterations, additions, or removals that could impair the integrity of the property and/or district as a whole. Specific examples of minor works are described in the rules of procedure adopted, as amended from time to time, by the commission.

The commission coordinator may approve but may not deny an application for a certificate of appropriateness for minor works. If the commission coordinator determines to not issue a certificate of appropriateness for minor works, the application shall be referred to the commission for action. A decision by the commission coordinator to issue a certificate of appropriateness for minor works may be appealed in the same manner as other decisions made by the commission as described above.

9. Authentic Restoration or Reconstruction Not Meeting Zoning Requirements

If the historic preservation commission, in reviewing an owner's proposed plans, shall find that a building or structure for which a building permit is required is to be an authentic restoration or reconstruction of a building or structure which existed at the same location, but does not meet zoning requirements, such building or structure may be authorized to be restored or reconstructed at the same location where the original buildings or structures were located, provided the board of adjustment authorizes such restoration or reconstruction and no use other than that permitted in the district in which it is located is made of such property. Such conditions as may be set by the commission and the zoning board of adjustment shall be conditions for the issuance of the building permit.

10. Appeals

In appeal may be taken to the zoning board of adjustment from the commission's action in granting or denying any certificate, which appeals: (i) may be taken by any aggrieved

party; (ii) shall be taken within 15 days of the commission's action; and (iii) shall be in the nature of certiorari. Any appeal from the zoning board of adjustment's decision in any such case shall be taken to the superior court of the county.

19.9 DEMOLITION BY NEGLECT

1. Standard

The exterior features of any building or structure (including walls, fences, light fixtures, steps, pavement, paths, or any other appurtenant feature), or any type of outdoor advertising sign either designated as a historic landmark or located within a historic district shall be preserved by the owner or such other person who may have legal possession, custody and control thereof against decay and deterioration and kept free from structural defects. The owner, or other person having such legal possession, custody and control, shall upon written request by the Town repair such exterior features if they are found to be deteriorating, or if their condition is contributing to deterioration, including but not limited to any of the following defects which have the effect of significantly impairing the integrity of such building or structure or the special character of such historic district:

A. Deterioration of exterior walls, foundations, or other vertical support that causes leaning, sagging, splitting, listing, or buckling.

B. Deterioration of flooring or floor supports, roofs, or other horizontal members that causes leaning, sagging, splitting, listing, or buckling.

C. Deterioration of external chimneys that causes leaning, sagging, splitting, listing, or buckling.

D. Deterioration or crumbling of exterior plasters or mortars.

E. Ineffective waterproofing of exterior walls, roofs, and foundations, including broken windows or doors.

F. Defective protection or lack of weather protection for exterior wall and roof coverings, including lack of paint, or weathering due to lack of paint or other protective covering.

G. Rotting, holes, and other forms of decay.

H. Deterioration of exterior stairs, porches, handrails, window and door frames, cornices, entablatures, wall facings, and architectural details that causes delimitation, instability, loss of shape and form, or crumbling.

I. Heaving, subsidence, or cracking of sidewalks, steps, or pathways.

J. Deterioration of fences, gates, and accessory structures. (11) Deterioration that has a detrimental effect upon the special character of the district as a whole or the unique attributes and character of the historic landmark.

K. Deterioration of any exterior feature so as to create or permit the creation of any hazardous or unsafe conditions to life, health, or other property.

2. Petition and Action

The historic preservation commission may file a petition listing specific defects with the zoning administrator requesting that administrator act under the following procedures to require the correction of deterioration or making of repairs to any historic landmark or structure located within a historic district so that such structure shall be preserved and protected in accordance with the purposes of this Section.

A. Whenever a petition is filed with the zoning administrator charging that a structure is undergoing demolition by neglect, the administrator shall, if her preliminary investigation discloses a basis for such charges, within seven days issue and cause to be served upon the owner and/or such other person who may have legal possession, custody, and control thereof, as the same may be determined by reasonable diligence, a citation stating the charges in that respect and containing a notice that a hearing will be held before the administrator not less than 30 nor more than 45 days after the serving of such citation; that the owner and/or parties in interest shall be given a right to answer to give testimony at the place and time fixed in the citation; that the commission shall also be given notice of the hearing and that the rules of evidence prevailing in courts of law or equity shall not be controlling hearings before the administrator. The purpose of the hearing is to receive evidence concerning the charge of deterioration and to ascertain whether the owner and/or other parties in interest wishes to petition the commission for a claim of undue economic hardship.

(i) Methods of service. Citations or orders issued by the administrator shall be served upon persons either personally or by registered or certified mail; but if the whereabouts of such persons are unknown and the same cannot be ascertained by the administrator in the exercise of reasonable diligence, and the administrator shall make an affidavit to that effect, stating the steps taken to

determine and locate the persons in interest, then the serving of such complaint or order may be made by publishing the same once each week for two successive weeks in a newspaper generally circulated within the Town. Where such service is by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

B. If after such notice and hearing, the administrator determines that the structure is undergoing demolition by neglect because it is deteriorating, or if its condition is contributing to deterioration, according to the standards of 19.9.1 above, the administrator shall state in writing the findings of fact in support of such determination and shall issue and cause to be served upon the owner and/or other parties in interest therein an order to repair within the time specified those elements of the structure that are deteriorating, contributing to deterioration, or deteriorated. In the event that the owner and/or other parties in interest wish to petition for a claim of undue economic hardship, the administrator's order shall be stayed until after the commission's determination in accordance with the procedures of 19.9.3.

3. Safeguards from Undue Economic Hardship

When a claim of undue economic hardship is made owing to the effects of this article, the administrator shall notify the commission within three days following the hearing on the citation. The commission shall schedule a hearing on the claim at its next regular meeting, within the limitations of its procedures for application deadlines.

A. The owner and/or parties in interest must provide evidence during the hearing upon the claim, describing the circumstances of hardship. In the event that any of the required information is not reasonably available to the owner and/or parties in interest and cannot be obtained by the owner, the owner shall describe the reasons why such information cannot be obtained. The minimum evidence shall include for all property:

1. Nature of ownership (individual, business, or non-profit) or legal possession, custody, and control.
2. Financial resources of the owner and/or parties in interest.
3. Cost of repairs.
4. Assessed value of the land and improvements.
5. Real estate taxes for the previous two years.
6. Amounts paid for the property, date of purchase, and party from whom purchased, including a description of the relationship between the owner and the person from whom the property was purchased, or other means of acquisition of title, such as by gift or inheritance.

7. Annual debt service, if any, for previous two years.
8. Any listing of the property for sale or rent, price asked, and offers received, if any.

For income producing property:

9. Annual gross income from the property for the previous two years.
10. Itemized operating and maintenance expenses for the previous two years, including proof that adequate and competent management practices were followed.
11. Annual cash flow, if any, for the previous two years.

B. Within 60 days of the commission's hearing on the claim, the commission shall cause to be made a finding of undue or no undue economic hardship and shall enter the reasons for such finding into the record. In the event of a finding of no undue economic hardship, the commission shall report such finding to the administrator, and the administrator shall cause to be issued an order for such property to be repaired within the time specified.

C. In the event of a finding of undue economic hardship, the finding shall be accompanied by a recommended plan to relieve the economic hardship. This plan may include, but is not limited to, property tax relief as may be allowed under North Carolina law, loans or grants from the Town, or other public, private or nonprofit sources, acquisition by purchase or eminent domain, building code modifications, changes in applicable zoning regulations, or relaxation of the provisions of the article sufficient to mitigate the undue economic hardship. The commission shall report such finding and plan to the administrator. The administrator shall cause to be issued an order for such property to be repaired within the time specified and according to the provisions of the recommended plan.

4. Appeals

An appeal may be taken to the zoning board of adjustment from the commission's action related to demolish by neglect, which appeals: (i) may be taken by any aggrieved party; (ii) shall be taken within 15 days of the commission's action; and (iii) shall be in the nature of certiorari. Any appeal from the zoning board of adjustment's decision in any such case shall be taken to the superior court of the county.

5. Other Town Powers

Nothing contained within this article shall diminish the Town's power to declare an unsafe building or violation of the minimum housing code.

6. Penalties and Remedies

Enforcement of this Section may be by any one or more of the following methods, and the institution of any action under any of these methods shall not relieve any party from any other civil or criminal proceeding prescribed for violations and prohibitions.

A. Equitable remedy. The Town may apply for any appropriate equitable remedy to enforce the provisions of this section 19.9.

B. Order of abatement. The Town may apply for and the court may enter an order of abatement. An order of abatement may direct that improvements or repairs be made, or that any other action be taken that is necessary to bring the property into compliance with this section 19.9. In the event the Town executes an order of abatement, the Town shall have a lien, in the nature of a mechanic's and materialman's, on the property for the cost of executing such order.

C. Civil penalty. No civil penalty shall be levied unless and until the administrator shall deliver a written notice by personal service or by registered mail or by certified mail, return receipt requested, to the person responsible for each violation indicating the nature of the violation and ordering corrective action. The notice shall also set forth the time period when corrective measures must be completed. The notice shall state that failure to correct the violation within the specified time period will result in the assessment of civil penalties and other enforcement action. If after the allotted time period has expired and after the hearing of an appeal if any by the board of adjustment, corrective action has not been completed, a civil penalty may be assessed in the amount of $50.00 per day of continuing violation.

SECTION 20
ARCHITECTURAL STANDARDS

20.1 GENERAL PRINCIPLES

1. Statement of Purpose

The Town of Waxhaw, NC has adopted this manual as a guide for the design of buildings within the Town of Waxhaw. These standards are not intended to promote the replication of the existing built form of Waxhaw, but to allow imaginative design. The standards are meant to help achieve good design, not a certain stylistic result. Buildings should be designed to be complimentary of the existing built environment, not explicit reproductions of existing architectural styles. Spatial elements like massing, proportion, scale, setbacks, spaces between buildings and their relative positions should be used to integrate new development into existing surroundings.

These design standards will enable developers, architects, landowners and the general public to anticipate and plan for building acceptability as a key element of the overall project approval process. They are also provided to inform readers regarding many of the most common design and aesthetic intentions of the Town and to shorten the design and approval process by heading off designs that might otherwise be rejected.

These design standards will promote:

- High quality architectural and site design.
- Protection of sensitive land areas, stands of mature trees, open space, existing natural features and view corridors.
- Creation of commercial, office and industrial developments which result in a positive community influence.

2. Overview of Design Principles

A. Buildings shall avoid long, monotonous, uninterrupted walls or roof planes on their visible facades. Building wall offsets, including projections, recesses, and changes in floor level, shall be used in order to add architectural interest and variety; relieve the visual effect of a single, long wall; and subdivide the wall into human scale proportions. Similarly, roofline offsets shall be provided to lend architectural interest and variety to the massing of a building and to relieve the effect of a single, long roof.

B. All sides of the building shall use materials consistent with those on the prominent side visible from public streets or neighboring properties, and should

be carefully designed with similar detailing, comparable quality, and compatible materials.

C. The Town of Waxhaw encourages designs that are based on 'green building principles.

D. The rich architectural vocabulary of Waxhaw presents a wide variety of development opportunities using traditional forms while avoiding any perception of monotony. Buildings that are stylized in an attempt to use the building itself as advertising shall be discouraged, particularly where the proposed architecture is the result of a "corporate" or franchise style. The guidelines in this section are intended to attach the same or greater level of importance to the overall building design as is placed on the use contained within. Buildings are expected to be added to the Town as long-term additions to the architectural vibrancy of the community.

E. All development projects shall provide a high level of quality in design and construction practices. This document requires compliance with the intent of Waxhaw's Unified Development Ordinance (UDO) and other provisions of the UDO related to the public health, safety, and general welfare of the community but also offers the advantages of large scale planning for development and the efficient use of land.

20.2 ARCHITECTURAL STANDARDS: NON-RESIDENTIAL

1. Building Walls

Building walls should complement the traditional materials and techniques of Waxhaw. They should express the construction techniques and structural constraints of traditional, long-lasting, building materials. Simple configurations and solid craftsmanship are favored over complexity and ostentation in building form and the articulation of details. All building materials to be used shall express their specific properties. For example, heavier more permanent materials (masonry) support lighter materials (wood).

A. <u>Materials: The following materials are permitted:</u>

1. Brick and tile masonry
2. EFIS/Stucco only in accent or decorative uses (smooth or sand finish only)
3. Native stone (or synthetic equivalent)
4. Gypsum Reinforced Fiber Concrete (GFRC - for trim elements only)
5. Metal (for beams, lintels, trim elements and ornamentation only)
6. Cast concrete masonry for limited applications

7. Siding

   a. Wood siding
   b. Cementitious wall board
   c. Lap siding (horizontal) configuration
   d. Smooth or rough-sawn finish (no faux wood grain)
   e. Premium grade vinyl – maximum 4.5" clapboard smooth finish with a minimum of .044 inch thickness – to be used only in residential scale buildings

B. Building materials and colors shall be similar to the materials already being used in the surrounding area. If dissimilar materials are being proposed, other characteristics such as scale, proportion, form, architectural detailing, color, and texture shall be used to ensure that enough similarity exists for the building to relate to the rest of the surroundings. All accessory buildings shall utilize the same materials as the principal structure.

C. <u>Configurations</u>

1. Wall materials shall not change at a building corner.
2. Material changes shall be made within a constructional logic—as where an addition (of a different material) is built onto the original building.
3. Two wall materials may be combined horizontally on one facade. The heavier material should be below.
4. The suggested configuration of all visibly exposed facades should have:

   a. A recognizable base course consisting of, but not limited to thicker walls, ledges or sills; integrally textured materials such as stone or other masonry; integrally colored and patterned materials such as smooth finished stone or tile; lighter or darker colored materials, mullions, or panels; and/or planters;
   b. A recognizable top consisting of, but not limited to cornice treatments, other than just colored stripes or bands, with integrally textured materials such as stone or other masonry or differently colored materials; sloping roof with overhangs and brackets; stepped parapets; and/or a cornice capping the top of a building wall.

D. <u>Metal Siding</u>

The use of metal siding exclusively on any building is prohibited. Metal siding used for accents on any development shall be of the decorative, architectural

metal type. The use of corrugated metal siding is prohibited unless used as a decorative element to accent a particular architectural style.

2. Roofs

A. Sloped roofs

1. Shall be of dimensional composition shingles, tile, slate, shakes, standing seam roofing or combinations thereof

   a. Minimum pitch of sloped roof should be 8:12
   b. Mono-pitch (shed) roofs are allowed only if they are attached to the wall of the main building. No mono-pitch roof shall be less then 6:12.
   c. Sloped roof overhangs must project a minimum of 12 inches

2. Mansard roof used for a story façade is not permitted, see *Figure 1.*

   a. Mansard roof should have functional dormers, see *Figure 2.*

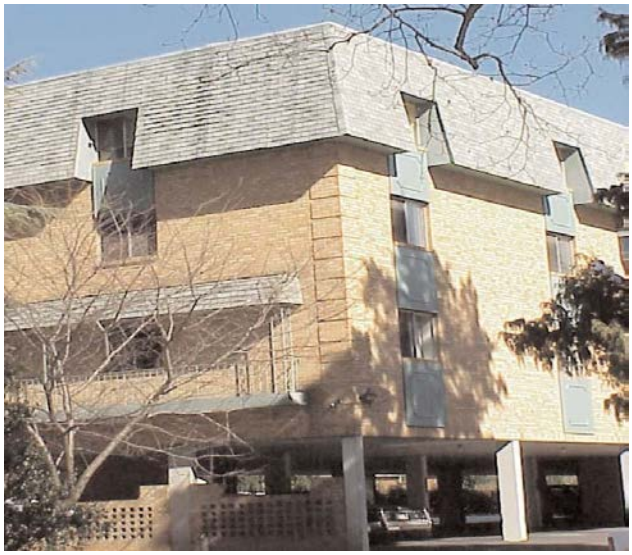


Figure 1 – mansard as part of story façade (Unacceptable)

Figure 2 – functional dormers in mansard (acceptable)

B. Other Roof Requirements

1. Flat Roofs shall be screened with parapets on all sides
2. Roof drainage shall not be directed across any walkways or streets
3. Sky-lights shall be flat (non-bubble). Solar tubes are not considered sky-lights.

4. Use of alternative energy sources is encouraged, including but not limited to solar panels and photovoltaic solar collectors, but the appearance of such items must be approved through the Administrator prior to any construction.
5. All rooftop equipment shall be screened from public view.

C. Windows and Entryways

1. Requirements:

a. Fenestration shall be architecturally related to the style, materials, colors and details of the building.
b. Publicly accessible sides of a building shall have fenestration.

1. Corner entry buildings shall have fenestration on both sides of the building comprising the entry.

c. Windows, doors and other building components shall be proportional to the overall scale of the building.
d. Windows and door openings should be proportioned so that verticals dominate horizontals.
e. Glass shall be transparent with a minimum of tint to preclude opacity.

1. Mirrored glass is not permitted in any location.
2. Specialty windows may utilize stained, opalescent, or glass block (one per façade maximum).

Figure 3 – Continuous ribbon windows

Figure 4 - mullions

f. Continuous ribbon windows shall not be permitted, see *Figure 3*

g. Windows shall have muntins and/or mullions with the exception of street level store front windows, see *Figure 4.*

h. Windows may be ganged horizontally (maximum 3 per group) if each grouping is separated by a muntin, mullion, column, pier or wall section that is a minimum 7 inches wide but is also proportional to the wall and windows, see *Figure 5.*

Figure 5 – Acceptable window grouping with separation (2nd floor)

i. Exterior shutters, if applied, shall be sized and mounted appropriately for the window (one-half the width), even if inoperable.

j. The maximum pane size for office uses is 48 inches vertical by 40 inches horizontal.

k. Doors shall not be recessed behind the building facade a distance that would create a sight or safety issue.

D. <u>Street Walls</u>

1. Street walls establish a clear edge to the street where the buildings do not. All street wall facades shall be as carefully designed as the building façade, with the finished side out, i.e. the “better” side facing the street.

a. Free standing street walls shall be constructed with materials complimentary with the architectural building style and should

not exceed 72 inches in height, excluding decorative pillars, columns, etc.

b. Street walls should avoid long, monotonous uninterrupted expanses.

c. Street walls located within 10 feet of a sidewalk along a public street right of way shall not exceed 48 inches in height nor encroach into the public right of way unless deemed appropriate by the Administrator.

2. Materials: Only the following materials are permitted:

a. Native/regional stone and equivalent imitation stone

b. Metal (wrought iron, welded steel and/or aluminum) with masonry or stucco columns

c. Brick

d. Cementitious stucco on concrete block or poured concrete only, with coping

e. A combination of materials (e.g. stone piers with brick infill panels)

E. Awnings and Canopies

1. When a building canopy, awning, or similar weather protection is incorporated in a building design, the following requirements must be met:

a. Minimum 10 feet of clearance height above the sidewalk.

b. Maximum projection shall be permitted to encroach over a sidewalk to within two feet of a public street curb.

c. Maximum projection shall not exceed the side of the planting strip closest to the façade.

d. Fabric, metal or glass: non-reflective, non-shiny.

e. No internal illumination for transparent applications.

f. Shall not be placed over blank walls; a true window or door must be present below the awning/canopy.

g. Shall be incorporated into the building expression where the massing and scale should be appropriate to appear as an extension of the structure.

h. Supporting columns for gas pump island canopies shall be built with the same materials as the primary building on the site and shall be architecturally consistent with the primary building.

F. Signage

All signage shall comply with Section 13 of the Unified Development Ordinance.

G. Lighting

All lighting shall comply with Section 12 of the Unified Development Ordinance.

H. Screening

1. Utility and Mechanical Screening:

   a. Equipment including but not limited to: utility meters, mechanical equipment, trash enclosures, transformers, generators and similar features or other utility hardware on the building, roof, or ground shall be screened from public view with materials similar to the structure they serve or they shall be so located as not to be visible from any public view or from potential buildings nearby.
   b. Ground mounted equipment may also be screened with evergreen plantings as long as they provide 100% coverage of the equipment at time of issuance of certificate of occupancy. 100% coverage shall be maintained at all times.
   c. Unused equipment should be removed.

2. Service Entries

   a. All service entries, including loading/unloading areas, shall be screened from public view.

I. Colors

1. Use color to promote an overall harmonious composition with the surrounding environment such that color is not used to shock the senses or scream for attention.
2. A color board shall be submitted as part of the project application prior to approval.
3. Any color changes from the original color board shall be approved by the Administrator.

20.3 ARCHITECTURAL STANDARDS: MULTI-FAMILY RESIDENTIAL

This section refers to any building with more than two residential units.

Apartment/Condominium Building

Townhouse Building

1. General Building Requirements

A. Maximum height is 3 stories based on the definitions found in the North Carolina State Residential Building Code, Chapter 2 Definitions.

B. Useable porches and stoops as a predominate motif of the building design are encouraged and should be located on the front and/or side of end units clearly visible from public streets.

2. Façade Configurations

A. The front elevation of the structure shall provide a sufficient number of doors, porches, balconies and/or windows to avoid long, monotonous, uninterrupted expanses. The side elevation of end units which are clearly visible from public streets shall be designed so they do not provide long, monotonous, uninterrupted expanses, through the use of doors, porches, balconies, windows or a combination of these and the design elements listed in the bullet below. The Zoning Administrator shall determine if the design meets the intent of this section.

B. All multi-family buildings shall provide detailed design along all elevations. Detailed design shall be provided by using at least three (3) of the following architectural features on all elevations as appropriate for the proposed building type and style (may vary features on rear/side/front elevations):

1. Dormers
2. Gables

3. Recessed entries
4. Covered porch entries
5. Cupolas or towers
6. Pillars or posts
7. Off-sets in building face or roof (minimum 16 inches)
8. Window trim (minimum 3 inches wide, nominal)
9. Decorative Windows (i.e. bay, stained glass, glass block, transom, palladium)
10. Decorative patterns on exterior finish (i.e. scales/shingles, wainscoting, ornamentation and decorative moldings)
11. Decorative cornices and roof lines.
12. Shutters with crossheads
13. Full gable returns

C. The crawl space of buildings and porches shall be enclosed with masonry material.

3. Garages and Parking

A. Single bay front loading garages must be recessed at least 2 feet behind the primary plane of the front facade of the dwelling.

B. Double bay front loading garages must be recessed at least 10 feet behind the primary plane of the front facade of the dwelling.

Acceptable recessed double bay front loading garages

C. The total width of the outside garage measurements shall be no more than 50% of the width of the front facade of the dwelling.

D. The arrangement of permanent structural elements of the unit (i.e. stoops, porches, etc.) must provide side view screening of single or double bay front loading garages.

E. Garages on adjacent dwellings may not abut one another.

F. Double bay front loading garages must utilize two single bay width doors.

Acceptable two single bay front loading garages

E. In no case shall on-site residential parking extend into the public right of way or across the sidewalk. At least 20 feet shall be provided from the garage door (when closed) to the public right-of-way, sidewalk or edge of private alley.

4. Standards for Building Walls

A. Materials: The following materials are permitted.

1. Brick and tile masonry
2. EFIS/Stucco only in accent or decorative uses (smooth or sand finish only)
3. Native stone (or synthetic equivalent)
4. Gypsum Reinforced Fiber Concrete (for trim elements only)
5. Metal (for beams, lintels, trim elements and ornamentation only)
6. Cast concrete masonry for limited applications
7. Siding

    a. Wood siding
    b. Cementitious wall board
    c. Lap siding (horizontal) configuration

d. Premium grade vinyl – maximum 4.5” clapboard smooth finish with a minimum of .044 inch thickness or approved equivalent
e. Wood Shingle
f. Board and Batten

8. Wall materials shall not change within 18 inches of a building corner.
9. When two wall materials are combined horizontally on one façade the heavier material should be below.

5. Roofs

A. Residential roofs shall be clad in wood shingles, standing seam metal, terne, slate, asphalt shingles or similar material.
B. Main roofs on residential buildings shall be gables or hips with a minimum pitch of 8:12. Mono-pitch (shed) roofs are allowed only if they are attached to the wall of the main building. No mono-pitch roof shall be less then 6:12.
C. The eave on the front and rear of the structure shall overhang a minimum of 12 inches, not including the gutter.
D. The eave on the side of the structure shall overhang a minimum of 8 inches, not including the gutter.
E. Overhanging eaves may expose rafters.
F. All rooftop equipment shall be screened from view.

6. Colors

A. Use color to promote an overall harmonious composition with the surrounding environment such that color is not used to shock the senses or scream for attention.
B. A color board shall be submitted as part of the project application prior to approval.
C. Any color changes from the original color board shall be approved by the Administrator.

20.4 ARCHITECTURAL STANDARDS: ONE AND TWO FAMILY RESIDENCES

This section refers to any building with one or two residential units.

1. Site and Building Elements

A. All one and two family residential housing types shall comply with the following standards. The Administrator may waive individual requirements in this section on a case-by-case basis, provided the intent of this Section is met.

1. Architectural plans shall be furnished to the Administrator and shall conform to the architectural details outlined below.

2. Homes built on a slab in which a concrete foundation wall is used shall have a brick, stone, stucco or other masonry veneer skirt on the face of the foundation wall.
3. Main roofs on residential buildings shall be gables or hips with a minimum pitch of 8:12. Mono-pitch (shed) roofs are allowed only if they are attached to the wall of the main building. No mono-pitch roof shall have a pitch less than 6:12. These standards do not apply to porch roofs.
4. Roof Overhang (not applicable to storage sheds)

    a. The eave on the front and rear of the structure shall overhang a minimum of 12 inches, not including the gutter.
    b. The eave on the side of the structure shall overhang a minimum of 8 inches, not including the gutter.
    c. Eaves on dormers shall overhang at least eight (8) inches.

5. Corner lots shall adhere to the following standards:

    a. Side elevations which are clearly visible from public streets shall be designed so they do not provide long, monotonous, uninterrupted expanses, through the use of doors, porches, balconies, windows or a combination of these and the design elements listed below.

        i. Dormers
        ii. Gables
        iii. Recessed entries
        iv. Covered porch entries
        v. Cupolas or towers
        vi. Pillars or posts
        vii. Off-sets in building face or roof (minimum 16 inches)
        viii. Window trim (minimum 3 inches wide, nominal)
        ix. Decorative Windows (i.e. bay, stained glass, glass block, transom, palladium)
        x. Decorative patterns on exterior finish (i.e. scales/shingles, wainscoting, ornamentation and decorative moldings)
        xi. Decorative cornices and roof lines.
        xii. Shutters with crossheads
        xiii. Full gable returns

    b. The Administrator shall determine if the design meets the intent of this section

6. Front loading garages shall not extend further than 4 feet past the front façade of the house unless a front porch is used and then the garage shall not extend further than 4 feet past the front porch.
7. If vinyl siding is used it must be premium grade vinyl – either a maximum 4.5” clapboard or distinct “V” groove and rounded bead - with a minimum of .044 inch thickness or approved equivalent. (smooth finish is preferred but not required)
8. Wall materials shall not change within 18 inches of a building corner.
9. When two wall materials are combined horizontally on one façade the heavier material should be below.
10. Special Standards for an Alley-Loaded House

    a. For dwellings taking access from an alley, no parking shall be permitted in the required front yard, no driveways are permitted in the front yard and on-street guest parking is required.
    b. At least 20 feet shall be provided from the garage door (when closed) to the public right-of-way, sidewalk or edge of private alley.

11. Builders should select building sites and home plans which will not result in the construction of repetitious designs within close proximity of each other. Similar or repeated front façade elevations in close proximity are discouraged and subject to disapproval by the Administrator.
12. The nearest lot upon which a particular front façade elevation can be repeated on the same side of the street is the fifth in a sequence starting from the original lot. The nearest lot upon which a particular elevation can be repeated on the opposing side of the street is the third in a sequence starting from the original lot. If there is any question regarding approval of a building elevation location or repetition the builder is required to obtain approval from the Administrator prior to construction.

20.5 STREETSCAPES FOR NON-RESIDENTIAL AND MULTI-FAMILY BUILDINGS

1. The streetscapes of Waxhaw should be visually dominated by buildings rather than parking areas. The following standards shall be employed to achieve these objectives:

A. Buildings should be placed adjacent to public streets, with parking located to the side and / or rear of the building(s). New internal streets may be proposed within a site, in order to provide additional street frontage for buildings.

B. Building facades that front a street should generally extend parallel to that street.

C. When the rear or side of a building is placed adjacent to a street, the facade must have detailing consistent with the front of the building such that the side of the building facing the street gives the appearance that it is the primary entrance side of the building.

D. Parking, loading, or service areas shall not be located within 75 feet of a street corner (measured from 90 degree intersection of street right of way lines at the corner). This only applies to parking lots and not to on-street parking.

E. Variations from the above guidelines may be granted where unique circumstances of a site make them impractical or undesirable. Such circumstances may include: property size or shape, site topography, existing tree preservation, potential future road widening, building function or size, public safety, and location of existing buildings adjacent to the site. But any and all variations must be approved by the Administrator unless the Administrator deems the variation large enough to warrant going before the Planning Board and/or Town Board.

F. When landscape elements (trees, shrubs, light fixtures, street furniture, fences, walls, etc.) are placed adjacent to streets, they shall be located and designed in an organized manner to complement and blend harmoniously with buildings and overall site development.

G. Where parking is located adjacent to a street, it shall be visually screened in accordance with Section 12.4.2 of the UDO.

H. When a property Owner proposes to place parking in front of the building adjacent to a street, the site plan must be reviewed by the Planning Board, and the Owner shall present justification for why this approach is appropriate.

20.6 DEVELOPMENT REVIEW PROCEDURE

1. All new construction shall conform to the architectural requirements of this Section regardless of the zoning applying to the parcel in question. The Administrator may approve minor variations to this section provided similar materials, configurations, and/or techniques are used to fulfill the intent of this Section.

2. An applicant may appeal the Administrator's decision of the Town of Waxhaw Board of Adjustments as outlined in the Unified Development Ordinance.

3. Major variation to build façade requirements may be approved by the Town Board, provided the general principles and intent of these architectural standards are maintained. All variations shall be noted on the final approved plan.

SECTION 21
Downtown Code

21.1 ADMINISTRATION

21.1.1 Statement of Intent

The intent and purpose of this Section is to implement the adopted Downtown Master Plan including but not limited to:

- Promoting the development and redevelopment of land and buildings in a manner that is consistent with the scale, massing, and detailing set forth in the vision.
- Increasing connectivity of transportation modes including streets, sidewalks, bike lanes, greenways and trails to provide a variety of transportation choices for residents and visitors.
- Including a diversity of housing types that attract residents of all age groups and socioeconomic statuses.
- Providing opportunities for incremental investment in the downtown area to improve the vitality of the walkable commercial district.

21.1.2 Scope

A. The provisions of the Section shall apply to all properties within downtown Waxhaw with downtown zoning district classifications found in Section 21.2.
B. The provisions of the Section shall apply to all rights-of-way within downtown Waxhaw as defined in the Streets Regulating Plan street types (Section 21.8.3).

21.1.3 Rules for Administration

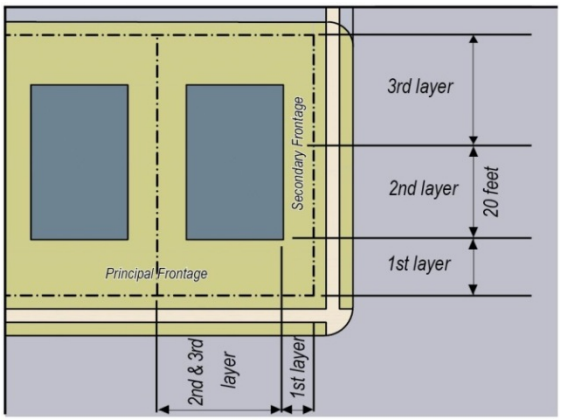
A. The requirements set forth in this Section shall be considered to be comprehensive in their scope and shall be established as the exclusive requirements of property under their jurisdiction within the Unified Development Ordinance (UDO) unless otherwise noted or referenced herein.
B. In the event the Downtown Code conflicts with the UDO or other provisions of local, state or federal law, that law which provides the greatest protection to environment and natural features shall govern unless preempted by state or federal law. Where that intent is not clear from a superficial reading of the Ordinance and laws, that law or Ordinance which is most restrictive shall apply.

C. Building elevations and site plans shall be submitted to show compliance with the standards described in this Section.

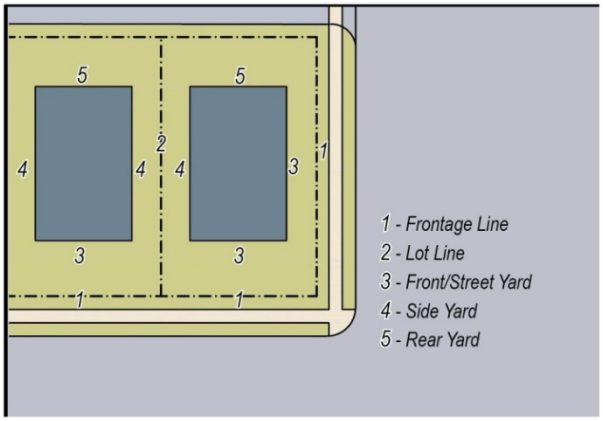
D. To ensure compliance with the standards of this Section as well as the vision and goals of the adopted plans, all site plans and building design plans shall be reviewed by the Administrator or their designee unless otherwise noted.

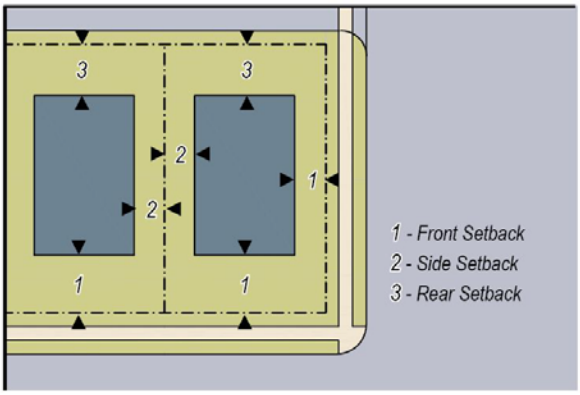
E. Capitalized terms used throughout this Section may be defined in Sec. 8 Definitions of Terms. The diagrams below illustrate regulatory language that is integral to this Section. Those terms not defined in Section 8 or below shall be accorded their commonly accepted meanings.

F. Referenced lot elements and dimensions are as follows:



1st Layer – distance from right-of-way to front of building
2nd Layer – 20 feet measured from Principal Frontage Line
3rd Layer – remainder of lot
On a through lot there are three layers measured back from the principal frontage to the rear lot line, and no vertical layers across the frontage.





21.1.4 Applicability and Existing Conditions

A. Existing buildings and appurtenances that do not conform to the provisions of this Section may continue in use as they are until there is a request for an expansion or Substantial Modification. Substantial Modification is major repair or reconstruction that equals sixty percent (60%) or more of the Taxed Value of the Building or Structure, or reconstruction of any Building or Structure damaged by any cause to an extent equal to sixty percent (60%) or more of its Taxed Value, in which the work is done, singularly or cumulatively within any five (5) year period. Compliance with this ordinance is required if an existing development is expanded or substantially modified in accordance with the following applicability matrix (unless otherwise specified in this Section):

✓ - Compliance with all applicable standards required

✓+ - Compliance required of the expanded building area only and the requirements of the applicable section to the extent practical

	21.6 Building Standard Design	21.7.3 Parking	21.7.3 Driveways & Cross Access Connections	21.7.4 Site Landscaping	21.7.5 Utilities, Trash Containment & Loading	21.8.3 Streetscape Improvements
Parking Area Expansion						
Minor : 1-24 Spaces			✓+	✓+	✓	
Major: 25 or more Spaces			✓+	✓	✓	✓
Renovation Due to Disaster (Fire, Flood, etc.)	✓					
Renovation Due to Disaster with ownership and use prior to the effective date of the Downtown Code in the Town Center (TC)						
Renovation Due to Disaster with structures built prior to 1963, if built in accordance with the Waxhaw Historic Landmark Guidelines.		✓	✓	✓	✓	
Reoccupation after Extended Vacancy (Greater than 180 days)						
Exterior Renovation without Expansion; < 60% of the Taxed Value of building	✓			✓+	✓+	✓+
Substantial Exterior Renovation without Expansion; > 60% of Taxed Value of building	✓	✓	✓	✓	✓+	✓+
Expansion < 60% of Existing Gross Floor Area	✓+			✓+	✓+	
Expansion > 60% of Existing Gross Floor Area	✓	✓+	✓+	✓	✓	✓+

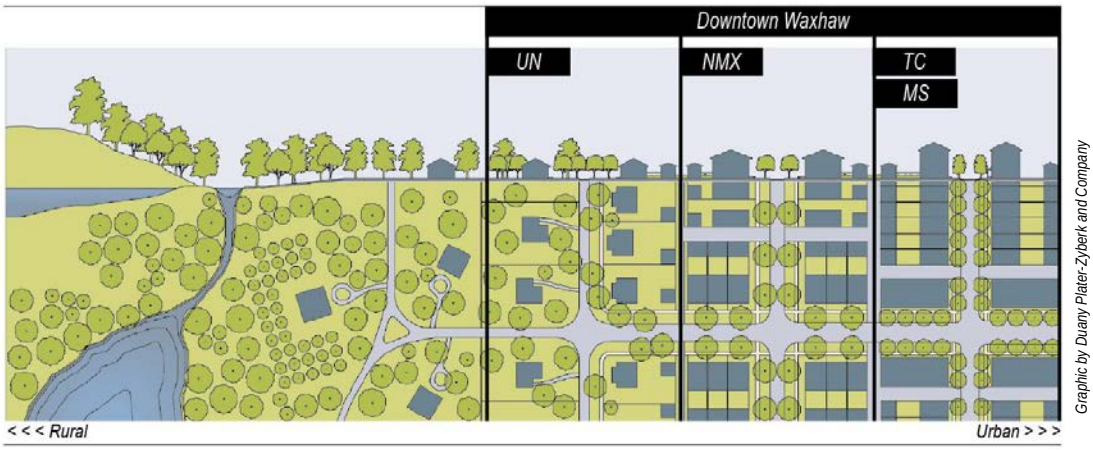
B. The modification of existing buildings is permitted by right if such changes result in greater conformance with the specifications of this Section.

C. New development shall comply with all of the rules noted in this Section and the expense of compliance is expected to be borne exclusively by the developer. This Section in no way conveys the promise of any public participation or subsidy unless specifically granted by the Town or other governing agency (e.g. North Carolina Department of Transportation.)

21.2 ZONING DISTRICTS

21.2.1 District Designations

The districts in this Downtown Code have been established along a continuum of development intensity that ranges from rural to urban development. This Downtown Code regulates only the development at the urban end of this continuum, as shown in the diagram below. In addition, this Downtown Code only regulates properties that are zoned in one of the five downtown zoning classifications described below.



Urban Neighborhood (UN): The Urban Neighborhood District consists of predominately medium density residential urban fabric. It may have a wide range of building types: single, sideyard, and townhouses. Setbacks and landscaping are variable. Streets with curbs and sidewalks define medium-sized blocks.

Neighborhood Mixed Use (NMX): The Neighborhood Mixed Use District consists of higher density, mixed use buildings that accommodate retail, offices, townhouses and apartments. It has a tight network of streets, with wide sidewalks, steady street tree planting and buildings set close to the sidewalks.

Main Street (MS): The Main Street District consists of historic, mixed use buildings that accommodate retail, offices, townhouses and apartments. It has a tight network of streets, with wide sidewalks, steady street tree planting and buildings set close to the

sidewalks. The Main Street District is intended to be similar to the Town Center District, but with building heights that fit the architectural scale of historic Waxhaw.

Town Center (TC): The Town Center District consists of larger mixed-use buildings that accommodate retail, offices, townhouses and apartments. It has a tight network of streets with wide sidewalks, steady street tree planting and buildings set close to the sidewalks.

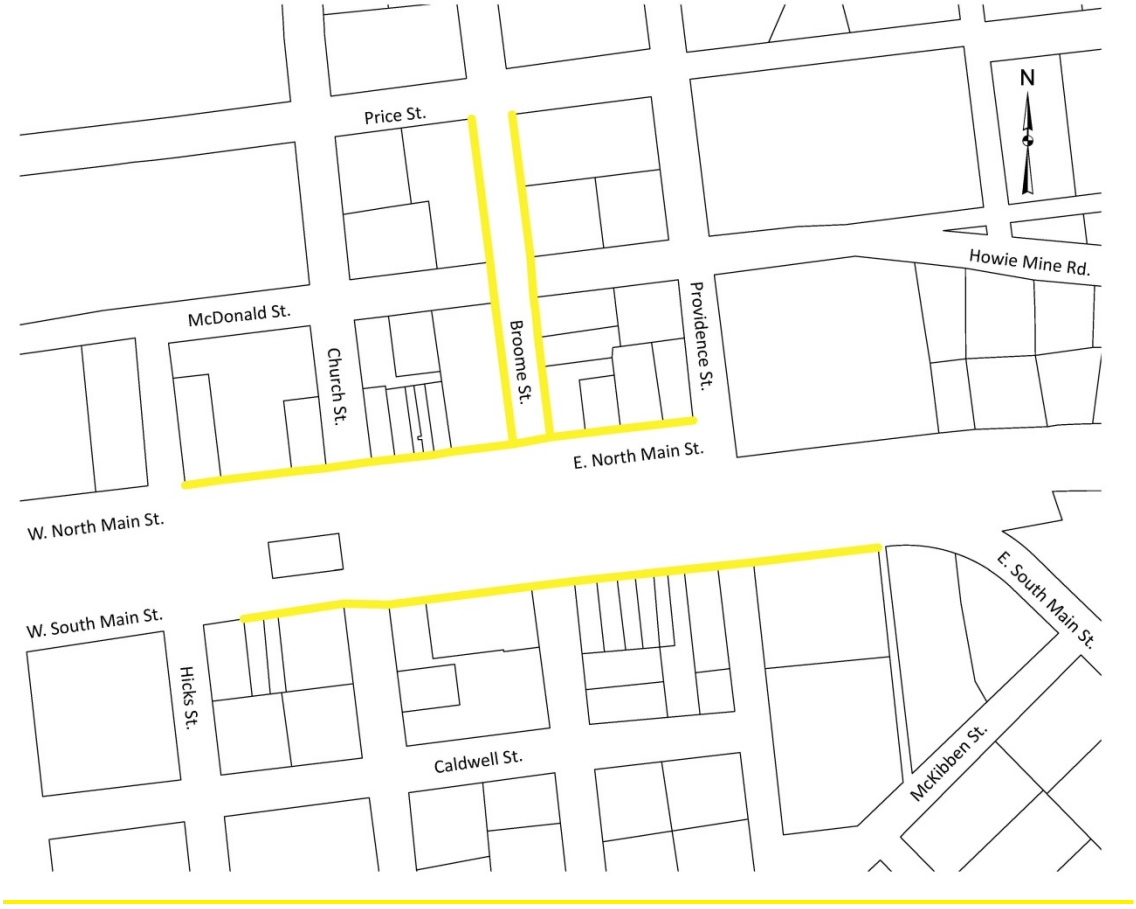
Open Space (OS): The Open Space District consists of active and passive recreational areas and natural topography. Development in the Open Space Zones shall be limited to Park Facilities and features only, and shall be approved by Conditional Use Permit only.

21.2.2 Restricted Frontages

The Regulating Plan designates certain frontages as unique from their general district standards. As such, where a wide variety of frontage types may be permitted generally, the Restricted Frontage limits that variety to achieve a specific design. Private Frontage types are regulated according to Section 21.4.7.

A. MS-Restricted Frontage: Shopfront, Gallery, or Arcade only

B. TC-Restricted Frontage: Shopfront, Gallery, or Arcade only



21.2.3 Open Space Zones

Development in Open Space Zones shall be limited to Park Facilities and features only, and shall be approved by Conditional Use Permit Only.

21.3 USE STANDARDS

21.3.1 Table of Permitted Uses

The following table identifies the permitted uses and functions by district for the Downtown Area. Use and functions that are identified as "Permitted with Supplemental Regulations" are subject to additional standards identified in Section 21.3.2. Item noted as requiring a Conditional Use Permit shall be subject to the provisions of Section 14. Items not listed shall be deemed to be not permitted unless the Administrator determines that the proposed use or function is materially similar to one shown in the table. The classifications below are intentionally broad in their scope and should be construed as such in making a determination of similar use or function. This code does not limit the number of principal uses permitted within a building or on a site.

Use or Function						
21.3.1.A. Residential	UN	NMX	MS	TC	OS	Supplemental Regulations
Congregate Care Facility*	—	XS	—	XS	—	21.3.2.A.1
Dwelling-Single Family, attached*	X	X	—	—	—	
Dwelling-Single Family, detached*	X	X	—	—	—	
Dwelling-Accessory*	XS	X	—	—	—	21.3.2.A.2
Dwelling-Multifamily*	—	X	X	X	—	
Dwelling-Two family*	X	X	—	—	—	
Family Care Home (6 or fewer residents)*	X	X	X	X	—	
Live-Work Units*	—	XS	XS	—	—	21.3.2.A.3
Manufactured Home	—	—	—	—	—	
21.3.1.B. Lodging	UN	NMX	MS	TC	OS	Supplemental Regulations
Bed and Breakfast Inn (Up to 12 Guest Rooms)	XS	XS	XS	XS	—	21.3.2.B.1
Rooming House	—	—	—	—	—	
Hotel/Motel	—	—	X	X	—	
21.3.1.C. Office/Service	UN	NMX	MS	TC	OS	Supplemental Regulations
Bank Teller Machine (i.e., ATM's)	—	—	XS	XS	—	21.3.2.C.1
Financial Institution	—	—	X	X	—	
Business Support Services	—	XS	X	X	—	21.3.2.K.3
Crematorium	—	—	—	—	—	

X = Permitted Use XS = Permitted with Supplemental Regulations CUP = Conditional Use Permit — = Prohibited

**= Uses that qualify for Residential Building Standards – Section 21.6.3. Residential Building Standards*

Use or Function						
21.3.1.C. Office/Service	UN	NMX	MS	TC	OS	Supplemental Regulations
Dry Cleaning & Laundry Services	—	—	X	X	—	
Funeral Homes	—	—	—	—	—	
General Office (includes Professional Services)	—	XS	X	X	—	21.3.2.K.3
Home Occupation	XS	XS	XS	XS	—	21.3.2.C.2
Medical Services (e.g. doctor's office, clinic)	—	XS	X	X	—	21.3.2.K.3
Personal Care Services	—	XS	X	X	—	21.3.2.K.3
Personal Services, Restricted	—	—	—	—	—	
Postal Store and Contract Station	—	XS	X	X	—	21.3.2.K.3
Small Equipment Repair/Rental	—	—	X	X	—	
Veterinary Services	—	—	—	X	—	
21.3.1.D. Commercial/Entertainment	UN	NMX	MS	TC	OS	Supplemental Regulations
ABC Store (Alcoholic Beverage Sales Store)	—	—	—	X	—	
Adult Establishment	—	—	—	—	—	
Amusements, Indoor	—	—	—	X	—	
Amusements, Outdoor	—	—	—	—	CUP	
Event Center	—	—	X	X	—	21.3.2.D.1
General Commercial – Under 10,000 s.f.	—	XS	X	X	—	21.3.2.K.3
General Commercial – Use between 10,000 s.f. – 25,000 s.f.	—	—	X	X	—	
General Commercial – Use Greater than 25,000 sf	—	—	—	XS	—	21.3.2.D.2
Lounge / Bar/Tavern/Night Club	—	—	X	X	—	
Outside Sales (Accessory)	—	XS	XS	XS	—	21.3.2.D.3
Pawn Shop	—	—	—	—	—	
Racetrack	—	—	—	—	—	
Restaurant	—	XS	X	X	—	21.3.2.D.4
Theater, Indoor Movie or Live Performance	—	XS	X	X	—	21.3.2.K.3
Theater, Outdoor	XS	XS	—	—	CUP	21.3.2.D.5
X = Permitted Use XS = Permitted with Supplemental Regulations CUP = Conditional Use Permit — = Prohibited						

21.3.1.E. Civic	UN	NMX	MS	TC	OS	Supplemental Regulations
Cemetery	CUP	—	—	—	—	
Conference/Convention Center**	—	—	—	X	—	
Cultural or Community Facility**	—	X	X	X	CUP	
Government Offices* *	—	X	X	X	—	
Meeting Facilities	—	X	X	X	—	
Recreation Facilities, Indoor	—	X	X	X	CUP	
Recreation Facilities, Outdoor	—	X	X	X	CUP	
21.3.1.F. Educational/Institutional	**UN**	**NMX**	**MS**	**TC**	**OS**	**Supplemental Regulations**
Church/House of Worship	X	X	XS	XS	—	21.3.2.F.1
College/University	—	CUP	CUP	CUP	—	
Correctional Institution	—	—	—	—	—	
Day Care Center in Single Family Structure and up to 8 Children/Persons	X	X	X	X	—	21.3.2.F.2
Day Care Center in Single Family Structure from 9 to 12 Children/Persons	X	X	X	X	__	21.3.2.F.3
Day Care Center	—	XS	X	X	—	21.3.2.K.3
Halfway Homes	—	—	—	—	—	
Hospital	—	—	—	—	—	
School, Elementary and Secondary	CUP	CUP	CUP	CUP	—	21.3.2.F.2
School, Vocational	XS	XS	XS	XS	—	21.3.2.F.3
Stadium	—	—	—	—	—	
Studio –Dance, martial arts, music	—	XS	X	X	—	21.3.2.K.3
21.3.1.G. Automotive	**UN**	**NMX**	**MS**	**TC**		**Supplemental Regulations**
Automobile Service Station/Gas Station	—	—	—	CUP	—	21.3.2.G.1
Drive-Thru/Drive-In Facility – Food	—	—	—	—	—	
Drive-Thru/Drive-In Facility - Other	—	—	—	CUP	—	21.3.2.G.2
Parking Lot/Structure –Principal Use	—	—	CUP	CUP	—	21.3.2.G.3
Parking Structure – Accessory Use	—	—	XS	XS	—	21.3.2.G.3
Theater, Outdoor Movie / Theater, Drive-In	—	—	—	—	—	
Vehicle Rental/Leasing/Sales	—	—	—	XS	—	21.3.2.G.4
Vehicle Services – Major Repair/Body Work	—	—	—	—	—	
Vehicle Services – Minor Maintenance/Repair	—	—	—	XS	—	21.3.2.G.5

X = Permitted Use XS = Permitted with Supplemental Regulations CUP = Conditional Use Permit — = Prohibited

21.3.1.H. Industry/Wholesale/Storage	UN	NMX	MS	TC	OS	Supplemental Regulations
Artist Studio and Related Workshops	XS	X	X	X	—	21.3.2.H.1
Light Manufacturing Workshops	—	XS	X	X	—	21.3.2.H.2
Heavy Equipment/Manufactured Home Rental/Sales	—	—	—	—	—	
Industry, Heavy	—	—	—	—	—	
Industry, Light	—	—	X	X	—	
Materials Recovery & Waste Transfer Facilities	—	—	—	—	—	
Recycling Deposit Station (Principal Use) / Recycling Collection Stations	—	—	—	—	—	
Research and Development Facilities	—	XS	X	X	—	21.3.2.K.3
Storage – Outdoor Storage Yard	—	—	—	—	—	
Storage – Self-Service	—	—	—	—	—	
Wholesaling and Distribution	—	—	—	—	—	
21.3.1.I. Agriculture	**UN**	**NMX**	**MS**	**TC**	**OS**	**Supplemental Regulations**
Community Garden	XS	XS	—	—	XS	21.3.2.I.1
Animal Kennel	—	—	—	—	—	
Farmers' Market	XS	XS	XS	XS	—	21.3.2.I.2
Nursery / Nurseries & Garden Centers	—	—	—	X	—	
Produce Stand	XS	XS	XS	XS	—	21.3.2.I.3
21.3.1.J. Infrastructure	**UN**	**NMX**	**MS**	**TC**	**OS**	**Supplemental Regulations**
Telecommunications Tower	CUP	CUP	CUP	CUP	—	
Utilities – Class 1	X	X	—	X	—	
Utilities – Class 2	—	X	—	X	—	
Utilities – Class 3	—	—	—	—	—	
21.3.1.K. Other	**UN**	**NMX**	**MS**	**TC**		**Supplemental Regulations**
Temporary Uses	XS	XS	XS	XS	—	21.3.2.K.1
Accessory Buildings	XS	XS	XS	XS	—	21.3.2.K.2

X = Permitted Use XS = Permitted with Supplemental Regulations CUP = Conditional Use Permit — = Prohibited

21.3.2 Additional Use Standards

21.3.2.A Residential Uses & Functions

1. **Congregate Care Facility**

   a. If the sideyard of a property is in or abuts a R (residential) or UN district, it shall have a minimum side setback of 20' and a minimum rear setback of 35', or the required side and rear setbacks of the zoning district, whichever are greater.

2. **Dwelling - Accessory**: To meet the Town's range of housing needs, accessory dwelling units are permitted, but must be subordinate to the primary living quarters.

   a. Any detached accessory dwelling unit must be located in the rear yard of any residential use lot subject to the requirements of this Section.

   b. Accessory dwelling units may be created as a second story to a detached garage with a 2 story height maximum as long as the accessory structure does not exceed the height of the principal structure. Not more than 1 secondary dwelling unit is permitted.

   c. The accessory dwelling unit may not be larger than 50% of the gross floor area of the principal structure except that it shall have a minimum habitable area of not less than 360 square feet.

   d. One parking space may be provided per unit. Parking spaces must be located in the rear yard or side yard of the principal dwelling unit or may be located on-street in front of the principal dwelling unit.

3. **Live-Work Units:** Construction shall meet the requirements of the North Carolina Building Code, and built to commercial standards subject to the following:

   a. The maximum total size of a Live-Work unit is 3000 square feet and three stories in height.

   b. The non-residential area function shall be limited to the first or main floor only, and must occupy the portion of the building facing the street.

c. The work area shall occupy 50% or less of the total unit.

d. The same tenant shall occupy the work area and living area.

21.3.2.B Lodging

1. Bed and Breakfast Inn (up to 12 rooms)

a. In all districts, meals shall be served to resident guests only.

b. In the UN district, no more than two (2) off-street parking spaces shall be provided in the front yard.

21.3.2.C Office/Services

1. Bank Teller Machine (ATM)

a. Such uses may be allowed as an accessory use on lots containing a principal nonresidential use (including those lots which do not contain financial institutions) under the following conditions:

1. A scaled site plan shall be submitted to the Administrator for his review. The site plan, among other things, shall show proposed means of ingress and egress to the ATM from adjoining roads. The site plan shall show how light and glare spill-over onto adjacent lots is addressed.

2. The placing of an ATM on a lot that does not contain a financial institution shall not in itself result in the creation of a planned multi-tenant development, nor shall it constitute an expansion of the principal use on the lot.21

b. In the MS and TC districts only:

1. ATM facilities attached to building facades may face public streets in the TC district. ATM facilities attached to building facades in the MS district shall only be placed in the second or third layer and require a CUP.

2. The Administrator must review and approve, approve with condition, or deny each proposed location to determine if on-street parking can be accommodated at the proposed site and if the ATM would likely have a major impact on pedestrian and traffic circulation in the immediate area;

3. A lighting plan will be required with the intent to ensure that adequate lighting is provided;

4. A trash receptacle must be immediately accessible to the ATM; and

5. At the time that the ATM is removed, the facade must be restored to an appearance consistent with the existing structure.

2. Home Occupation

a. General Standards

1. The home occupation shall be clearly incidental and secondary to residential occupancy.

2. The use shall be carried on entirely within an enclosed structure on the premises.

3. The home occupation shall be operated by a resident of the dwelling.

4. Not more than twenty-five percent of the total gross floor area of residential buildings plus other buildings housing the home occupation, or more than 1,000 square feet of gross floor area (whichever is less), may be used for home occupation purposes.

5. No on-premise retail sales of goods not produced on-site may occur, except that incidental retail sales may be permitted (e.g. hair products at a beauty shop).

6. A maximum of 2 full-time equivalent non-residents of the dwelling may be employed on the premises.

7. The use shall not generate pedestrian or vehicular traffic beyond that normal to the district in which it is located.

8. The use may not create noise, fumes, odor, dust or electrical interference beyond normal residential standards.

9. Only vehicles used primarily as passenger vehicles may be used in connection with the home occupation.

b. Parking

1. Parking areas in the front yard shall be limited to the existing residential driveway only. Additional parking may be provided in the rear yard only.

c. Uses Prohibited as Home Occupations: The following uses are prohibited as home occupations because the nature of their operation has the tendency to impair the use and value of properties in a residential district.

1. Congregate Housing
2. Medical Clinic
3. Personal Services, Restricted
4. Veterinary Services
5. Any Commercial/Entertainment Uses (as listed on the Use Table in Section 21.3-1.D), except General Commercial
6. Correctional Institution
7. Halfway Homes
8. Day Treatment Center
9. Hospital
10. Any Automotive Uses (as listed on the Use Table in Section 21.3-1.G)
11. Any Industrial/Wholesale/Storage Uses (as listed on the Use Table in Section 21.3 – 1.H)

21.3.2.D Commercial / Entertainment Uses & Functions

1. Event Center

a. All state, county, and/or town licenses or permits required to operate such a facility shall be obtained by the owner/operator of the facility.

b. If live or recorded music is allowed at events, no amplified sound and/or music shall be allowed outdoors after 10 pm or indoors after 1 am.

c. The proposed methods of soundproofing the building must be sufficient to reduce the noise from the interior of the building. The noise level at the property line shall not exceed sixty (60) decibels after 10 pm.

d. Outdoor areas planned to be used in connection with the event center shall be located and buffered in such a manner as to protect neighboring uses from light, noise, and loss of privacy.

e. Exterior lighting shall be in accordance with sect. 12.12 of this ordinance.

2. General Commercial – Use Greater than 25,000 sf

a. All projects containing new construction of a single-use that is greater than 62,500 sq. ft. shall require a Conditional Use Permit.

3. Outside Sales (accessory)

a. Location: Outside sales must be clearly secondary to the primary use within the associated permanent structure and shall generally be located to the side or rear of the principal structure. Outdoor merchandise displays shall not be located more than 12 feet from the front facade of the building.

b. Displays on public sidewalks: Merchandise for sale may be placed on the public sidewalk in front of the shop where the building is directly adjacent to the sidewalk provided that a minimum of a 5 foot wide clearance on the sidewalk is maintained. Such displays shall be removed from the sidewalk when the business is not open. Such sales may also be subject to other Town ordinances.

4. Restaurant

a. In the NMX district, restaurants greater than 8,000 s.f. are not permitted.

5. Theater, Outdoor

a. The performance and audience areas for any outdoor theater shall be located a minimum of 200 feet from any adjacent residentially zoned property.

21.3.2.E Civic Uses & Functions – No additional standards

21.3.2.F Educational/Institutional Uses & Functions

1. Church/House of Worship

a. Accessory uses associated with churches/houses of worship (e.g., bookstores, daycares, schools) shall not be considered a second principle use if less than 50% of the structure is used for the associated use. On-site vehicle stacking for child drop-off for any associated school and/or daycare shall be based on NCDOT requirements using the NCDOT required calculator.

b. Churches/Houses of Worship are permitted in UN, NMX, MS and TC. If located in the MS-Restricted Frontage or TC-Restricted Frontage zones (Section 21.2.2) churches/houses of worship shall only be located in the second floor of an existing building that has a commercial use downstairs, and shall not have signage.

2. Day Care Centers, in Single Family Structure and up to 8 Children/Persons

a. The facility is staffed by persons residing in the dwelling in which the day care center is located and up to one (1) non-resident.

b. Outdoor play areas shall be located in the rear or side yards only. In no case shall such play areas be located in the required side yard setback.

c. All outdoor play areas shall be surrounded by a fence or wall at least four (4) feet in height. Outdoor play areas shall not include driveways, parking areas, or other land unsuitable for play use.

d. One attached on-premise non-illuminated sign may be used to advertise the day care center. Said sign shall have a maximum area of one and four (4) square feet and a maximum height of two (2) feet.

e. The day care center shall be located in a structure originally constructed as and designed for a single-family dwelling. Said structure shall be the principal structure on the lot. The exterior of the structure (aside from the allowed day care signage) shall not be altered in a manner, which diminishes its single-family dwelling characteristics.

f. In Office and Commercial districts only, outdoor play areas located in the side yard shall observe a minimum side yard setback of ten (10) feet. On corner or through lots, a minimum twenty (20) foot setback for outdoor play areas as measured from the abutting street right-of-way shall be observed.

3. Day Care Centers, in Single Family Structure from 9 to 12 Children/Persons

a. The facility is staffed by persons residing in the dwelling in which the day care center is located and a maximum of two (2) non-residents.

b. Outdoor play areas shall be located in the rear or side yards only. In no case shall such play areas be located closer than 10 feet to any property line.

c. All outdoor play areas shall be surrounded by privacy fence or wall at least 6 feet in height to preserve the appearance of a single family structure.

d. One free standing non-illuminated sign may be used to advertise the day care center. Said sign shall have a maximum area of four (4) square feet and a maximum height of two (2) feet. No other signs are allowed on the property.

e. The day care center shall be located in a structure originally constructed as designed for a single-family dwelling. Said structure shall be the principal structure on the lot. The exterior of the structure (aside from the allowed day care signage) shall not be altered in a manner, which diminishes its single-family dwelling characteristics.

f. Day care operating hours shall begin no earlier than 6:00 A.M. and end no later than 6:30 P.M. Monday through Friday.

g. In office and commercial districts only, outdoor play areas located in the side yard shall observe a minimum side yard setback of ten (10) feet. On corner or through lots, a minimum twenty (20) foot setback for outdoor play areas as measured from the abutting street right-of-way shall be observed.

4. Schools - Elementary & Secondary

a. Connectivity (vehicular and pedestrian) to surrounding residential areas is required. Where a full vehicular connection is impractical, a multi-use trail connection shall be provided.

b. Accessory daycares associated with any school must occupy no more than 50% of the school structure(s).

c. On-site vehicle stacking for student drop-off shall be based on NCDOT requirements using the NCDOT required calculator.

5. Schools - Vocational/Technical

a. Connectivity (vehicular and pedestrian) to surrounding residential areas is required. Where a full vehicular connection is impractical, a multi-use trail connection shall be provided.

21.3.2.G Automotive Uses & Functions

1. Automobile Service Station/Gas Station

a. All Canopies/Pumps must be located in the 3rd Layer only, be located at least 50 feet from any interior side or rear property line that adjoins residentially developed property, and shall be buffered from adjoining residential uses with a Class C buffer in accordance with the UDO Table 9.8.1.b *Buffer Widths and Planting Standards.*

b. Principal Buildings: A conforming principal building is required and shall be a minimum of one thousand six hundred (1,600) square feet.

c. Lighting: All lighting, including that from a sign or structure, must be shielded to direct light and glare only onto the lot or parcel where the gas/fueling station is located.

d. Car Wash or Auto Detailing:

1. An automatic car wash shall be considered an accessory use to an automotive service station use when it is located on the same lot, and shall be governed by the use and development regulations applicable to the service station use.

2. The car wash facility must have a 100 percent water recycling system.

3. Any outdoor speaker or public address system must not be audible off-site.

2. Drive-Through - Drive-In Facility – Other (TC)

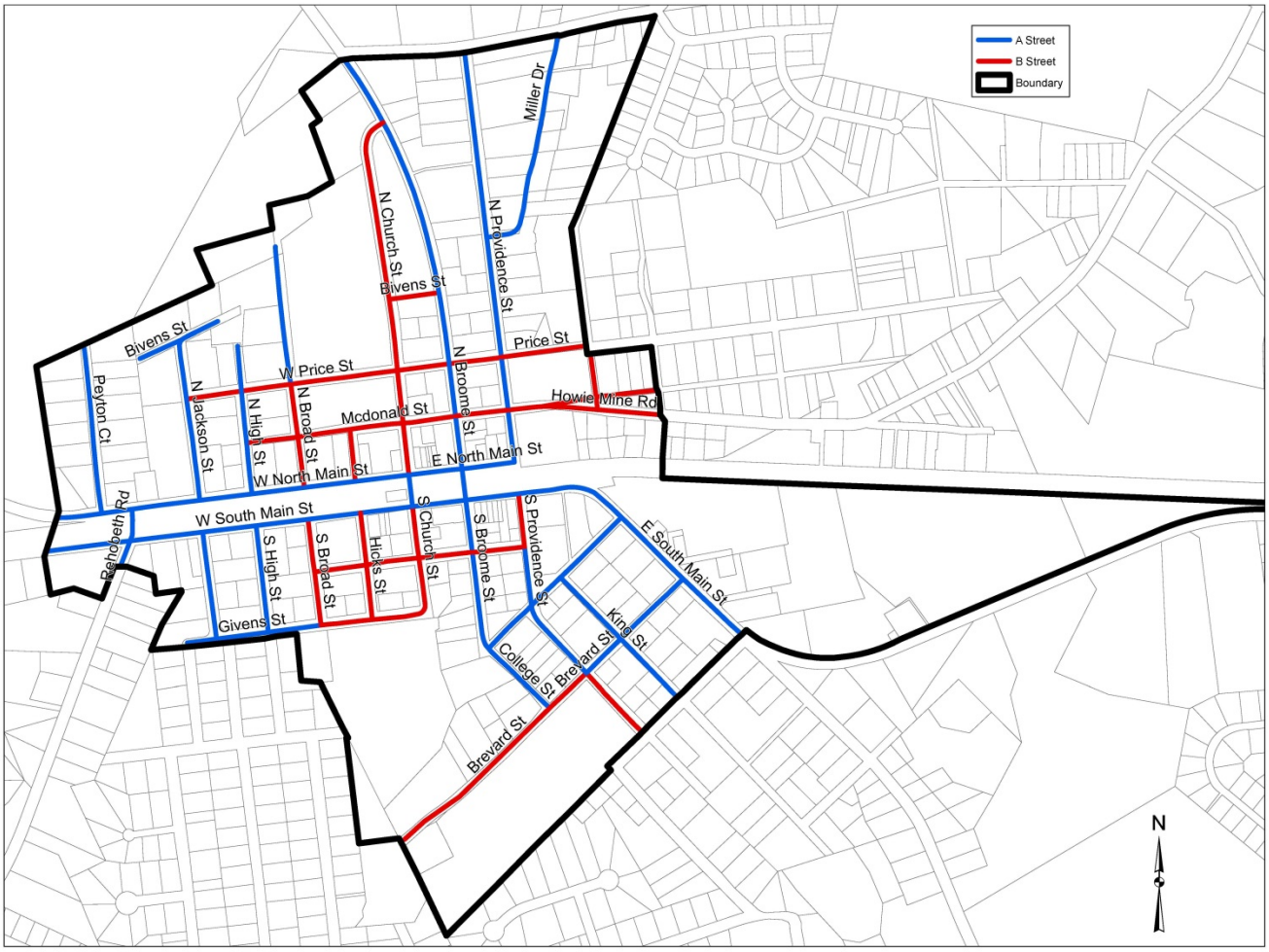
a. Drive-thru facilities shall be located in the 3rd Layer only.

b. Access to the drive-thru service should be from mid-block or the alley to avoid disrupting pedestrian traffic.

3. Parking Lot/Structure – Principal Use and Accessory Use

a. Private Parking Lots: Privately owned parking lots are permitted as accessory uses only (i.e., free standing parking lots not directly associated with buildings in the same block are not permitted).

b. Public Parking Lots: Public parking lots are permitted as a principal use on B Street Frontage only as noted in the following map.



c. Parking Garage Design Standards:

1. **Liner Buildings Required:** The ground-level of a parking structure should be wrapped by ground floor retail, office or some other active use along all street-facing façades. All levels of a structured parking facility must be designed and screened in such a way as to minimize visibility of parked cars. Public parking structures on B streets in MS and TC are exempt from this requirement with the use of vegetation that adequately screens the visibility of parked cars.

2. **High-Quality Materials:** Along pedestrian-oriented streets, parking structure facades should be treated with high quality materials in similar architectural character of Waxhaw and given vertical articulation and emphasis compatible to the principal structure. The façade should

be designed to visually screen cars. In no instance will rails or cabling alone be sufficient to meet this screening requirement.

3. **Clear Entries:** Pedestrian entries should be clearly visible. The vertical circulation should not be located in the center of the structure so that it is difficult or circuitous to locate.

4. **Vents and Utility Openings:** In addition to the above requirements, in the event that any openings for ventilation, service, or emergency access are located at the first floor level in the building façade, then they shall be an integral part of the overall building design. These openings as well as pedestrian and vehicular entrances must be designed to minimize visibility of parked cars. The remainder of the street level frontage must be either commercial space or an architecturally articulated façade designed to minimize the visibility of parked cars.

4. Vehicle Rental/Leasing/Sales

a. Areas for vehicle displays shall be limited to the 2nd and 3rd Layers only. Parking areas may not be expanded into any 1st layer zone.

5. Vehicle Services - Minor Maintenance/Repair

a. Repair and Maintenance – General:

1. No vehicle may be parked or stored for the purpose of sale or rent or as a source of parts.

2. All repairs and storage must be contained within an enclosed building. Temporary vehicle storage may be allowed in an outdoor storage area that shall be no larger than 25% of the total lot area. Such areas must be located to the rear of the principal structure and must be screened from off-site views by an 8-ft tall solid, decorative fence or masonry wall. The height of materials and equipment stored must not exceed the height of the screening fence or wall.

21.3.2.H Industry/Wholesale/Storage

1. **Artist Studio and Related Workshop** (UN)

   a. No generation of dust, odors, noise, vibration or electrical interference or fluctuation shall be perceptible beyond the property line at any time of day.

2. **Light Manufacturing Workshop** (NMX)

   a. No generation of dust, odors, noise, vibration or electrical interference or fluctuation shall be perceptible beyond the property line at any time of day.

21.3.2.I Agriculture

1. **Farmer's Market** (NMX, MS, TC)

   a. All Farmers' Markets and their vendors shall obtain all required operating and health permits, and these permits (or copies) shall be in the possession of the Farmers' Market Manager or vendor, as applicable, on the site of the Farmers' Market during all hours of operation.

   b. All Farmers' Markets shall have an established set of operating rules addressing the governance structure of the farmers' market, hours of operation, maintenance and security requirements and responsibilities; and appointment of a Market Manager. The name and telephone number of the Market Manager and a copy of the operating rules shall be kept on file with the Town Planning and Community Development Department.

   c. All Farmers' Markets and their vendors are encouraged to accept forms of payment by participants of federal, state, or local food assistance programs, including but not limited to the Food Stamps/Supplemental Nutrition Assistance Program; the Women, Infants, and Children (WIC) Farmers' Market Nutrition Program; and the Senior Farmers' Market Nutrition Program. Such forms of payment include but are not limited to coupons, vouchers, and Electronic Benefit Transfer (EBT) cards.

   d. All Farmers' Market signs shall meet Section 13.11 Signs That Do Not Require a Permit.

e. All accessory structures on the premise shall meet the requirements set forth in Section 9.20 Accessory Structures. The accessory structure shall compliment the surrounding environs.

f. Off-street parking is not required for Farmers' Markets unless the Zoning Administrator determines that public health and safety requires off-street parking to be located within 1000 feet of the site. However, there must be space(s) located on or adjacent to the site for the loading and unloading of materials associated with the market use to prevent impeding traffic flow caused by parking on the side of the street. This space(s) will need to be clearly marked.

g. The site shall be designed and maintained to prevent stormwater runoff from damaging adjacent properties.

h. Farmers' Markets shall be exempt from landscaping and buffering requirements contained in this Ordinance unless the site abuts a residentially zoned property. In this case the site shall meet the requirements of Section 9.8.4 *Side and Rear Yard Landscaping* along the property line of the abutting residentially zoned property.

i. Fences shall not exceed six (6') feet in height and shall meet the regulations in Section 9.19 *Fences and Walls*.

j. Farmers' Markets shall be exempt from installation of off-site improvements contained in this Ordinance, including but not limited to installation of curb, gutter, and sidewalk or right-of-way dedication. If water and sewer is needed on site, Farmers' Market management shall be responsible for all permitting and construction. This exemption of off-site improvements is from the Town of Waxhaw requirements only. Farmers' Market management will be responsible for obtaining approvals, and/or waivers, for the installation of off-site improvements from NCDOT, or any other agency.

2. Community Garden

a. Site users must have an established set of operating rules addressing the governance structure of the garden, hours of operation, maintenance and security requirements and responsibilities; a garden coordinator to perform the coordinating role for the management of the community gardens; and must assign garden plots according to the operating rules established

for that garden. The name and telephone number of the garden coordinator and a copy of the operating rules shall be kept on file with the Town Planning and Community Development Department.

b. The site shall be designed and maintained to prevent stormwater runoff from damaging adjacent properties and to prevent intrusion of fertilizers and pesticides into adjacent properties, storm sewers, etc.

c. There shall be no retail sales on site, except for items produced on site.

d. Fences shall not exceed six feet in height and shall meet the requirements of Section 9.19 Fences and Walls.

e. All community garden signs shall meet the requirements set forth in the district in which they are located.

f. All accessory structures on the premise shall meet the requirements set forth in Section 9.20 Accessory Structures. The accessory structure shall compliment the surrounding environs.

g. Off-street parking is not required for Community Gardens unless the Zoning Administrator determines that public health and safety requires off-street parking to be located within 1000 feet of the site. However, there must be space(s) located adjacent to the site for the loading and unloading of materials associated with the garden use to prevent impeding traffic flow caused by parking on the side of the street. The space(s) will need to be clearly marked.

h. Community gardens shall be exempt from installation of off-site improvements contained in this Ordinance, including but not limited to installation of curb, gutter, and sidewalk or right-of-way dedication. If water and sewer is needed on the site, community garden management shall be responsible for all permitting and construction. The exemption of off-site improvements from NCDOT, or any other agency.

i. Community gardens shall be exempt from landscaping and buffering requirements contained in the UDO unless the site abuts a residentially zoned property. In this case the site shall meet the requirements of Section 9.8.4 Side and Rear Yard Landscaping along the property line of the abutting residentially zoned property.

3. Produce Stand

a. A produce stand shall not be located closer than ten (10) feet off the road right-of-way.

b. A produce stand shall not be located closer than ten (10) feet to any side lot line and twenty (20) feet to any side lot line which is in or abuts a Residential (R) District, unless a greater setback is required for the zoning district in which it is located.

c. During the times of the year in which the produce stand is not in operation, the stand and any structure associated with it shall not be visible from any public road.

d. The produce stand may be a permanent or temporary structure.

21.3.2.J Infrastructure – No additional standards

21.3.2.K Other

1. Temporary Uses

a. Separation Requirement: Except for yard sales and Christmas tree sales, no temporary use shall be located closer than 100 feet to a dwelling unit unless the owners of such properties provide written consent of the temporary use to the administrator.

b. Plans for security and safety must be provided for civic/cultural events.

c. The sponsor, owner, or manager of any temporary use shall be responsible for ensuring that the site remains free of debris or waste upon the conclusion of each day's sale or use.

d. No more than 1 temporary use shall be permitted per lot at any given time.

e. Unless otherwise specified, upon expiration of a temporary use, the site shall return to its original state within 7 days.

f. Section 21.3.2.2.K.1.g contains a table of permitted temporary uses. Items not listed shall be deemed to be not permitted unless the Administrator determines that the proposed use or function is materially similar to one shown in the table.

g. Temporary Uses Allowed:

Use	Maximum Duration for Each Use or Event (per site)	Permitted Location(s)
Yard or garage sales	2 days – 6 days per year maximum	Any lot with an occupied residential dwelling
Civic/cultural events (sponsored by a non-profit group or religious institution)	30 days – additional days subject to renewal	All districts
Civic/Cultural events (sponsored by a government agency)	No maximum	All districts
Seasonal Outdoor Sales	45 consecutive days – 3 events per year	All districts, subject to requirements in 21.3.2.K.1.k
Temporary uses associated with construction (including contractor's office, equipment/storage sheds, security watchman temporary office/residence, and mobile office space for displaced workers during construction)	During construction period, 1 year permit – annual renewal if warranted	All districts, subject to requirements in 21.3.2.K.1.i
Temporary real estate office	See 21.3 – 2.I.4.h below	All districts, subject to requirements in 21.3.2.K.1.j
Circuses or carnivals	14 days per year	NMX, MS, TC
Religious services and similar types of events	30 days – no renewal within 3 months	NMX, MS, TC
Special recreational or entertainment events (ex: annual fairs, festivals, etc.)	14 days – no renewal within 6 months	NMX, MS, TC
Outdoor bazaars and tent sales	3 days – no renewal within 6 months	NMX, MS, TC
Special fund raising sales for nonprofit organizations	3 days – no renewal within 1 month	NMX, MS, TC
Temporary food vendors on private property	90 days – no renewal within 1 month	NMX, MS, TC
Special sales or seasonal flea markets	5 days – no renewal within 6 months	NMX, MS, TC, subject to requirements in 21.3.2.K1.k

h. Temporary Uses that include temporary living quarters shall be limited to a period of not more than five (5) days longer than the duration of the event and no more than thirty (30) total days in any twelve (12) month period for any one (1) separate event.

i. Temporary Construction Trailers/Structures

1. Must meet setback requirements for each district (see section 21.4)

2. A contractor's office, equipment/storage sheds, security watchman's office/residence and/or mobile office space for displaced workers may be placed in any district

temporarily on the site of construction for a development for which a Certificate of Zoning Compliance has been issued.

3. Temporary offices for displaced office workers shall be allowed only on the construction site and for the specific purpose of providing temporary relocation office space required during construction activities involving renovation, expansion or reconstruction of an existing facility.

4. Such uses shall be located at least 5 feet from other structures and 15 feet from adjacent property lines.

5. Placement of such a temporary use is limited to a period of time determined by an estimated project completion date with the option of an extension of up to 1 year as if approved by the Administrator. All temporary construction buildings and trailers shall be placed on the site no earlier than 90 days prior to construction and shall be completely removed from the site within 30 days of issuance of a certificate of occupancy or completion of the project, whichever comes first.

j. Temporary Real Estate Office

1. A construction trailer, temporary modular unit or model dwelling unit may be used as a real estate sales office in a new residential development of 20 or more units or lots in a residential subdivision.

2. Temporary real estate offices in a construction trailer, temporary modular unit, or model dwelling unit shall be allowed in any new construction project in any district, provided that such structure shall be used for the sale of units within that project only.

3. Only 1 such temporary structure per builder or developer shall be allowed for use as a real estate sales office.

4. Temporary real estate offices in construction trailers or temporary modular units shall be terminated when either the last home or lot is sold or the use as a sales office has ceased for one hundred eighty (180) days.

k. Seasonal Outdoor Sales, Special Sales or Seasonal Flea Markets

1. Comply with the temporary sign standards listed in Section 13.12.

2. A temporary zoning use permit is required for the temporary display and/or sale of products that are not contained within the principal building.

3. All temporary displays shall comply with the following standards:

A. The property shall contain an area that is not actively used that will support the proposed temporary sale of products, without encroaching into or creating a negative impact on existing buffers, landscaping, traffic movements, or parking space availability.

B. All required setbacks for the zoning district in which the temporary display is located must be met.

C. The proposed display and/or sale of goods, products and/or services for commercial purposes may not occur within one hundred (100) feet of a residential dwelling unit.

D. Tents and other temporary structures shall be located so as not to interfere with the normal operations of any permanent use located on the property.

E. Tents and other temporary structures shall be compatible with the predominant color of the principle structure on the premises. If the lot is vacant, the predominant color of the tents and temporary structures shall be compatible with the environs.

F. Parking shall be adequately provided for the proposed sale of the products. The parking areas shall be located so as to avoid undue interference with the use of public streets and alleys.

G. The temporary sale of products will not cause interference with the movement of emergency

vehicles to such an extent that adequate police, fire, or other emergency services cannot be provided.

H. The hours of operation of the temporary sale of products shall be from no earlier than 7:30 AM to no later than 10:00 PM, or the same hours of operation of the principle uses, whichever is more restrictive.

I. Any lighting used for the temporary display / sale of products shall meet the requirements listed in Section 12.12.

J. All signage shall meet the requirements listed in Section 13.12.

2. Accessory Structure

a. The total square footage of all Accessory Structures shall not exceed the first floor area of the principal structure.

b. Accessory Structures shall be of like material as the primary structure.

c. Exceptions to Accessory Structure Regulations:

1. Exceptions to the Accessory Building/Structure setback from the Principal Building would include structures such as detached decks, detached pergolas and any other structure typically found immediately adjacent to a Primary Structure and approved as such by the Zoning Administrator.

2. Exception to the Accessory Building/Structure size limitation is taken where said accessory is located in the MS and TC District.

3. Tennis courts may only be located in the rear yard on any lot whose principal use is either a single-family dwelling or a manufactured home.

4. Irrespective of any of the regulations cited herein, outdoor in-ground swimming pools located on a residentially occupied lot (including those associated with multi-family, condominium, townhouse, or similar developments where such swimming pool is designed to be used by the

residents of such residential development) shall meet the following requirements:

a. The pool shall be enclosed from adjoining lots (or from adjoining dwelling units within the development) by the principal building or accessory structure on the lot containing the pool or a solid wall or protective fence that is at least four (4) feet in height.

b. All other distance separation requirements pertinent to accessory structures shall also apply to swimming pools.

3. **Additional Operation Standards applicable to the NMX District**

A. Businesses shall not have any deliveries or trash removal between the hours of 11PM and 6AM.

B. All businesses shall only operate between the hours of 6AM and 11PM with the exception of uses that include Bed and Breakfast, Civic, or Church/House of Worship.

21.4 Districts

21.4.1 **Urban Neighborhood**	**UN**
A. **BUILDING HEIGHT**	
1. Principal Building	Attached, Single Family: 3 Stories, 45 ft. max. All Other: 2 Stories, 45 ft. max.
2. Accessory Building	2 stories max.
B. **LOT OCCUPATION**	
1. Lot Width	18 ft. min.
2. Lot Coverage	70 % max.
C. **BUILDING DISPOSITION** (see Sec. 21.4.6)	
a. Edgeyard	permitted
b. Sideyard	permitted
c. Rearyard	permitted
d. Courtyard	not permitted
D. **SETBACKS – PRINCIPAL BUILDING*** **	
1. Front Setback – Principal	6 ft. min. 24 ft. max.
2. Front Setback – Secondary	6 ft. min. 34 ft. max.
3. Side Setback	0 ft. min.*
4. Rear Setback	3 ft. min.**
E. **SETBACKS – ACCESSORY BUILDING**	
1. General Placement	3rd layer only
2. Rear Setback	3 ft. min.**
3. Side Corner Setback	3 ft. at corner*
F. **PRIVATE FRONTAGES** (see Sec. 21.4.7)	
1. Common Lawn	permitted
2. Porch & Fence	permitted
3. Terrace or L.C.	permitted
4. Forecourt	permitted
5. Stoop	permitted
6. Shopfront/Awning	not permitted
7. Gallery	not permitted
8. Arcade	not permitted
G. **PARKING PROVISIONS** See Section 21.7.3	

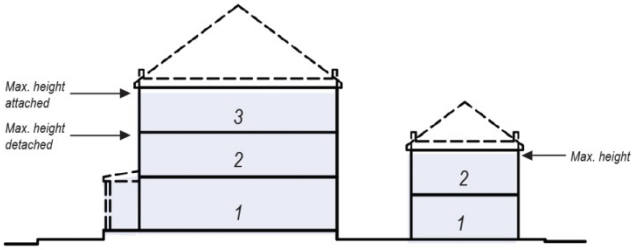
*Additional setbacks in accordance with the Building Code may apply

**Setbacks from an alley shall be a minimum of 15 ft. from center line of alley

***Special infill lot setback provisions in Section 21.5.1.C

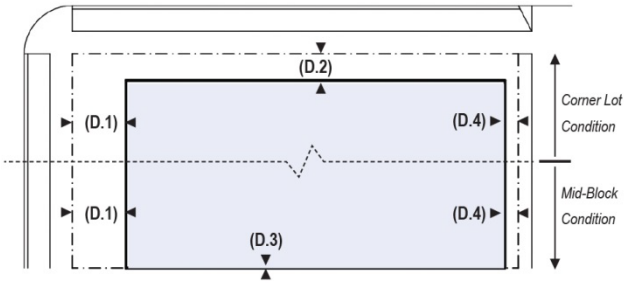
BUILDING HEIGHT

1. Building height shall be measured per 21.5.2



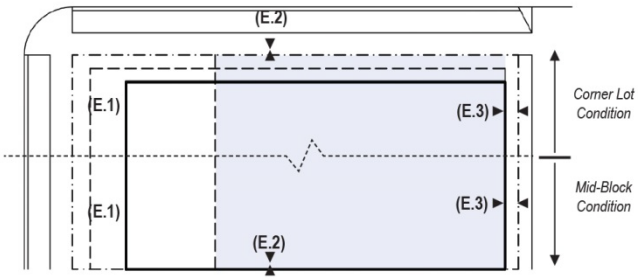
BUILDING STANDARDS

1. The facades and elevations of Principal Buildings shall be distanced from the Lot lines as shown.
2. Facades shall be built along the Principal Frontage to the minimum specified width in the table.



SETBACKS – ACCESSORY BUILDING

1. The Elevations of the Accessory Building shall be distanced from the Lot lines as shown.

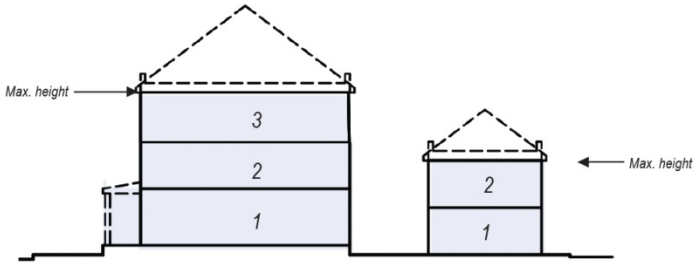


21.4.2 **Neighborhood Mixed Use**	**NMX**
A. **BUILDING HEIGHT**	
1. Principal Building	3 stories, 45 ft. max.****
2. Accessory Building	2 stories max.
B. **LOT OCCUPATION**	
1. Lot Width	18 ft. min.
2. Lot Coverage	70% max.
C. **BUILDING DISPOSITION** (see Sec. 21.4.6)	
a. Edgeyard	permitted
b. Sideyard	permitted
c. Rearyard	permitted
d. Courtyard	not permitted
D. **SETBACKS – PRINCIPAL BUILDING*** **	
1. Front Setback - Principal	0 ft. min. 18 ft. max.
2. Front Setback - Secondary	0 ft. min. 18 ft. max.
3. Side Setback	0 ft.* 24 ft. max.
4. Rear Setback	3 ft. min.**, 20 ft. min. if abutting UN
E. SETBACKS – ACCESSORY BUILDING	
1. General Placement	3rd layer only
2. Rear Setback	3 ft. min.**
3. Side Corner Setback	2 ft. at corner*
F. **PRIVATE FRONTAGES** (see Sec. 21.4.7)	
1. Common Lawn	not permitted
2. Porch & Fence	permitted
3. Terrace or L.C.	permitted
4. Forecourt	permitted
5. Stoop	permitted
6. Shopfront/Awning	permitted
7. Gallery	not permitted
8. Arcade	not permitted
G. **PARKING PROVISIONS** See Section 21.7.3	

*Additional setbacks in accordance with the Building Code may apply
**or 15 ft. from center line of alley
***Special infill lot setback provisions in Section 21.5.1.C
****2 Story max. for buildings on lots with Principal or Secondary Frontage facing Urban Neighborhood or Residential District.

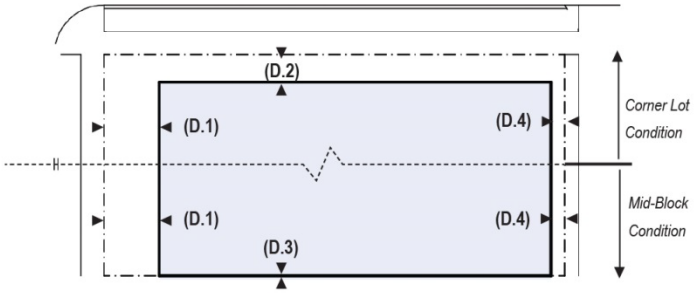
BUILDING HEIGHT

1. Building height shall be measured per 21.5.2



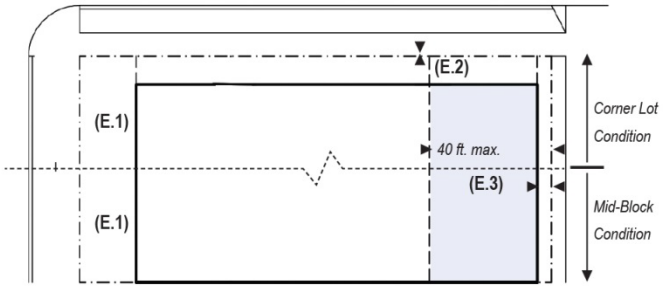
BUILDING STANDARDS

1. The facades and elevations of Principal Buildings shall be distanced from the Lot lines as shown.
2. Facades shall be built along the Principal Frontage to the minimum specified width in the table.



SETBACKS – ACCESSORY BUILDING

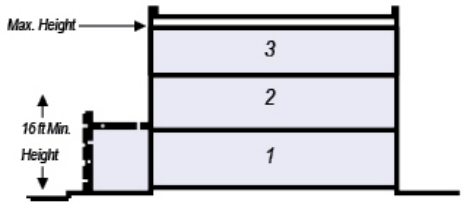
1. The Elevations of the Accessory Building shall be distanced from the Lot lines as shown.



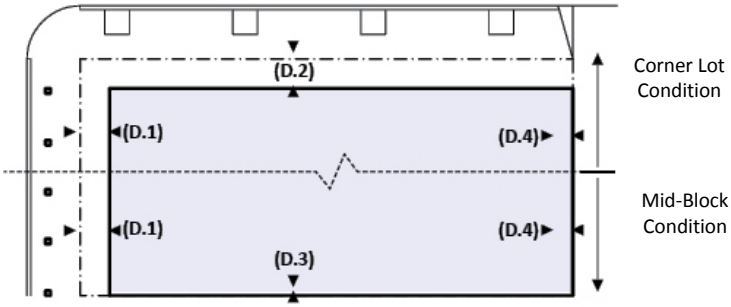
21.4.3 **Main Street**	**MS**
A. **BUILDING HEIGHT**	
a. Principal Building	16 ft. min. 3 stories, 54 ft. max.
b. Accessory Building	1 story max.
B. **LOT OCCUPATION**	
1. Lot Width	18 ft. min. 96 ft. max.
2. Lot Coverage	100% max.
C. **BUILDING DISPOSITION (**See Sec.21.4.6)	
1. Edgeyard	not permitted
2. Sideyard	not permitted
3. Rearyard	permitted
4. Courtyard	permitted
D. **SETBACKS – PRINCIPAL BUILDING*** **	
1. Front Setback - Principal	0 ft. min. 6 ft. max.
2. Front Setback - Secondary	0 ft. min.*
3. Side Setback	0 ft. min.*
4. Rear Setback	0 ft. min **
5. Frontage Buildout	80% min. at setback
E. **SETBACKS – ACCESSORY BUILDING STANDARDS**	
1. General Placement	3rd layer only*
F. **PRIVATE FRONTAGES** (See Sec. 21.4.7)	
a. Common Lawn	not permitted
b. Porch & Fence	not permitted
c. Terrace/Lightwell	permitted
d. Forecourt	permitted
e. Stoop	permitted
f. Shopfront/Awning	permitted
g. Gallery	permitted
h. Arcade	permitted
G. **PARKING PROVISIONS** See Section 21.7-3	

*Additional setbacks in accordance with the Building Code may apply
**or 15 ft. from center line of alley
***Special infill lot setback provisions in Section 21.5.1.C

BUILDING HEIGHT
1. Building height shall be measured per Section 21.5.2.



SETBACKS –PRINCIPAL BUILDING
1. The Facades and Elevations of Principal Buildings shall be distanced from the Lot lines as shown.
2. Facades shall be built along the Principal Frontage to the minimum specified width in the table.



21.4.4 **Town Center**	**TC**
A. **BUILDING HEIGHT**	
a. Principal Building	16 ft. min. 4 stories, 72 ft. max.
b. Accessory Building	1 story max.
B. **LOT OCCUPATION**	
1. Lot Width	18 ft. min. 96 ft. max.
2. Lot Coverage	100% max.
C. **BUILDING DISPOSITION** (See Sec. 21.4.6)	
a. Edgeyard	not permitted
b. Sideyard	not permitted
c. Rearyard	permitted
d. Courtyard	permitted
D. **SETBACKS – PRINCIPAL BUILDING*** **	
1. Front Setback - Principal	0 ft. min. 6 ft. max.
2. Front Setback - Secondary	0 ft. min.
3. Side Setback	0 ft. min.*
4. Rear Setback	0 ft. min.**, 20 ft. min. if abutting UN
5. Frontage Buildout	80% min at setback
E. **SETBACKS – ACCESSORY BUILDING**	
a. General Placement	3rd layer only*
F. **PRIVATE FRONTAGES** (See Sec. 21.4.7)	
a. Common Lawn	not permitted
b. Porch & Fence	not permitted
c. Terrace/Lightwell.	permitted
d. Forecourt	permitted
e. Stoop	permitted
f. Shopfront/Awning	permitted
g. Gallery	permitted
h. Arcade	permitted
G. **PARKING PROVISIONS** See Section 21.7-3	

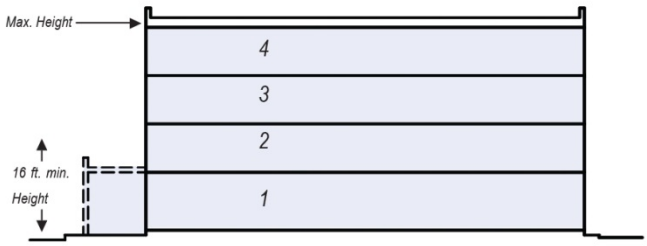
*Additional setbacks in accordance with the Building Code may apply

**or 15 ft. from center line of alley

***Special infill lot provisions in Section 21.5.1.C

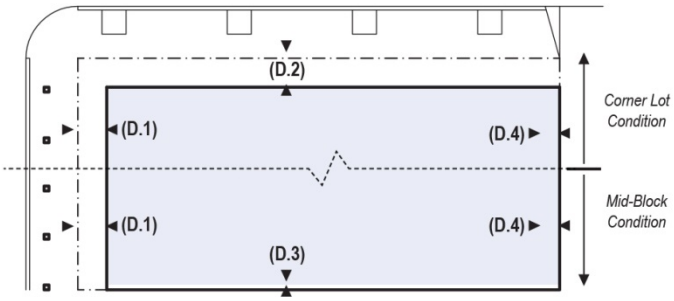
BUILDING HEIGHT

1. Building height shall be measured per Section 21.5.2.



SETBACKS – PRINCIPAL BUILDING

1. The Facades and Elevations of Principal Buildings shall be distanced from the Lot lines as shown.
2. Facades shall be built along the Principal Frontage to the minimum specified width in the table.



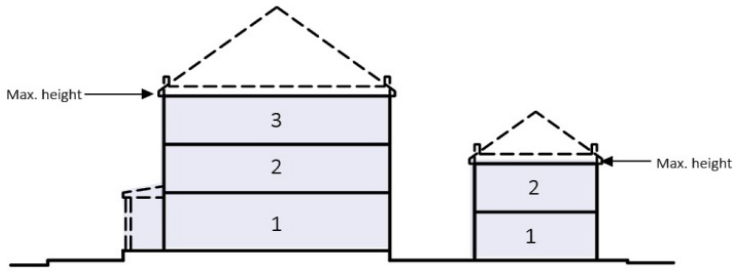
21.4.5 **Open Space** OS

A. **BUILDING HEIGHT**	
1. Principal Building	3 stories max., 54 ft. max.
2. Accessory Building	2 stories max.
B. LOT OCCUPATION	
1. Lot Width	18 ft. min.
2. Lot Coverage	70 % max.
C. **BUILDING DISPOSITION** (see Sec. 21.4.6)	
a. Edgeyard	permitted
b. Sideyard	permitted
c. Rearyard	permitted
d. Courtyard	not permitted
D. SETBACKS – PRINCIPAL BUILDING* **	
1. Front Setback – Principal	0 ft. min. 24 ft. max.
2. Front Setback – Secondary	0 ft. min. 34 ft. max.
3. Side Setback	0 ft. min.*
4. Rear Setback	3 ft. min.
E. SETBACKS – ACCESSORY BUILDING	
1. General Placement	3rd layer only
2. Rear Setback	3 ft. min.
3. Side Corner Setback	3 ft. at corner*
F. **PRIVATE FRONTAGES** (see Sec. 21.4.7)	
1. Common Lawn	permitted
2. Porch & Fence	permitted
3. Terrace or L.C.	permitted
4. Forecourt	permitted
5. Stoop	permitted
6. Shopfront/Awning	not permitted
7. Gallery	not permitted
8. Arcade	not permitted
G. PARKING PROVISIONS See Section 21.7.3	

*Additional setbacks in accordance with the Building Code may apply

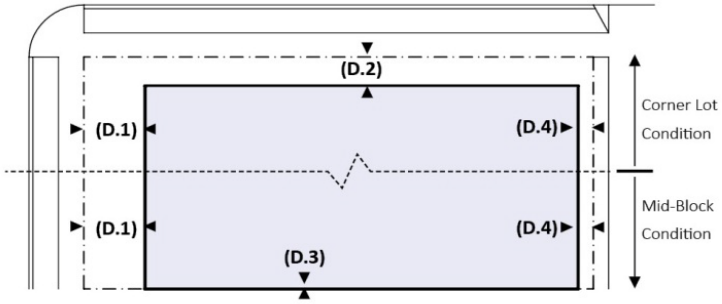
BUILDING HEIGHT

1. Building height shall be measured per 21.5.2



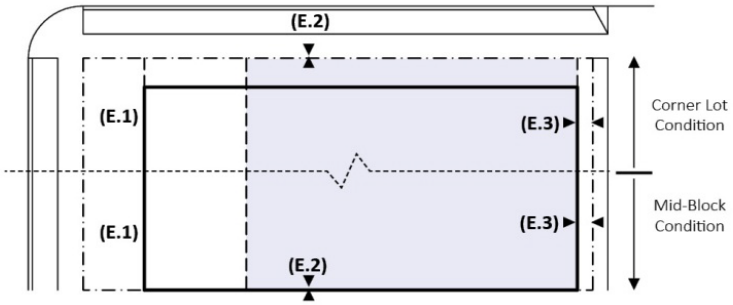
BUILDING STANDARDS

1. The facades and elevations of Principal Buildings shall be distanced from the Lot lines as shown.
2. Facades shall be built along the Principal Frontage to the minimum specified width in the table.



SETBACKS – ACCESSORY BUILDING

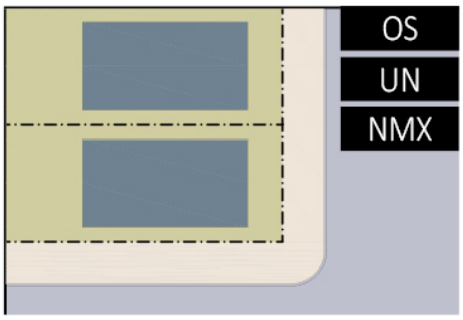
1. The Elevations of the Accessory Building shall be distanced from the Lot lines as shown.



21.4.6 Table of Building Disposition

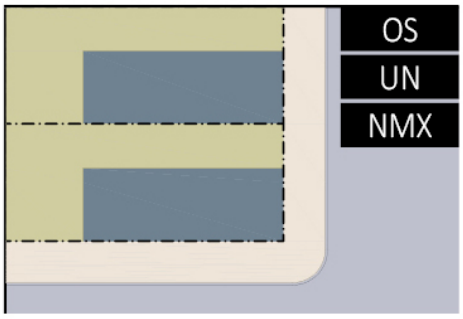
A. Edgeyard:
Specific Types - Single Family House, Cottage, Villa, Estate House, Urban Villa.

A building that occupies the center of its Lot with Setbacks on all sides. This is the least urban of types as the front yard sets it back from the Frontage, while the side yards weaken the spatial definition of the public Street space. The front yard is intended to be visually continuous with the yards of adjacent buildings. The rear yard can be secured for privacy by fences and a well-placed Backbuilding and/or Accessory Building.



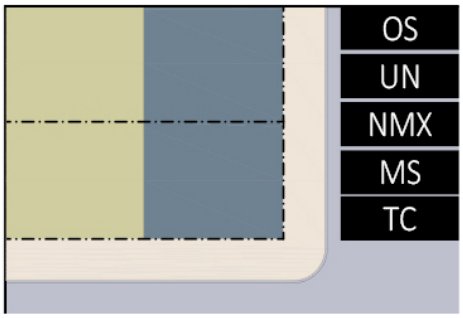
B. Sideyard:
Specific Types - Charleston Single House, Double House, Zero Lot Line House, Twin.

A building that occupies one side of the Lot with the Setback to the other side. A shallow Frontage Setback defines a more urban condition. If the adjacent building is similar with a blank side wall, the yard can be quite private. This type permits systematic climatic orientation in response to the sun or the breeze. If a Sideyard House abuts a neighboring Sideyard House, the type is known as a twin or double House. Energy costs, and sometimes noise, are reduced by sharing a party wall in this Disposition.



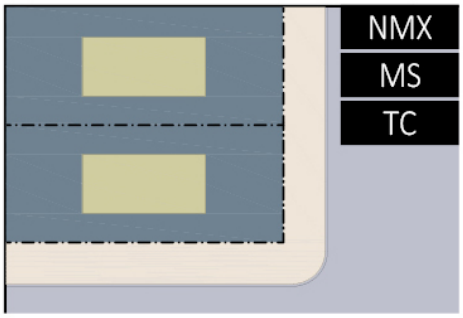
C. Rearyard:
Specific Types - Townhouse, Rowhouse, Live-Work unit, Loft Building, Apartment House, Mixed Use Block, Flex Building, Perimeter Block.

A building that occupies the full Frontage, leaving the rear of the Lot as the sole yard. This is a very urban type as the continuous Facade steadily defines the public Street. The rear Elevations may be articulated for functional purposes. In its Residential form, this type is the Rowhouse. For its Commercial form, the rear yard can accommodate substantial parking.

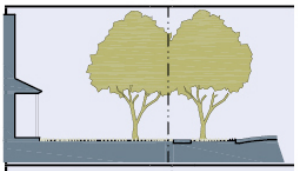
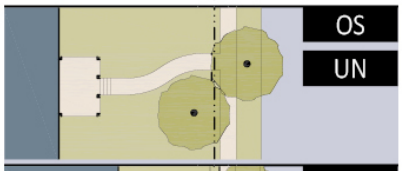
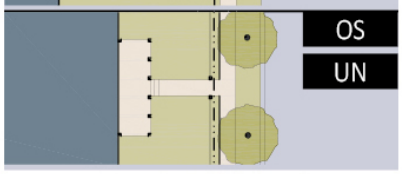
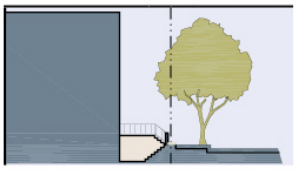
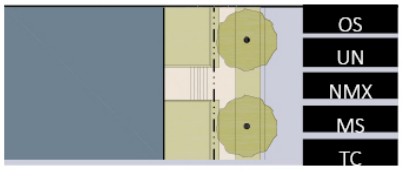
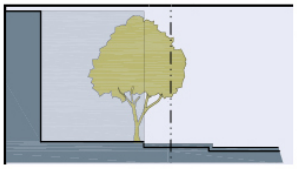
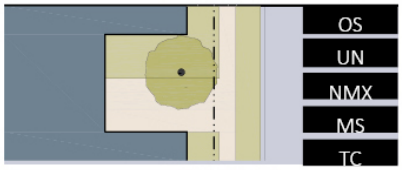
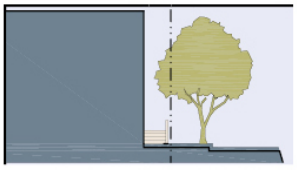
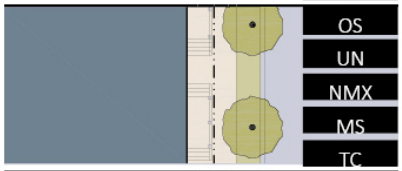
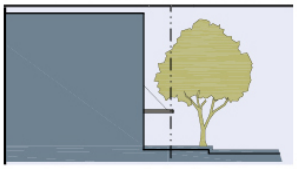
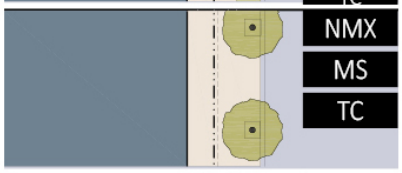
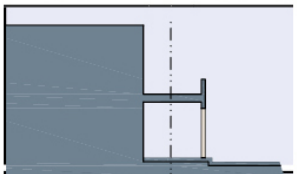
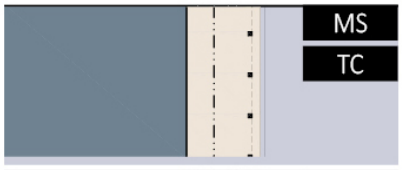
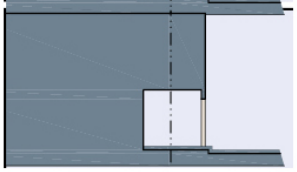
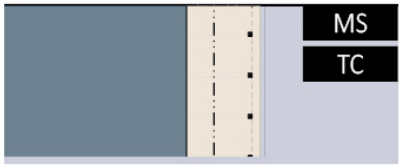


D. Courtyard:
Specific Types - Office Building, Apartment Building, Hotel, Patio House.

A building that occupies the boundaries of its Lot while internally defining one or more private patios. This is the most urban of types, as it is able to shield the private realm from all sides while strongly defining the public Street. Because of its ability to accommodate incompatible activities, masking them from all sides, it is recommended for workshops, Lodging and schools. The high security provided by the continuous enclosure is useful for crime-prone areas.



21.4.7 **Table of Private Frontages**

	SECTION (LOT ▶ PRIVATE FRONTAGE ◀ R.O.W. ◀ PUBLIC FRONTAGE)	PLAN (LOT ▶ PRIVATE FRONTAGE ◀ R.O.W. ◀ PUBLIC FRONTAGE)	
A. Common Lawn: a planted Frontage wherein the Facade is set back substantially from the Frontage Line. The front yard created remains unfenced and is visually continuous with adjacent yards, supporting a common landscape. The deep Setback provides a buffer from the higher speed Streets.			OS UN
B. Porch & Fence: a planted Frontage wherein the Facade is set back from the Frontage Line with an attached porch permitted to Encroach. A fence at the Frontage Line maintains street spatial definition. Porches shall be no less than 8 feet deep.			OS UN
C. Terrace or Lightwell: a Frontage wherein the Facade is set back from the Frontage line by an elevated terrace or a sunken Lightwell. This type buffers Residential use from urban Sidewalks and removes the private yard from public Encroachment. Terraces are suitable for conversion to outdoor cafes. Syn: **Dooryard.**			OS UN NMX MS TC
D. Forecourt: a Frontage wherein a portion of the Facade is close to the Frontage Line and the central portion is set back. The Forecourt created is suitable for vehicular drop-offs. This type should be allocated in conjunction with other Frontage types. Large trees within the Forecourts may overhang the Sidewalks.			OS UN NMX MS TC
E. Stoop: a Frontage wherein the Facade is aligned close to the Frontage Line with the first Story elevated from the Sidewalk sufficiently to secure privacy for the windows. The entrance is usually an exterior stair and landing. This type is recommended for ground-floor Residential use.			OS UN NMX MS TC
F. Shopfront: a Frontage wherein the Facade is aligned close to the Frontage Line with the building entrance at Sidewalk grade. This type is conventional for Retail use. It has a substantial glazing on the Sidewalk level and an awning that may overlap the Sidewalk to within 2 feet of the Curb. Syn: Retail Frontage.			NMX MS TC
G. Gallery: a Frontage wherein the Facade is aligned close to the Frontage line with an attached cantilevered shed roof or a lightweight colonnade overlapping the Sidewalk. This type is conventional for Retail use. The Gallery shall be no less than 10 feet wide and should overlap the Sidewalk to within 2 feet of the Curb.			MS TC
H. Arcade: a colonnade supporting habitable space that overlaps the Sidewalk, while the Facade at Sidewalk level remains at or behind the Frontage Line. This type is conventional for Retail use. The Arcade shall be no less than 12 feet deep and should overlap the Sidewalk to within 2 feet of the Curb.			MS TC

21.5 GENERAL PROVISIONS

21.5.1 General Lot Standards

21.5.1.A **Lot Frontage:** All lots must front a street or common open space. (Exception: Buildings that are without frontage and are on the interior of a site which has one or more other buildings that meet the requirements for frontage). Facades shall be built parallel to the Principal Frontage Line or to the tangent of a curved Principal Frontage Line.

21.5.1.B **Frontage Buildout:** Facades shall extend along a minimum percentage of the Frontage width at the Setback, as the Frontage Buildout in Section 21.4 District Provisions specifies. The width of a driveway provided at the Frontage shall be exempt from this requirement.

21.5.1.C **Infill Setbacks:** In the UN district, the Administrator shall require that a proposed building be within 5 feet of the adjacent Setbacks rather than the provisions of this Section. Residential buildings on infill lots in UN and NMX shall generally setback a distance equal to an average of buildings on either side of the proposed development on the same side of the street. The provisions in this section do not apply to commercial buildings in any district or any buildings in the TC or MS.

21.5.1.D **Setbacks on Substandard Right-of-Way:** Where there is insufficient right-of-way from which to measure appropriate Setbacks (e.g. the right-of-way includes the pavement area only), projects shall measure front Setbacks from the back edge of the proposed sidewalk as defined by the street section type indicated by the Street Regulating Plan in Section 21.8.3.

21.5.1.E **Corner Lots:** Buildings located at street intersections must place the main building, or part of the building, at the corner.

21.5.1.F **Pedestrian Entries from Frontage Line:** Principal pedestrian entrances of buildings must be from the Principal Frontage.

21.5.1.G **Encroachments:** The features listed below may encroach into a required yard.

1. **Ground Level Air-Rights Encroachments**: Awnings, Arcades, Canopies, and Galleries may encroach the Sidewalk to within 2 feet of the Curb but must clear the Sidewalk vertically by at least 8 feet.

2. **Upper Story Encroachments:** Bay windows, balconies and similar features projecting from the principal building may encroach up to 50% of the depth of the First Layer. With approval of the Town or NCDOT

(whichever has authority over a street), upper story balconies or bay windows may encroach over the right-of-way a maximum of 3 feet.

3. **Cornices and Gutters:** Cornices, eave overhangs, and similar projections (including gutters) may encroach up to 2 feet into any required yard.

4. **Fences & Garden Walls:** Fences and garden/yard walls may encroach into required yards but, if higher than 2 ½ feet, may not be placed within the site visibility triangle of a public street, private street or driveway contained either on the property or on an adjoining property.

5. **Handicapped Ramps:** Ramps for handicap accessibility and fire escapes that are required by the North Carolina Building Code may encroach into any required yard but may not be closer than 3 feet to any property line.

6. **Porches, Decks, and Patios:** Uncovered and unenclosed porches, decks, patios, and other similar features not exceeding an average finished height above grade of 30 inches may encroach into the side and rear setback to within 5 feet of the property line.

7. **Steps and Stairs:** Uncovered and unenclosed steps and stairs may encroach up to 100% of the depth of any required street yard but may not encroach upon any public sidewalk.

21.5.2 Height

Building heights by district as specified in Section 21.4 shall be determined according to the provisions below.

21.5.2.A **Story:** Stories are a habitable level within a building and shall not exceed 20 feet in height from finished floor to finished ceiling except for a first floor commercial building in MS or TC which must be a minimum of 16 feet with a maximum of 30 feet.

Unoccupied attics less than 7 feet in height and basements below grade are not considered stories for the purposes of determining building height.

21.5.2.B **Dimensional Height Standards:** Where a specific dimension is used in the calculation of height, it shall be the vertical distance from the mean elevation of the finished grade along the front of the building to the highest point of a flat roof, or to the deck line of a mansard roof, or to the mean height level between eaves and ridges for gable, hip and gambrel roofs and exclude chimneys and antennas.

21.5.2.C **Items Not Included in Height Calculations:** The height limitations of this section shall not apply to church spires, belfries, cupolas, domes not intended for human occupancy, monuments, water towers, observation towers, transmission towers,

chimneys, smokestacks, conveyors, flagpoles, masts and antennas (provided evidence from appropriate authorities is submitted to the effect that such building or buildings will not interfere with any airport zones or flight patterns if the structure is over 200 ft. in height). Mechanical penthouses are exempt provided that they are set back 20 feet from the building Facade.

21.5.2.D **Parking Garage Height:** In a Parking Structure or garage, each above-ground level counts as 8/10ths (80%) of a Story regardless of its relationship to habitable Stories.

21.6 Building Design Standards

21.6.1 General Architectural Standards

21.6.1.A **Architectural Style**: The building design standards of this Chapter intentionally do not mandate a particular style and permit a wide variety of architectural expressions. However, when a design exhibits a known architectural style (e.g., Colonial, Victorian, Italianate, Classical Revival) the details must be consistent with that style unless the local architectural vernacular of the region provides an alternate precedent for a detail or element.

21.6.1.B **Compatibility:** Adjacent buildings should relate in similarity of scale, bulk, height, architectural style, materials and/or configuration.

21.6.1.C **Proportions:** Windows, doors, columns, eaves, parapets, and other building components must be proportional to the overall scale of the building. All windows shall be vertically shaped with a height greater than width (unless the special style dictates a different proportion), including display windows but not transoms or decorative attic windows.

21.6.2 Civic/Landmark Buildings

The Civic/Landmark building type includes prominent public buildings such as libraries and town halls; semi-public buildings such as museums and colleges; and private buildings such as hospitals.

However, all such modifications shall otherwise conform to the general principles for Civic/Landmark buildings as follows. Civic/Landmark Buildings shall:

- be incorporated as part of the Downtown Vision Plan
- be sited to terminate a street vista whenever possible and must incorporate appropriate prominent features, designs, and entrances to celebrate a visual termination.
- incorporate detailing and materials that are authentic to the intended style.

- include a pedestrian plaza, courtyard, or similar landscaped area if the required building frontage and/or minimum setback is not met.

- respect the character of the fronting streets through the provision of a pedestrian-friendly orientation including clear entrances from the street and permeable street walls with adequate fenestration of a proportion, quantity and arrangement appropriate to and reflective of the building's architectural style.

21.6.3 Residential Design Standards

21.6.3.A Applicability:

The standards of this section shall apply to those structures in the UN District or those buildings in the NMX, TC, and MS districts which have primarily residential Frontages (including Live-Work buildings). These standards shall not apply to those TC or MS Frontages designated as TC-Restricted Frontage or MS-Restricted Frontage, respectively.

21.6.3.B Roof and Eaves

1. Main roofs on residential buildings must have a pitch between 6:12 and 12:12. Monopitch (shed) roofs are allowed only if they are subordinate and attached to the wall of the main building. No monopitch roof shall have a pitch less than 4:12. Flat Roofs will only be permitted through a Conditional Use Permit review process (Section 14). Flat roofs are not permitted in the UN or NMX District.

2. Flush eaves must be finished by profiled molding or gutters.

3. **Roof Materials:** Residential roofs must be clad in wood shingles, standing seam metal, terne, slate, dimensional asphalt shingles or synthetic materials similar and/or superior in appearance and durability.

21.6.3.C Building Walls

1. **Materials:** Residential building walls must be primarily clad in brick, wood clapboard, cementitious fiber board, wood shingle, wood drop siding, wood board and batten, stone, or premium grade vinyl with a maximum 4.5" clapboard smooth finish and a minimum of .044 inch thickness. However, vinyl shall not be permitted for buildings with more than one unit. Stucco or EIFS with a smooth or sandy finish may be used as a secondary material only (less than 40% of the wall area).

2. Building façade materials, with the exception of corner treatments and columns, shall be combined only horizontally, with the heavier below the lighter.

3. Chimneys shall extend to the ground.

4. The crawlspace of buildings, if provided, must be enclosed.

21.6.3.D Windows and Doors

1. Blank, windowless walls are prohibited. At least 15% of the total wall area of each façade that faces a public street must be transparent windows (excluding glass block) or doorways (egress only doorway excluded).

   a. "Transparent" shall mean clear glass such that there are direct views to the building's interior standing a minimum of 6 feet from the window on the outside of the building looking into the window during daylight hours. Reflective, highly tinted glass, faux windows or casement display windows are prohibited in meeting the transparency requirement.

2. Entry facade window trim shall not be flush with the exterior wall and shall have a minimum relief of one-quarter (1/4) inch from the exterior wall.

3. Doors and windows that operate as horizontal sliders are prohibited except where renovating an historic building with this window type.

21.6.3.E Building Entrances

1. All buildings with more than 4 Sidewalk-level residential units along a single street shall have individual entrances to such units directly accessible from the required Sidewalk or adjoining Open Space. All walkways providing such access shall be shared between no more than 2 adjacent units.

21.6.3.F Raised Entries: To provide privacy, all residential entrances within 15 feet of the sidewalk must be raised from the average sidewalk grade a minimum of 24 inches. Secondary subgrade or lightwell entrances are permitted.

21.6.3.G Porches and Stoops: Usable porches and stoops shall form a predominate motif of the building design and be located on the front and/or side of the building. Usable front porches are covered and are at least 6 feet deep. Stoops and entry-level porches shall not be enclosed with screen wire or glass.

21.6.3.H Steps: Exterior entry steps shall have enclosed risers.

21.6.4 Mixed-Use and Commercial Buildings Design Standards

21.6.4.A Applicability: The standards of this section shall apply to those structures in the NMX, TC, and MS districts except those which have primarily residential frontages (including Live-Work buildings in NMX).

21.6.4.B Roof and Eaves

1. Flat roofs are permitted but shall be detailed with a parapet to conceal all rooftop appurtenances from view of any public street.

2. Pitched roofs, if provided, shall be symmetrically sloped no less than 5:12, except that roofs for porches and attached shed roofs may be no less than 2:12

3. Flush eaves must be finished by profiled molding or gutters.

4. All roofs shall have a minimum 25-year roof warranty and no visible roll roofing.

21.6.4.C Façade Treatment and Building Walls

1. Architectural elements like windows and doors, bulkheads, masonry piers, transoms, cornice lines, window hoods, awnings, canopies, and other similar details must be used on all facades facing public rights-of-way.

2. **Materials:** Commercial building walls shall primarily consist of the following materials: brick, cut stone, cementitious fiber board, or wood clapboard (residential applications such as field stone and ledge stone are prohibited). Regular or decorative concrete block as well as EIFS-type stucco may be used as the primary material on building walls not visible from a public street. The following materials shall not comprise more than 10% of the commercial building exteriors that are visible from a public street: Cementous fiber board, hard-coat stucco, EIFS-type stucco, wood components, or regular or decorative concrete block. All accessory buildings must be clad in materials similar in appearance to the principal structure. With the exception of the MS zoning district, repainting of painted surfaces shall not require a zoning use permit.

   a. **Special Requirements for the MS zoning district:**

      1. Commercial building walls shall retain their original brick building walls with the exception of buildings with existing wood siding or other materials. Decorative concrete and

wood are permitted as accent materials and shall not comprise more than 10% of the total building exterior.

2. Design changes to the façade or alterations to the exterior of an existing building require a Conditional Use Permit in accordance with Article 14 of the UDO with the following exceptions:

- Addition of awnings or repainting of painted surfaces shall require the issuance of a zoning use permit. If the Zoning Administrator determines that the proposed changes are not compatible with surrounding environs and denied the zoning use permit, the applicant may choose to seek approval from the Board of Commissioners through the conditional use permit process.

- Any property or structure awarded a grant by the Waxhaw Historic Preservation Commission through the Downtown Waxhaw Façade Improvement Program for rehabilitation that does not visually alter the façade of an existing building.

- Any historically appropriate rehabilitation in accordance with the Waxhaw Historic Landmark Guidelines for Commercial Buildings where photographic evidence has been provided to verify that the rehabilitation will replicate a previous version of the same building wall/facade.

- Demolition.

3. Any property or structure deemed a local historic landmark by Town Ordinance may need to obtain a Certificate of Appropriateness as outlined in Section 19 of this Ordinance for design changes to the façade.

3. Porch and arcade columns shall be a minimum diameter of 7 inches.

4. Entry facade window trim shall not be flush with the exterior wall and shall have a minimum relief of ¼ inch from the exterior wall.

5. Doors and windows that operate as horizontal sliders are prohibited except where renovating an historic building with this window type.

21.6.4.D Canopies and Awnings: Awnings shall be of fabric, canvas, fixed metal, or similar material. If provided they should project a minimum of 4 feet from the façade, with a maximum projection over a sidewalk to within 2 feet of a public street curb. The awning or canopy shall have a minimum clearance height of 8 feet above the sidewalk. Internally lit awnings and canopies that emit light through the awning or canopy material are prohibited.

21.6.4.E Ground Level Detailing

1. **Minimize Blank Walls:** No Street Facade length shall exceed 20 feet without intervening glass display windows or glass entry doors in keeping with the Transparency Zone requirements

2. **Ground-Level Windows and Doorways:** Windows and doorways must be the predominant features in the street-level facade. Exterior burglar bars, fixed "riot shutters," or similar security devices must not be visible from the public right-of-way. All ground level windows must provide direct views to the building's interior extending a minimum of 6 feet behind the window. Any interior drop ceiling shall be recessed a minimum of 18 inches from the display window or transom opening.

3. **Transparency Zone:** Transparent windows and doorways must extend from a base of contrasting material (not exceeding 30 inches in height above the adjacent sidewalk grade) to at least the height of the door head not less than 10 feet and not more than 12 feet above the Sidewalk.

    a. "Transparent" shall mean clear glass such that there are direct views to the building's interior standing a minimum of 6 feet from the window on the outside of the building looking into the window during daylight hours. Reflective, highly tinted glass, faux windows or casement display windows are prohibited in meeting the transparency requirement. Glass windows and doorways must extend from the corner of the front facade for a depth equal to:

    b. TC-Restricted Frontage and MS-Restricted Frontage (Shopfront, Gallery, or Arcade): At least 70% of the length of building along all street side building facades.

21.6.4.F Habitable space: must be provided for a minimum of the first 20 feet in depth behind the Principal Frontage.

21.6.4.G Cornices: A cornice or cornice line a minimum of 8 inches in height shall be provided above the sign band.

21.6.4.H Building Entrances

1. **Pedestrian Entrance from Frontage Required:** All buildings and ground level tenants shall provide a functioning entrance, operable during normal business hours for ingress and egress, facing the fronting street. Buildings located on street corners may have a corner entrance.

2. **Maximum Entrance Setback:** Primary pedestrian entrances on the Principal Frontage which shall be recessed a maximum of 7 feet from the exterior facade, and shall remain unlocked during normal business hours, and have a surface area that is a minimum of 70% glass.

3. Ventilation grates or emergency exit doors located at the first floor level in the building facade, which are oriented to any public street, must be decorative. Unless otherwise required by the building code, such grates and doors must be located away from streets designated as Restricted Frontages.

21.7 Site Standards

21.7.1 Purpose And Intent

It is the intent of this section to require that new development provide centrally-located neighborhood recreation spaces as well as natural habitats as preserved open space.

21.7.2 Recreation Space Requirements

Any person developing and/or subdividing property for residential purposes in the UN and NMX districts shall be subject to the dedication requirements as follows:

21.7.2.A Exemptions

1. **Small Developments:** Developments with 10 units or less in all phases of development and less than 2 acres shall not be subject to the requirements of this sub-section.

2. **Non-Residential & Mixed-Use Development:** Recreation space is required only for those areas that are exclusively residential. Commercial and vertically mixed-use buildings and associated areas are exempt from these standards.

3. **Designated Trail Connections Not Exempt:** The above exemptions shall not apply to any areas designated as future trails on an adopted plan. All developments shall provide a public pedestrian and non-motorized vehicle easement of 20 feet for designated future trails.

21.7.2.B Required Recreation Space Table

The amount of recreation space required for dedication of recreation space shall be as follows:

Districts	Required Recreation Space Area (measured as a percentage of the gross land area of development)
UN	5%
NMX	2% for projects 2 acres or greater

21.7.2.C Credit For Proximity To Existing Recreation Space

Developments that are proximate to an existing Town-owned, publicly-accessible recreation space, may count all such lands in their recreation space dedication requirement, as follows:

1. Adjacent (sharing a property boundary): Credit of area of adjacent recreation space up to 50% of required recreation space dedication.

2. Within ¼ mile: Credit of area of recreation space area or shared recreation space use up to 25% of required recreation space dedication.

3. Land that is Town-owned and publicly-accessible may count as a recreation space area if it is a component of another public use and meets the recreation space standards in 21.7.4.

21.7.2.D Payment In Lieu Of Recreation Space Dedication

Any person developing and/or subdividing property subject to this Chapter, and upon approval of the Town Board of Commissioners, may make a payment in lieu of any required dedication of public recreational space, except that the dedication requirement for any areas designated as future trails on an adopted plan are not eligible to be met by payments in lieu of dedication.

21.7.2.E Value Determination

1. Payment in lieu of dedication shall be the product of the post-development appraised value of the land (per gross acre) to be developed multiplied by the number of acres to be dedicated. The following formula shall be used to determine the fee:

Post-Development Appraised Value of Entire Development (per gross acre)
X Required Recreation Space Dedication (acres)
= **Payment in Lieu Dedication Fee**

Example: Post-Development Appraised Land Value of Entire Development ($10,000.000/Acre) x Required Recreation Space Dedication (5 acres)

=$50,000.00

2. The Post Development Appraised Value of the entire development shall be established prior to preliminary plat approval by an appraiser who is a Member of the Appraisal Institute (MAI) or a North Carolina General Certified Appraiser.

3. Any disagreement in the amount of required payment shall be resolved by conducting a professional appraisal of the fair market value of the property. The professional appraiser shall be mutually agreed upon by

the developer and Town. An appraiser shall be appointed by the Town, at the developer's expense, should an agreement not be reached.

21.7.2.F Payment-In-Lieu Procedure

The Town Board of Commissioners may, at its discretion, accept either an equitable amount of land in another location or a fee paid to the Town in lieu of dedication. A combination of recreation space and open space land dedication and payments-in-lieu of dedication may be permitted. Land dedication should be reviewed and recommended to Town Board of Commissioners by the Administrator with approval from the Town Manager.

1. All payments made in lieu of dedication shall be made at the time of Final Plat approval or prior to the issuance of the first Certificate of Occupancy (whichever comes first as appropriate). Failure to submit the required fee along with such applications will delay approval of such submissions until payment is rendered. All funds received for payment in lieu of dedication shall be deposited in a special fund or line item to be used only for the acquisition, development, or redevelopment of public recreation space by the Town.

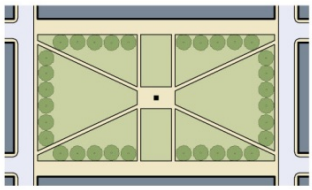
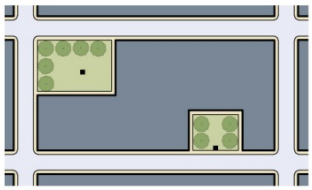
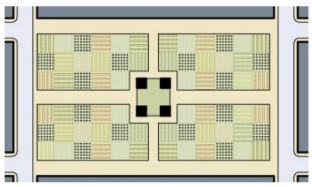
2. Reasons for payments in lieu of dedication may include, but are not limited to, sufficient proximity to existing public recreation spaces as determined by the Town Manager and/or existing topographic or geographic conditions as determined by the Administrator.

21.7.2.G Recreation Space Standards

To comply with residential design standards, all land dedicated for required recreation spaces shall meet the criteria below and be approved by the Administrator:

1. Required Recreation Space Types

   Recreation Space, as required by the district provisions, shall conform to one or more of the following typologies:

A. Trail: A natural preserve available for unstructured recreation. Its landscape shall consist of paths and trails, meadows, waterbodies, woodland and open shelters, all naturalistically disposed. Parks may be linear, following the trajectories of natural corridors.	
B. Park: An open space available for structured or unstructured recreation. A park may be spatially defined by landscaping rather than building frontages. Its landscape shall consist of lawn and trees, naturalistically disposed. The minimum size shall be 1/2 acre and the maximum shall be 4 acres.	
C. Square: An open space available for unstructured recreation and civic purposes. A Square is spatially defined by building frontages. Its landscape shall consist of paths, lawns and trees, formally disposed. Squares shall be located at the intersection of important streets. The minimum size shall be 1/4 acre and the maximum shall be 2 acres.	
D. Playground: An open space designed and equipped for the recreation of children. A playground shall be fenced and may include an open shelter. Playgrounds shall be interspersed within residential areas and may be placed within a block. Playgrounds may be included within recreation spaces and greens. There shall be no minimum or maximum size.	
E. Community Garden: A grouping of garden plots available for small-scale cultivation, generally to residents of apartments and other dwelling types without private gardens. Community gardens should accommodate individual storage sheds. There shall be no minimum or maximum size.	

21.7.2.H Location

1. Land for recreation spaces shall be centrally and internally located so as to serve the needs of the residents of the neighborhood or the residents of the immediate area within which the development is located.

2. Required recreation spaces shall provide focal points for developments and the Town.

3. For developments which abut or include areas described in the *Parks, Recreation, and Cultural Resources Master Plan* as recreation space or open space land, the Town may require that the recreation space be located in accordance with the proposed site or portion of an existing site as shown.

4. For developments that abut or include areas designated as future trails on an adopted plan, the Administrator shall require a 20-foot minimum

width public pedestrian and non-motorized vehicle easement be dedicated along all such areas.

21.7.2.I Topography

1. The average slope of land for active recreation shall not exceed 7 ½%

2. The average slope of land for passive recreation shall not exceed the average slope of the entire neighborhood or development, and in no case shall the average slope exceed 15%.

21.7.2.J Shape & Dimensions

1. The shape and dimensions of the dedicated land shall be such as to be deemed usable for the recreational activities proposed, as determined by the Administrator. Any area or segment of an open space less than sixty (60) feet in width shall not be calculated as usable open space unless it is clearly part of an overall open space system, such as a pedestrian walkway, in which case a minimum of twenty (20) feet in width shall be required.

2. All recreation spaces shall have at least 60 feet of frontage on at least one public street within the development.

21.7.2.K Accessibility

1. All recreation spaces shall be conveniently accessible to all residents of the development, and be ADA compliant.

2. No residential unit within a development shall be further than 800 feet from a recreation space as defined above or other publicly-accessible recreation space facility.

21.7.2.L Usability

1. Usability of Required Recreation Space (Improved):

2. All required recreation space shall be located outside Special Flood Hazard Conservation Areas, floodways or any wetlands subject to State or Federal regulatory jurisdiction.

3. At least 1/3 of the total land dedicated shall be located outside Special Flood Hazard Areas.

21.7.2.M Utility Easements Shall Not Satisfy Dedication Requirements for Park Space: Easements for public utility transmission lines shall not receive credit in the computation for the amount of recreation space required.

21.7.2.N Minimum Amenities

Required recreation space shall be planned, improved, and usable by persons living nearby. Improved shall mean cleared of underbrush and debris and shall contain two or more of the following enhancements: landscaping, walls or pathways, fences, walks, utilities, irrigation, fountains, ball fields, and/or playground equipment.

21.7.2.O Minimum Amenities (All Recreation Spaces):

1. **Public Seating:** Provide seating areas appropriate to the intended use of the space (e.g., park benches and chairs in formal/active spaces and garden wall seats in informal/passive spaces). A minimum of 2.5 linear feet of seating shall be provided for every 10,000 square feet of open space (up to 4 acres) with a minimum of 10 linear feet of seating. Seating should be more than 12 inches and less than 30 inches in height and not less than 16 inches in depth. Seating more than 28 inches in depth and accessible from two sides will count double.

2. **Supplement Tree Planting/Significant Species Preservation:** For every 2,500 square feet of required recreation space, a minimum of 1 tree shall be planted or 1 existing canopy tree (minimum 12 inches caliper) shall be preserved.

3. Planted trees shall have a minimum caliper of 2 inches.

4. **Water:** One water tap for each 5,000 square feet of each landscaped recreation space.

5. **Trash Receptacle:** One garbage receptacle and one recycling receptacle for each 5,000 square feet of each physically separated recreation space.

21.7.2.P Minimum Amenities (Parks): At least 25% of the park land shall be dedicated to active recreation purposes such as playgrounds, tennis courts, ball fields, volleyball courts, etc. The remainder of the park may be designed for passive recreation purposes such as walking, jogging, cycling, relaxation, etc. Preservation of natural or cultural resources such as steep slopes, rock outcroppings, mature woodlands or water resources may also be counted towards passive recreation provided there is some method for public enjoyment and appreciation of such resources.

21.7.2.Q Minimum Amenities (Playground): Playground equipment shall be equivalent to the standards established by the Town for playgrounds. Playgrounds shall include playground equipment approved by the Public Services Department and shall

include playing surfaces covered with wood chips or other approved materials. Basketball or tennis courts, if included, may be paved with asphalt, concrete or similar material.

21.7.2.R Minimum Amenities (Trail): A trail path is credited toward the minimum recreation space dedication requirement at a rate equal to the length of the path times 20 feet in width. The minimum width of the paved path shall be 6 feet. A trail may include a utility corridor with a paved path material approved by the Public Services Department.

21.7.2.S Ownership & Maintenance

Dedicated recreation space land shall be separately deeded to either a homeowner's association, a non-profit land trust or conservancy, to the Town of Waxhaw (upon approval by the Town Board of Commissioners), or may be held in private ownership with conservation easements recorded in the Union County Register of Deeds in a form approved by the Town. A metes and bounds description of the space to be preserved and limits on its use shall be recorded on the development plan, in homeowner covenants, and on individual deeds when open space lands are not held entirely in common. Alternative means of permanent open space preservation may include acceptance by a land conservation trust or a unit of government. Private management alternatives will also be permitted. Non-public ownership strategies must be accompanied by a long-term maintenance plan. Ownership by a non-profit land trust or conservancy must be recorded by contract in a form approved by the Town.

21.7.3 Parking Requirements

21.7.3.A Maximum Parking Requirements (all districts)

In lieu of minimum parking requirements that result in the under-utilization of land for parking of cars, encourage the discontinuity of land uses, and create public expense for stormwater management, this section establishes a maximum allowance for the provision of parking areas within the Town.

A site may seek a variance to exceed the maximum number of spaces allowed by submitting a study which demonstrates that the intended use for the site has a regular demand for a greater number of spaces, and that it is infeasible to provide for that demand through on-street, shared or leased existing capacity nearby, transit, or other means. Any parking which exceeds the maximum allowed must be developed with permeable surfaces only.

Use	UN	NMX	MS	TC
Lodging	1.5/bedroom			
Multifamily	1.5/bedroom			
Office/Service Educational/Institutional Automotive Industrial/Wholesale/Storage	3/1,000 sq. ft.	4/1,000 sq. ft.	3/1,000 sq. ft.	3/1,000 sq. ft.
Commercial/Entertainment	n/a	4/1,000 sq. ft.		
Civic	4/1,000 sq. ft.			
Food and Beverage Establishments	1 per 3 seats			

21.7.3.B Parking Design and Location

1. Design shall follow the standards of Section 12.6 (Dimensional Requirements for Parking Spaces, Aisles, and Driveways.)

2. **Parking Area Access:**

   a. UN District - Access to off-street parking areas (open lots, car ports, and garages) is not permitted from the principal frontage for any detached house on a lot less than 60 feet wide or on any attached building, with the exception of mid-block lots that do not have access to an alley or side street. Access must be provided using a rear lane, rear alley or secondary frontage. All corner lots, regardless of lot size, must access parking areas from a rear lane, alley, minor street or secondary frontage.

   b. NMX, MS and TC Districts – Parking must be accessed from a rear alley, secondary frontage, minor street or driveway per Section 21.7 – 3.D., with the exception of mid-block lots that do not have access to an alley or side street.

3. Off-Street parking shall be located and accessed as follows:

	Parking Location	Site Access/Driveway
UN	In the 1st Layer parking is allowed as part of a driveway with a maximum width of 12 ft. Parking is permitted in the 2nd and 3rd Layer. Driveway length should be 28 ft. or sufficient length so that no parked vehicles encroach into the right-of-way. Front loaded garages shall be recessed a minimum of 3 ft. behind the façade of the principal structure and are only permitted on detached single family.	Rear Lane, Rear Alley, Secondary Frontage or Single Driveway per requirements in Section 21.7.3.E
NMX	**Commercial Use**: Parking is permitted in the 2nd and 3rd Layer only. Through lots that do not abut an alley, side street, or parking area of an adjacent property may locate their driveway in the first layer. **Residential Use**: In the 1st Layer parking is allowed as part of a driveway with a maximum width of 12 ft. Parking is permitted in the 2nd and 3rd Layer. Driveway length should be 28 ft. or sufficient length so that no parked vehicles encroach into the right-of-way. Front loaded garages shall be recessed a minimum of 3 ft. behind the façade of the principal structure and are only permitted on detached single family.	Rear Alley, Secondary Frontage or Single Driveway per requirements in Section 21.7.3.E
TC **MS**	**Commercial Use and Residential Use**: Parking is permitted in the 2nd & 3rd Layer only on any B Street (found in Section 21.3.2.G.3.b.); 3rd Layer only on any A Street (found in Section 21.3.2.G.3.b.) Through lots that do not abut an alley, side street, or parking area of an adjacent property may locate their driveway in the first layer.	Rear Alley, Secondary Frontage or Single Driveway per requirements in Section 21.7.3.E

1st Layer – distance from right-of-way to front of building
2nd Layer – 20 feet measured from Frontage Line
3rd Layer – remainder of lot

21.7.3.C **Bicycle Parking:** A minimum of one bicycle rack shall be provided within the Public or Private Frontage. Bicycle parking shall be:

1. Separated from automobile parking by a physical barrier or by at least five feet where automobile parking is prohibited and shall be located as close to public and employee entrances as possible without interfering with the flow of pedestrian and vehicular traffic.

2. Conveniently located near entrances (where multiple entrances exist, the racks shall be dispersed among the entrances rather than located in large groupings.)

3. Located so as not to interfere with pedestrian access.

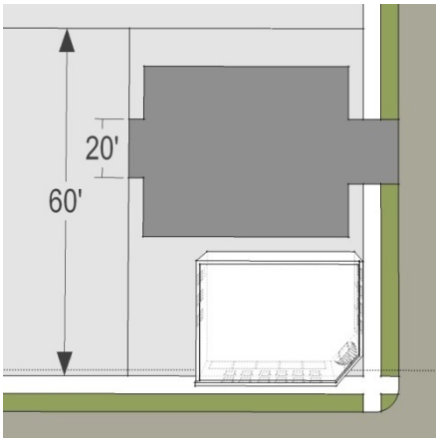
21.7.3.D **Driveways and Cross-Access Connections**

1. **Mid-block Lot Driveways:** A mid-block lot without access to a side street or alley is permitted one driveway in the principal frontage. Attached buildings with more than 2 units in the UN are only allowed access from a rear alley or secondary frontage.

2. **Corner Lot Driveways**: Preference for access shall be given to the minor street as determined by the Administrator. Driveways shall be located as far from the adjacent public street intersection as practical to achieve maximum available corner clearance, with consideration of property limits, adjacent curb cuts, topography, and existing drainage facilities.

3. **Driveway Widths:** Vehicular entrances to parking lots, garages, and Parking Structures shall be no wider than 24 feet at the Frontage.

4. **Cross Access Connections:** Cross-access easements and connections to adjoining properties shall be required to connect driveways and parking lots. The following guidelines shall apply:



a. At least 1 connection is provided at all lot lines that share a property line at least 60 feet with another lot that has primary frontage on the same street.

b. The connection is at least 20 feet in width.

c. If applicable, the connection aligns with a connection that has been previously constructed on an adjacent property.

d. The connection has a slope of no greater than 15%.

e. The connection is placed in an area which will not require the removal of significant natural features such as wetlands or trees with a caliper of 4 inches or more.

f. In the event these conditions cannot be met without undue hardship, or if such connections would create undesirable traffic flow, the Administrator may waive the connection requirement.

Where a parking lot connection is required an easement for ingress and egress to adjacent lots shall be recorded by the property owner with the Union County Register of Deeds in the form of an easement plat.

21.7.4 Site Landscaping/Buffering

21.7.4.A Applicability

The following site landscaping/buffering standards shall apply to all properties within the downtown Waxhaw zoning districts. The site landscaping/buffering standards replace those found in Section 9 of the Unified Development Ordinance, except sections 9.21.8.A(1)d and 9.21.8.A(2).c.4, for all properties within the downtown Waxhaw zoning districts.

21.7.4.B Front Yard Provisions (UN, NMX)

1. For buildings set back more than 2 feet from the public sidewalk, ground plantings shall be provided within 2 feet of the building in the front setback.

2. The first Layer may not be paved, with the exception of permitted Driveways.

3. A minimum of one tree shall be planted within the first Layer for each 40 feet of Frontage Line or portion thereof.

4. New street trees shall be a single species for any individual block face, and shall be one of the following species:

   a. Lacebark Elm (Ulmus parvifolia)

   b. Pin Oak (Quercus palustris)

   c. Japanese Zelkova (*Zelkova serrate)*

   d. Thornless Honeylocust (Gleditisia triacanthos)

   e. Sunset Maple (A. Truncatum x platanoides)

f. Small Maturing trees may be used where power lines exist from the Waxhaw Tree Species List in Section 9.21.15 of the UDO.

21.7.4.C Off-Street Parking Area Landscaping

1. **Required Plantings:** One Shade Tree and 8 shrubs per 10 parking spaces. No parking space shall be further than 60 feet from the trunk of a canopy tree.

2. **Parking Area Screening:** All parking areas visible from the right-of-way should be screened from view. Parking areas must have a minimum 3 foot high Streetscreen along the street side. Shrubs, brick walls (using brick that matches or complements the adjacent building), wrought iron fencing with landscaping, or any combination thereof may be used. If landscaping is used, the minimum planting area width should not be less than 4 feet. Streetscreens shall have openings no larger than are necessary to allow automobile and pedestrian access. Vegetative streetscreens shall be located at least 5 feet outside of the right of way. In addition, all non-vegetative streetscreens that exceed 4 feet in height shall be at least fifty percent void. All non-vegetative streetscreens may be located on the property line.

21.7.4.D Fences

	UN, NMX	MS, TC
A. First Layer	4 ft maximum height (permitted materials: wrought iron, picket style, brick, stucco, stone)	4 ft maximum height (permitted material: wrought iron only)
B. Second & Third Layer	6 ft maximum height (permitted materials: wrought iron, picket style, brick, stucco, stone, coated chain link)	6 ft maximum height (permitted material: wrought iron)

The use of barbed wire, razor wire, uncoated chain link or similar elements is prohibited. Coated chain link shall be in black, dark green, or dark brown vinyl.

21.7.5 Utilities, Trash Containment & Loading Areas

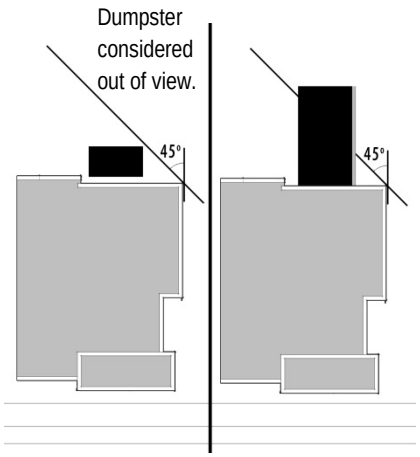
21.7.5.A Underground Utilities:

All projects entailing new construction of any principal structure shall install all on-site utilities underground. Underground utilities (and associate pedestals, cabinets, junction boxes and transformers) must be located in alleys, where possible.

21.7.5.B Dumpsters, Loading Docks, Mechanical Equipment and Utility Structures:

1. Dumpsters:

All dumpsters shall be completely screened from view from public and publicly-accessed streets, public open space, sidewalk area or any adjacent residential or mixed-use properties to a height of 1 foot above the structure or 8 feet, whichever is less, by an opaque wall. A device is considered out of view of the public street if it is within the 45 degree angles projected from the building edges (see diagram above), except on a corner lot or lot with public drives along more than one side.



2. Loading Docks:

a. Loading docks and service areas shall be permitted on frontages only by Conditional Use Permit (Section 14) or through the Conditional Zoning Process (Section 16).

3. Mechanical Equipment and Utility Structures:

a. All equipment shall be located to the side or rear of the principal structure or on rooftops and shall not be visible from any Public Open Space or Sidewalk Area.

b. When located on the ground, equipment must be located in the rear or side yard and screened. Screens are vertically enclosed opaque walls made of materials which are compatible with the exterior of the building.

c. When located on rooftops all rooftop equipment shall be incorporated in the design of the building and screened with materials similar to the building. Rooftop equipment may be setback from the edge of the roof so that it is not visible or screening higher than the equipment shall be used.

21.8 Streets and Connectivity

21.8.1 Streetscape Implementation

21.8.1.A Applicability

The following standards shall apply to and be implemented by all new residential and commercial subdivision development, multi-family development, or mixed-use development.

21.8.1.B Complete Streets

New and retrofitted streets within the Town shall be designed in a manner to balance the needs of all anticipated users, regardless of their selected mode of travel. The design of facilities shall adhere to the street sections and typologies defined as part of this section, and be consistent with the designated surrounding land use context within which the facility is proposed to be implemented. This Policy applies to all public rights-of-way within the Town, including the State (subject to their approval) and local facilities, and shall be applied to new construction and substantial modification of existing facilities, and resurfacing.

21.8.1.C Designation of Street Sections

The street sections defined in 21.8-3 are to serve as typical street sections for the purposes of identifying future improvements by both the Town and fronting property owners. Typical sections are the required arrangement where available right-of-way and topographic conditions permit. The street sections indicate total right-of-way width, sidewalk and streetside zone amenities, parking lanes, travel lanes and other geometric and urban design details.

21.8.1.D Implementation of Street Sections

Where the existing right of way is substandard, the fronting property owner shall be required to dedicate the appropriate amount of right-of-way (as measured from the centerline of the existing street). All noted sidewalk zone improvements including expanded sidewalks and street trees, lighting and street furniture are required with all development with the following exception. Infill development that is less than four residential units or less than a block face in the UN and NMX districts are not required to make sidewalk zone improvements. New construction that is located on both side(s) of a right-of-way shall construct the entire street along the length of the project with one of the permitted street types shown in the Street Regulating Plan.

21.8.1.E Minimum Streetscape Sections

Where the fronting street has not been assigned a typical section by the Administrator, development shall provide a minimum sidewalk and planting zone as follows:

1. UN Streetscape: 5 foot sidewalk, 5 foot planting strip

2. NMX, TC, MS Streetscape: 8 foot sidewalk and 5 foot planting strip or 10 foot sidewalk with tree wells.

21.8.2 Connectivity

21.8.2.A Applicability

The following standards shall apply to and be implemented by all new residential and commercial subdivision development, multi-family development, or mixed-use development.

21.8.2.B Street Network

1. **Streets to be Interconnected:** Except where determined not feasible by the Administrator, all streets shall be designed to form part of an interconnected street pattern. Streets shall connect with adjacent street networks to the extent possible. Street designs shall be assessed, in terms of meeting this inter-connectivity standard, on their ability to: permit multiple routes between origin/destination points; diffuse traffic; and, shorten walking distances.

2. **Block Lengths:** Low speed, low volume streets shall be designed with short block lengths of between 250 and 500 feet. The Administrator may approve alternative block length designs based on topography, the existence of environmentally sensitive lands, the need to preserve cultural resources and similar considerations.

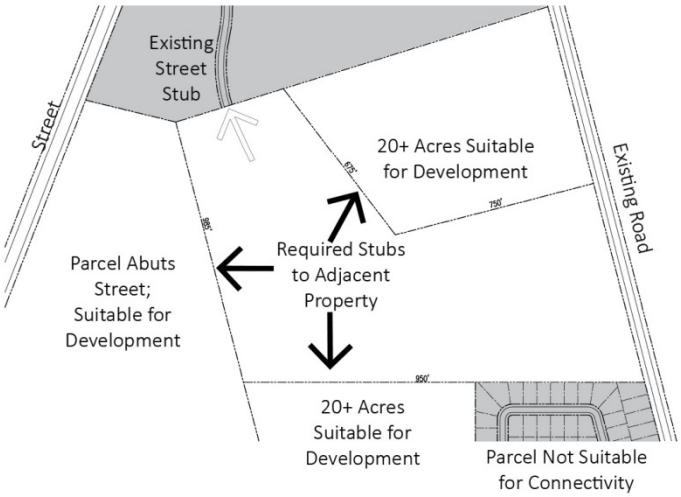
3. **Compliance with Adopted Plans:** Streets shall be planned with due regard to the designated corridors shown on the adopted Downtown Vision Plan or any other adopted plan.

4. **Reserve Strips Prohibited:** Reserve strips and non-access easements adjoining street rights-of-way for the purpose of preventing access to or from adjacent property, and half-streets shall not be permitted.

5. **Street Stubs:** New developments shall connect to any existing street stubs from adjacent properties and shall stub to all adjacent properties

where practical. The location of new required street stubs shall be prioritized as follows:

- Adjacent parcels 20 acres or greater. Parcels that are less than 20 acres should also be considered on a site by site basis.
- Adjacent parcels that abut or are traversed by existing or proposed streets or collector streets.
- Where any adopted transportation or land use plan recommends a street connection.



6. **Street Stub Exemptions:** Street stubs shall not be required where the conditions listed below would prevent connections:
   - Topographical conditions (where pre-development slopes are 18% or greater)
   - Environmental conditions (e.g., jurisdictional wetlands)
   - Property shape
   - Property accessibility (e.g., existing platted subdivision with no stubs)
   - Land use relationships (e.g., incompatible land uses, as determined by the Administrator).
7. **Stub Street Details:** Stub streets and streets intended for extension during future phases shall be constructed to extend to the property line or as close to the line as practical. It shall be the responsibility of the second development to construct the connection to an existing stub street. Stub (or

dead head) streets shall not exceed 150 feet in length without a paved turnaround (permanent or temporary). A clearly visible street sign shall be erected at the end of the stub street stating that the street is planned to connect to a future street.

21.8.2.C Pedestrian/Bicycle Connections

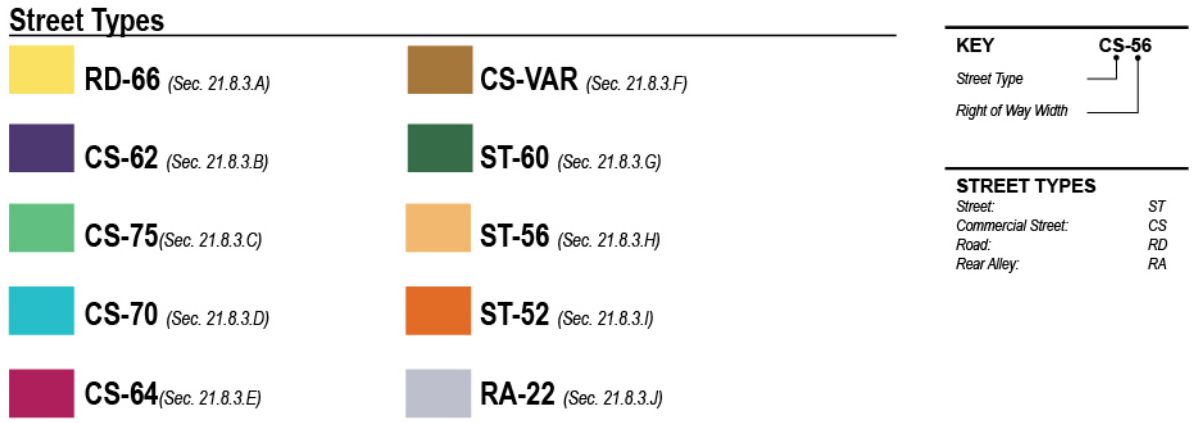
1. **Connections to Trails and Parks:** When lots abut trails, parks and open space areas, accessways must be provided at a minimum of every 1/4 mile. Where a cul-de-sac street is permitted within a development, accessways to trails, parks and open space areas must be provided where such streets back up to these areas.

2. **Connection of Cul-de-sacs:** Where 2 cul-de-sac streets end within 300 feet of each other, pedestrian accessways shall be provided between the cul-de-sacs where feasible.

3. **Minimum Pedestrian/Bicycle Accessway Surface Width:** 5 feet; right-of-way: 6 feet.

4. **Surface Treatment of Accessways:** The surface of accessways shall be constructed of a smooth, compactible material that is accessible for wheelchairs and strollers. Acceptable materials include asphalt, concrete, and crushed stone.

21.8.3 Street Regulating Plan



Street sections shall be assigned based on:

- Recommendation of any Traffic Impact Analysis of a development.
- Designated improvements shown in the adopted Downtown Vision Plan which includes recommended improvements for downtown streets, with emphasis on Broome Street and North and South Main Street, and recommendations of any other adopted plans.
- Right-of-way width.
- Topography and existing features.
- Standards of abutting street stubs.

The street sections indicate total right-of-way width, sidewalk and streetside zone amenities, parking lanes, travel lanes and other geometric and urban design details. Street configuration and amenities (including parking) are subject to NCDOT regulations. The street types are represented by an abbreviation of the street types in the key above followed by a number, which is the measurement of the total right-of-way width in feet.

Administrative Deviation

Street Specifications. Many of the areas governed by the Downtown Code involve existing improvements, infrastructure and other conditions which would render the street classification and/or specifications impractical or not advance a public purpose. The Development Services Director and/or designee may modify the street type or required widths based upon a finding of the following:

1. There is something peculiar about the lot or adjacent properties that would be a basis for deviating from the required street section:

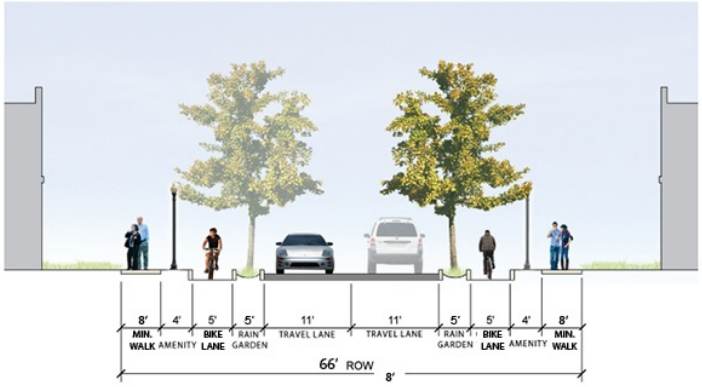
2. The physical layout of the project makes adherence to the standard impractical;

   Or

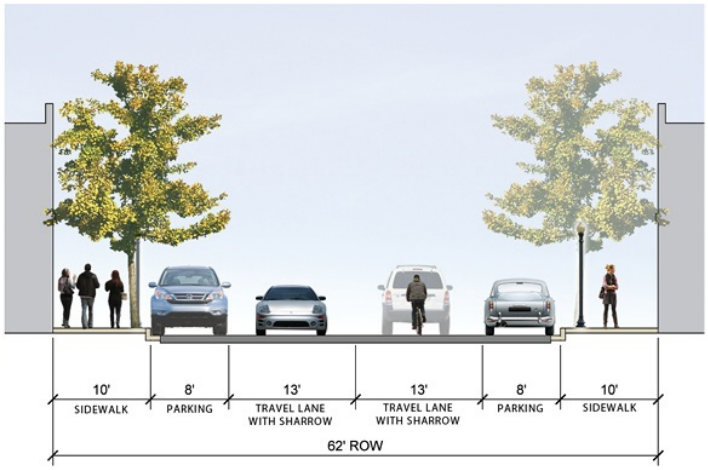
3. Application of the ordinance standard would not serve a useful purpose.

The deviation must not adversely affect the public health and safety. The property owner must take any measures recommended and/or approved by the Development Services Director and/or designee that would reduce the impact of the requested deviation on the adjacent property owners.

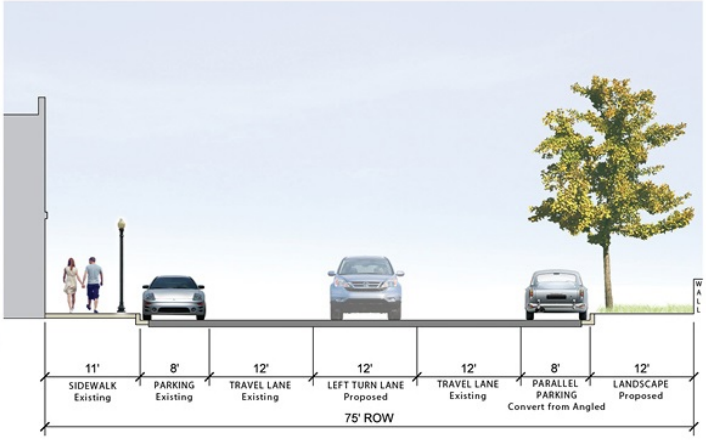
	21.8.3.A RD-66
Street Type	Road
Transect Zone Assignment	UN, NMX, MS, TC , OS
Right-of-Way Width	66 feet
Pavement Width	22 feet
Movement	Slow Movement
Design Speed	35 MPH
Traffic Lanes	2 Lanes Through Traffic
Parking Lanes	None
Bike Lanes	5 foot Protected Bike Lane
Curb Radius	10 feet
Walkway Type	8 foot Sidewalk
Planter Type	Rain Garden
Curb Type	Curb
Landscape Type	Trees at 40' o.c. Avg.



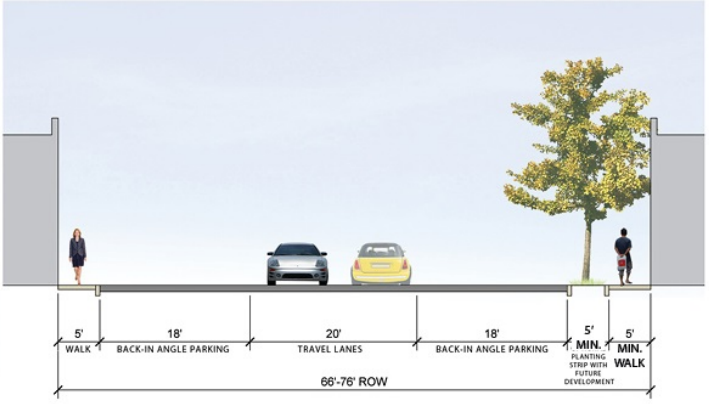
	21.8.3.B CS-62
Street Type	Commercial Street
Transect Zone Assignment	NMX, MS, TC, OS
Right-of-Way Width	62 feet
Pavement Width	42 feet
Movement	Slow Movement
Design Speed	25 MPH
Traffic Lanes	2 Lanes Through Traffic - One Way
Parking Lanes	2 Sides Parallel Parking
Bike Lanes	Sharrow
Curb Radius	10 feet
Walkway Type	10 foot Sidewalk
Planter Type	Tree Well
Curb Type	Curb
Landscape Type	Trees at 40' o.c. Avg.



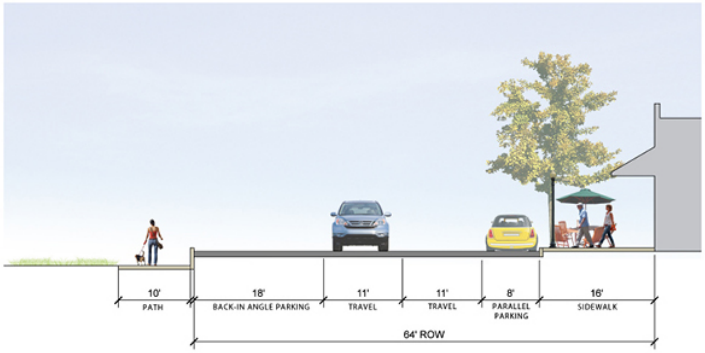
	21.8.3.C CS-75
Street Type	Commercial Street
Transect Zone Assignment	NMX, MS, TC, OS
Right-of-Way Width	75 feet
Pavement Width	52 feet
Movement	Slow Movement
Design Speed	25 MPH
Traffic Lanes	2 Lanes Through Traffic
Parking Lanes	2 Sides Parallel Parking
Bike Lanes	N/A
Curb Radius	10 feet
Walkway Type	11 foot Sidewalk
Planter Type	Planting Strip
Curb Type	Curb
Landscape Type	Trees at 40' o.c. Avg.



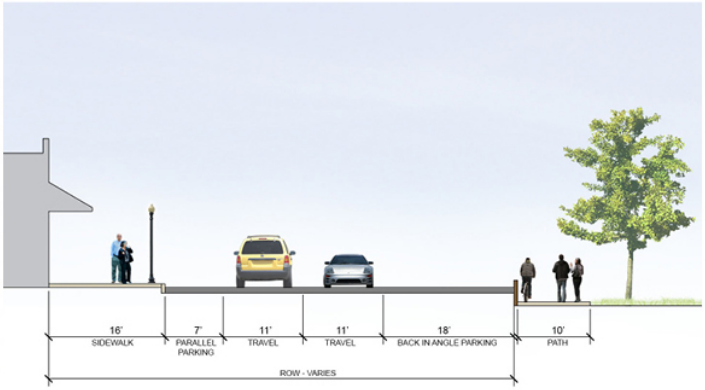
	21.8.3.D CS-70
Street Type	Commercial Street - B Street
Transect Zone Assignment	NMX, MS, TC, OS
Right-of-Way Width	71 feet
Pavement Width	56 feet
Movement	Slow Movement
Design Speed	25 MPH
Traffic Lanes	2 Lanes Through Traffic
Parking Lanes	2 Side Reverse Back-In Angle Parking
Bike Lanes	N/A
Curb Radius	10 feet
Walkway Type	5 foot Sidewalk
Planter Type	Planting Strip
Curb Type	Curb
Landscape Type	Trees at 40' o.c. Avg.



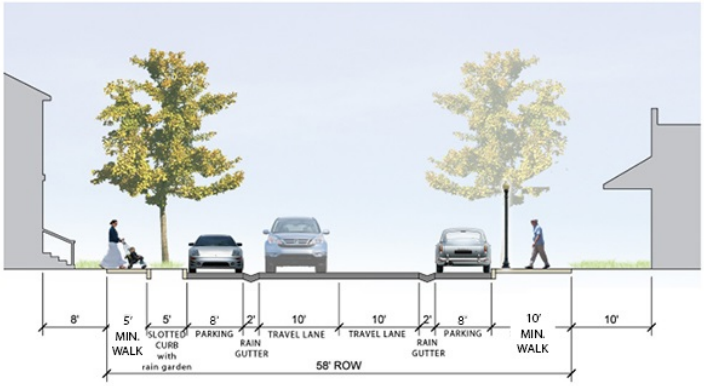
	21.8.3.E CS-64
Street Type	Commercial Street
Transect Zone Assignment	MS
Right-of-Way Width	64 feet
Pavement Width	48 feet
Movement	Slow Movement
Design Speed	25 MPH
Traffic Lanes	2 Lanes Through Traffic
Parking Lanes	1 Side Back-In Angle Parking, 1 Side Parallel Parking
Bike Lanes	N/A
Curb Radius	10 feet
Walkway Type	1 Side 10 foot Path, 1 Side 16 foot sidewalk
Planter Type	Tree Well
Curb Type	Curb
Landscape Type	Trees at 40' o.c. Avg.



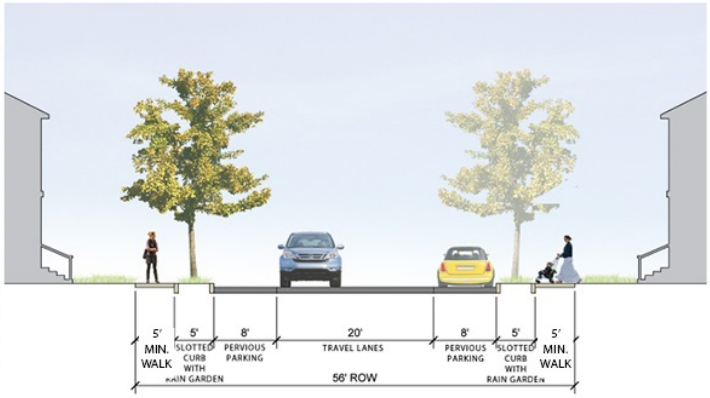
	21.8.3.F CS-VARIES
Street Type	Commercial Street
Transect Zone Assignment	MS
Right-of-Way Width	64 feet
Pavement Width	48 feet
Movement	Slow Movement
Design Speed	25 MPH
Traffic Lanes	2 Lanes Through Traffic
Parking Lanes	1 Side Back-In Angle Parking, 1 Side Parallel Parking
Bike Lanes	N/A
Curb Radius	10 feet
Walkway Type	1 Side 10 foot Path, 1 Side 16 foot sidewalk
Planter Type	Tree Well
Curb Type	Curb
Landscape Type	Trees at 40' o.c. Avg.



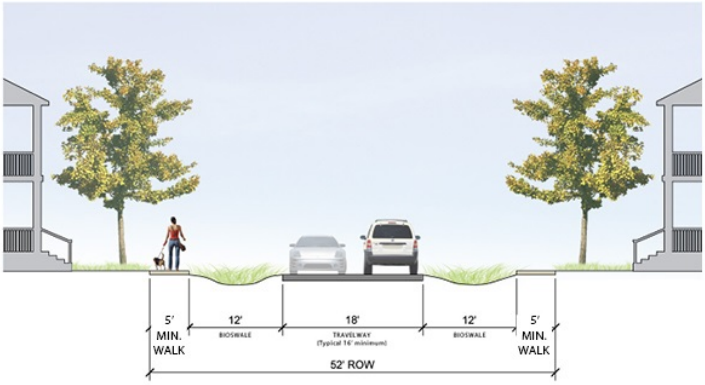
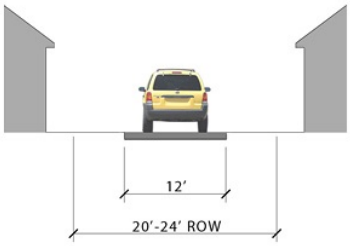
	21.8.3.G ST-60
Street Type	Street
Transect Zone Assignment	UN, NMX, OS
Right-of-Way Width	58 feet
Pavement Width	38 feet
Movement	Slow Movement
Design Speed	25 MPH
Traffic Lanes	2 Lane Through Traffic
Parking Lanes	2 Sides Parallel Parking
Bike Lanes	N/A
Curb Radius	10 feet
Walkway Type	1 Side 5 foot Sidewalk, 1 Side 10 foot Sidewalk
Planter Type	1 Side Rain Garden, 1 Side Tree Well
Curb Type	Slotted Curb
Landscape Type	Trees at 40' o.c. Avg.



	21.8.3.H ST-56
Street Type	Street
Transect Zone Assignment	UN, OS
Right-of-Way Width	56 feet
Pavement Width	36 feet
Movement	Slow Movement
Design Speed	25 MPH
Traffic Lanes	2 Lanes Through Traffic
Parking Lanes	2 Sides Parallel Parking (pervious paving)
Bike Lanes	N/A
Curb Radius	10 feet
Walkway Type	5 foot Sidewalk
Planter Type	Rain Garden
Curb Type	Slotted Curb
Landscape Type	Trees at 40' o.c. Avg.



	21.8.3.I ST-52
Street Type	Street
Transect Zone Assignment	UN , OS
Right-of-Way Width	52 feet
Pavement Width	18 feet
Movement	Slow Movement
Design Speed	25 MPH
Traffic Lanes	2 Lane Through Traffic
Parking Lanes	N/A
Bike Lanes	N/A
Curb Radius	10 feet
Walkway Type	5 foot Sidewalk
Planter Type	Continuous Bioswale
Curb Type	Bioswale
Landscape Type	N/A



	21.8.3.J RA-22-12
Street Type	Rear Alley
Transect Zone Assignment	UN, NMX, MS, TC
Right-of-Way Width	22 feet
Pavement Width	12
Movement	Individual Lot Access Only
Design Speed	N/A MPH
Traffic Lanes	1 Lane Through Traffic
Parking Lanes	N/A
Bike Lanes	N/A
Curb Radius	N/A
Walkway Type	Path optional
Planter Type	N/A
Curb Type	N/A
Landscape Type	Trees at 40' o.c. Avg.