

# *Waxhaw*



## **LAND DEVELOPMENT CODE**

**ADOPTED MARCH 23, 2021**

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# LAND DEVELOPMENT CODE CONTENTS

pg 6

## **Chapter 1: General Provisions**

- Section 1.1 Establishment, Title and Effective Date
- Section 1.2 Authority
- Section 1.3 Purpose and Intent
- Section 1.4 Applicability
- Section 1.5 Relationships with Other Laws, Covenants or Deeds
- Section 1.6 Exemptions
- Section 1.7 Fractional Requirements
- Section 1.8 Zoning Map and Interpretation of District Boundaries
- Section 1.9 Maps Adopted by State, Federal and Regional Agencies
- Section 1.10 Illustrations
- Section 1.11 Consistency with Plans and Studies, Payments in Lieu
- Section 1.12 Interpretations of Provisions/Omissions
- Section 1.13 Severability
- Section 1.14 Vested Rights
- Section 1.15 Transitional Provisions and Permit Choice
- Section 1.16 Approvals Run with the Land
- Section 1.17 Water and Sewer Requirements
- Section 1.18 Repeal of Existing Unified Development Ordinance

pg 12

## **Chapter 2: Administrative Agencies**

- Section 2.1 Planning & Inspections Department / Engineering Department
- Section 2.2 Planning Board
- Section 2.3 Board of Commissioners
- Section 2.4 Board of Adjustment
- Section 2.5 Historic Preservation Committee
- Section 2.6 Technical Review Committee

pg 20

## **Chapter 3: Administration and Enforcement Procedures**

- Section 3.1 General
- Section 3.2 Administrative Decisions
- Section 3.3 Legislative Decisions
- Section 3.4 Special Use Permits
- Section 3.5 Withdrawal of Applications
- Section 3.6 Effect of Denial on Subsequent Applications
- Section 3.7 Appeals and Variances
- Section 3.8 Violations

pg 46

## **Chapter 4: Zoning Districts, Dimensional Requirements and General Use Regulations**

- Section 4.1 Base Zoning Districts Established
- Section 4.2 Conditional Zoning Districts Established
- Section 4.3 Overlay Districts Established
- Section 4.4 Zoning District Dimensional Requirements
- Section 4.5 General Use Regulations
- Section 4.6 Table of Permitted Uses
- Section 4.7 Special Requirements for Certain Uses

pg 98

## **Chapter 5: Subdivision Regulations**

- Section 5.1 Purpose
- Section 5.2 Compliance and Criteria for Approval
- Section 5.3 Applicability and Exemptions
- Section 5.4 Homeowners' Association
- Section 5.5 Types of Subdivision Review
- Section 5.6 Minor Subdivisions
- Section 5.7 Major Subdivisions
- Section 5.8 Cluster Subdivisions
- Section 5.9 Final Plat Review Procedure
- Section 5.10 Certificates Required for Final Plats
- Section 5.11 Information Required for Plot Plans, Preliminary Plans, Construction Documents Plans, and Final Plats
- Section 5.12 Lot Design Standards
- Section 5.13 Improvements
- Section 5.14 Inspections of Improvements
- Section 5.15 Acceptance of Improvements
- Section 5.16 Improvement Guarantees/Partial Releases

pg 114

## **Chapter 6: Design Standards**

- Section 6.1 Purpose
- Section 6.2 Scope
- Section 6.3 General Principles
- Section 6.4 General Architectural Standards
- Section 6.5 Civic/Landmark Buildings, the NC District and Public Art
- Section 6.6 Commercial, Mixed-Use and Multi-Family Design Standards
- Section 6.7 Employment Center Design Standards
- Section 6.8 Residential Design Standards

pg 138 **Chapter 7: Streets, Driveways and Parking**

Section 7.1 General Street Standards  
Section 7.2 Connectivity  
Section 7.3 Driveways  
Section 7.4 Greenways  
Section 7.5 Parking

pg 160 **Chapter 8: Buffers, Landscaping and Lighting**

Section 8.1 Purpose  
Section 8.2 Applicability  
Section 8.3 General Requirements  
Section 8.4 Street and Front, Side and Rear Landscaping Yards  
Section 8.5 Parking Lot Landscaping  
Section 8.6 Residential Perimeter Tree Buffer  
Section 8.7 Buffering of Non-Residential Uses  
Section 8.8 Screening  
Section 8.9 Open Space  
Section 8.10 Tree Preservation  
Section 8.11 Heritage and Specimen Trees  
Section 8.12 Maintenance and Ownership  
Section 8.13 Forestry Activities  
Section 8.14 Planting Species List  
Section 8.15 Lighting

pg 190 **Chapter 9: Environmental Standards**

Section 9.1 Post-Construction Stormwater  
Section 9.2 Sedimentation and Erosion Control  
Section 9.3 Flood Damage Prevention

pg 244 **Chapter 10: Signs**

Section 10.1 Purpose and Intent  
Section 10.2 Applicability  
Section 10.3 Definitions  
Section 10.4 Content Neutrality  
Section 10.5 Computation of Sign Measurement  
Section 10.6 Exempt Signs  
Section 10.7 Prohibited Signs  
Section 10.8 Historic Building Signage  
Section 10.9 Obsolete or Abandoned Signs  
Section 10.10 Nonconforming Signs  
Section 10.11 Master Signage Plan Required

Section 10.12 Sign Permit Required  
Section 10.13 Permanent Signs  
Section 10.14 Temporary Signage  
Section 10.15 Sign Illumination  
Section 10.16 Administration  
Section 10.17 Maintenance

pg 260 **Chapter 11: Non-Conforming Situations**

Section 11.1 General  
Section 11.2 Non-Conforming Lots  
Section 11.3 Non-Conforming Uses  
Section 11.4 Non-Conforming Structures, Except Signs  
Section 11.5 Non-Conforming Signs  
Section 11.6 Non-Conforming Accessory Uses and Structures  
Section 11.7 Non-Conforming Manufactured Home Parks  
Section 11.8 Non-Conforming Features  
Section 11.9 Temporary Non-Conformances  
Section 11.10 Changes of Tenancy or Ownership

pg 266 **Chapter 12: Historic Preservation**

Section 12.1 Purpose and Intent  
Section 12.2 Designation of Landmarks  
Section 12.3 Certificate of Appropriateness

**Chapter 13: Definitions**

pg 272 Section 13.1 Rules for Development of Definitions and Interpretation of Terms  
Section 13.2 Definitions

## GENERAL PROVISIONS

- Section 1.1 Establishment and Title
- Section 1.2 Authority
- Section 1.3 Purpose and Intent
- Section 1.4 Applicability
- Section 1.5 Relationship with Other Laws, Covenants, or Deeds
- Section 1.6 Exemptions
- Section 1.7 Fractional Requirements
- Section 1.8 Zoning Map and Interpretations of District Boundaries
- Section 1.9 Maps Adopted by State, Federal, and Regional Agencies
- Section 1.10 Illustrations
- Section 1.11 Consistency with Plans and Studies, Payments in Lieu
- Section 1.12 Interpretations of Provisions/Omissions
- Section 1.13 Severability
- Section 1.14 Vested Rights
- Section 1.15 Transitional Provisions & Permit Choice
- Section 1.16 Approvals Run with the Land
- Section 1.17 Water and Sewer Regulations
- Section 1.18 Repeal of Existing Unified Development Ordinance

### **Section 1.1 Establishment, Title, and Effective Date**

This article, inclusive of any amendments, shall be known as the Land Development Code of the Town Waxhaw. For convenience, it may be referred to throughout this code as “these regulations,” “this code,” or “this ordinance,” and throughout this and other town documents and policies as “The Land Development Code” or “The LDC”. This Code shall take effect on **DATE**, 2021.

### **Section 1.2 Authority**

The Town of Waxhaw, further referenced elsewhere as “the Town” is authorized through the State of North Carolina General Statutes (NCGS) to exercise broad powers in the regulation of development within the Town’s zoning jurisdiction, including but not limited to: planning, zoning, subdivision, and environmental regulations. The regulations contained within this code apply fully to all land, uses, and structures within the boundaries of the zoning jurisdiction of the Town of Waxhaw. The Town through this Code intends to use all powers provided by virtue of NCGS Chapter 160D. This code shall also use specific powers granted in other sections of the NCGS that are specific to development activity.

### **Section 1.3 Purpose and Intent**

The purpose of the Land Development Code is to provide clear and detailed direction for achieving the goals and objectives of Waxhaw’s Long Range Plans and legal standards for the proper development and stewardship of property in the Town’s jurisdiction. While no set of standards can assure complete and perfect public health and safety conditions in all circumstances, the adoption of carefully considered standards are intended to create a consistent and desirable quality of life environment for the community as a whole.

The Town, through implementation of this Code, intends to accomplish a variety of public purposes, including but not limited to:

- A. Responding uniformly and consistently to all planning and development matters
- B. Promoting the health, safety, and general welfare of the Waxhaw community as a whole while providing appropriate provisions to guide development and redevelopment of land.

- C. Guiding the growth of the Town in a manner that creates a safe, healthy, and beneficial environment for those living, working, and playing within the community
- D. Encouraging the use of best practices in planning, transportation, and urban design concepts
- E. Requiring appropriate development standards to preserve and protect property values in order to secure the fiscal base for public services
- F. Ensuring adequate and economical provision of necessary public services caused by and attributable to development or redevelopment of land

### **Section 1.4 Applicability**

To the extent allowed by law, the provisions of this Code apply to all land, buildings, structures, and uses owned, leased, or otherwise controlled by any district, county, state, or federal government agencies. These regulations shall govern the development and use of land within the Town’s jurisdiction.

### **Section 1.5 Relationship with Other Laws, Covenants or Deeds**

If there is found to be conflict between this Code and other legislative enactments of the Federal Government, the State of North Carolina, or the Town of Waxhaw, the stricter provision applies to the extent allowed by law. The Town does not enforce private easements, covenants, or restrictions.

### **Section 1.6 Exemptions**

This code shall not apply to the followings uses:

- A. Bona fide farms as defined in NCGS 160D and Chapter 13 *Definitions* of this Code, except that non-farm uses on farms shall be regulated herein.
- B. Horse farms on three or more acres as defined in Chapter 13.
- C. Any other use, structure, or land development explicitly exempted within the text of this Code or by state or federal law.

### **Section 1.7 Fractional Requirements**

Whenever any requirement of this Code results in a fraction of a unit, a fraction of a half or more will be rounded up to the next whole unit and a fraction of less than a half will be disregarded, unless fractional requirements are explicitly prescribed. When any requirement of these regulations results in a fraction of a dwelling unit, that fraction will be disregarded and the nearest lower whole number shall apply.

### **Section 1.8 Zoning Map and Interpretation of District Boundaries**

The zoning map depicts in graphic form the districts and boundaries described in this code. The official zoning map will be in digital format and shall be on file in the office of the Town Clerk. The Planning Department will maintain the official zoning map and provides updates to the Town Clerk.

#### **Section 1.8.1 Interpretation of Boundaries**

Where uncertainty exists with respect to the boundaries of the various districts shown on the zoning map, the following rules will be used to interpret the map.

- A. Where a boundary line is located within a street or alley right-of-way, railroad or utility line right-of-way or easement, or stream it will be considered to be the centerline of said feature.
- B. Where a boundary line is shown as being located a specific distance from a physical feature such as a street or a stream, the distance from the feature will control.
- C. Where a district boundary is shown to coincide approximately with a property line or town limit line, the property or town limit line will be considered the district boundary, unless otherwise indicated.
- D. Zoning boundaries that do not coincide with a property line, parcel boundary, landmark, or similar feature will be determined using geospatial data included in the official zoning map.

#### **Section 1.8.2 Maintenance and Updates**

- A. The Zoning Administrator or their designee is responsible for revising the official zoning map. The official zoning map can be updated only after an official action as detailed in Chapter 3 of this Code, unless otherwise stated in this section.
- B. The Zoning Administrator may administratively grant any nonsignificant change such as a mapping or scribing error.
- C. The Zoning Administrator may authorize printed copies of the official zoning map to be produced and shall maintain digital or printed copies of superseded versions of the official zoning map for historical reference.

### **Section 1.9 Maps Adopted by State, Federal and Regional Agencies**

Maps adopted by State, Federal, and Regional agencies, including approved updates to those maps, can be referenced in order to enforce provisions of this Code. Examples of maps include but are not limited to flood insurance rate maps, watershed boundary maps, regional transportation maps, or other maps officially adopted by State, Federal and Regional agencies.

### **Section 1.10 Illustrations**

The illustrations in this Code are not drawn to scale and are intended only to graphically represent the requirements and concepts contained herein. Where there is conflict between the text of this Code and an illustration, the text shall prevail.

### **Section 1.11 Consistency with Plans and Studies, Payments in Lieu**

The provisions of this Code are intended for use in implementing the goals, objectives, and policies of the Town's adopted plans and any existing or future studies, including but not limited to: land use, transportation, traffic impact analysis, and recreation. This Code shall work to implement infrastructure, rights-of-way, easements, and other improvements that are depicted within these plans and studies.

Any amendments to this Code shall be consistent with the goals and objectives of the Town's adopted plans. If any amendment is found to be inconsistent with the Town's adopted plans, then it shall be considered only if it is determined to be reasonable based on provisions in Chapter 3 of this Code and NCGS 160D.

When implementation of improvements from adopted plans and studies is proven unfeasible, a payment in lieu of improvements may be accepted by the Town. The payment shall be equal to the full cost estimate of the improvements with said estimate having been found acceptable by the Town. All payments in lieu shall be used exclusively towards transportation and recreation improvements within the Town.

A payment in lieu for improvements associated with adopted plans and studies may be accepted by the Town when one of the following criteria is met:

- A. Circumstances that would cause the construction of the improvements to be impractical.
- B. The Town has committed and funded for the same improvements as part of one of the Town's adopted plans and Capital Improvement projects.
- C. A partner organization has committed and funded the same improvements as part of a documented plan or project schedule.

### **Section 1.12 Interpretations of Provisions/Omissions**

The provisions of this Code are considered the minimum requirements for the protection of public health, safety, and welfare. This Code shall be liberally interpreted in order to further its underlying purposes. In all cases, the highest standards shall be applied. The meaning of certain words and terms is provided in Chapter 13 - Definitions. The omission of any specific use, dimension, word, phrase, or other provision of this code shall not be interpreted as permitting any variation from the general meaning and intent of the Code.



### **Section 1.13 Severability**

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

### **Section 1.14 Vested Rights**

Pursuant to NCGS 160D, vested rights granting periods are as follows. These vested rights shall remain for the period of time from approval to construction commencing on a project that has been approved under the processes and procedures outlined in Chapter 3 *Administration and Enforcement Procedures* and Chapter 5 *Subdivision Regulations*:

- A. One Year – for administratively approved projects as defined in Section 3.2.
- B. Two Years – for site specific development plans associated with major subdivisions, conditional zoning, and special use permits applications as defined in Sections 3.3 and 3.4.
- C. Seven Years – for multi-phased developments containing 25 acres or more that is submitted for construction to occur in more than one phase and is subject to a master development plan with committed elements showing the type and intensity of use of each phase.

Any amendments to a plan with a vested right shall be reviewed and approved in the same process and manner of the original approval.

### **Section 1.15 Transitional Provisions and Permit Choice**

Applications that have approval prior to the adoption of this Code may continue under the provisions of the prior regulations. These approvals may proceed with development as long as they comply with the provisions in existence at the time of their approval.

Applicants with prior approvals may seek approval conforming to the provisions of this Code. If an applicant wishes to proceed with approval from this Code then the applicant shall resubmit their application.

If a regulation changes after an application is submitted, an applicant may choose which regulation to adhere to and complete their project under those regulations.

If an applicant lets their vested right lapse, then they will be subject to the new regulations.

### **Section 1.16 Approvals Run with the Land**

Unless provided otherwise by this Code or by law, all rights privileges, benefits, burdens, and obligations created by this Code shall run within the physical boundaries of the land.

### **Section 1.17 Water and Sewer Requirements**

The dimensional standards required for the various zoning districts in this Code are created based on the assumption that adequate water and sewage disposal systems are available to each and every lot. All developments shall be required to connect to the public water and sewer system. If water or sewer is not available, then the development shall be responsible for extending the public water or sewer system to their property for connection to the utility in accordance with Union County Public Works policy. Fire hydrants shall be installed in accordance with County specifications.

There may be times when Public connections cannot be made, and new water and sewer permits cannot be issued due to lack of available capacity. If a developer is unable to secure approval for this reason, the Town may allow a proposed development to be served by private connections or wells for water, and private connections or septic tanks for sewer. The developer shall be responsible for establishing with the Town that capacity is not available. A determination of what capacity is available, and whether to allow the use of a private system or individual well and septic tanks, shall lie within the sole discretion of the Town. If a wastewater package plant is proposed, it is required to follow the Special Use process as outlined in Section 3.4 Special Use Permits.

If the lot is served by well and septic, the preliminary plat shall be accompanied by Union County Environmental Health approval and a map of the subdivision showing the following: the proposed building area for each lot, well and septic locations, septic tank drain field, and site and repair area for each lot.

### **Section 1.18 Repeal of Existing Unified Development Ordinance**

Upon adoption of this Code, all new development proposals must conform to the standards, requirements, and processes herein. Certain standards and regulations contained within the prior Unified Development Ordinance (UDO) versions will remain applicable to legal nonconformities and legacy zoning districts to the extent required to ensure their legal status.

Additionally, all development proposals that are still under review at the time of adoption of this code shall be allowed to continue through the process of the Unified Development Ordinance to their completion, provided that the process be completed by July 31, 2021. The Unified Development Ordinance shall be repealed to give this Code full force and effect on August 1, 2021.

## ADMINISTRATIVE AGENCIES

Section 2.1  
Planning & Inspections Department/  
Engineering Department

Section 2.1.1  
Zoning Administrator

Section 2.1.2  
Floodplain Administrator

Section 2.1.3  
Chief Building Inspector

Section 2.1.4  
Public Services Director

Section 2.1.5  
Town Engineer

Section 2.2  
Planning Board

Section 2.3  
Board of Commissioners

Section 2.4  
Board of Adjustment

Section 2.4.1  
Powers of Board of Adjustment

Section 2.4.2  
Appeals from decisions of  
Board of Adjustment

Section 2.5  
Historic Preservation Commission

Section 2.5.1  
Purpose and Powers of  
Historic Preservations Commission

Section 2.6  
Technical Review Committee

### Section 2.1 Planning and Inspections

The Planning and Inspections Department and the Engineering Department shall perform the planning, zoning, subdivision, and environmental administrative functions for the Town of Waxhaw. The departments shall provide support and guidance for all policies, processes, and procedures as provided herein. The departments shall perform other functions as may be requested by the Town Board of Commissioners, Planning Board, Board of Adjustment, and Town Manager or as authorized by this Code.

#### Section 2.1.1 Zoning Administrator

The Town Manager shall appoint a Zoning Administrator. The Zoning Administrator shall have the following powers and duties under this Code:

- A. Administer code provisions such as reviewing development applications, conducting pre-application conferences, issuing permits and certificates of zoning compliance, approving minor subdivisions, and collecting authorized fees.
- B. Interpret terms and provisions.
- C. Maintain the Official Zoning Map and all public records.
- D. Create and maintain all forms, checklists, notices, and other materials necessary to administer this code and provide information to applicants, decision-making and advisory boards, and the public.
- E. Serve as professional staff to decision-making and advisory boards.
- F. Take action authorized by this Code to ensure compliance with or to prevent violations of its provisions.
- G. Delegate assigned duties to qualified staff within the department as needed.
- H. Waive any requirement where the type of use or scale of proposal makes providing the information unnecessary or impractical.

- I. Adjust any requirement where the strict application of this Code may be impractical or where a better performance of a requirement can be attained that is in keeping with adopted plans and public safety and welfare.

#### Section 2.1.2 Floodplain Administrator

The Town Manager shall appoint a Floodplain Administrator. The Floodplain Administrator shall have the following powers and duties under this Code:

- A. Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this Code have been satisfied.
- B. Review all proposed development within Special Flood Hazard Areas to assure that all necessary local, state and federal permits have been received.
- C. Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions are met.
- D. 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, new and substantially improved structures that have been floodproofed, and all public utilities.
- E. When flood-proofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect.
- F. Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or non-encroachment areas.
- G. Permanently maintain all records that pertain to the administration of this code and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.
- H. Make on-site inspections of work in progress or any sites located throughout the Special Flood Hazard Area. 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. Shall issue stop-work order as required.
- I. Revoke floodplain development permits as required. 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.

### **Section 2.1.3 Chief Building Inspector**

The Town Manager shall appoint a Chief Building Inspector. The Chief Building Inspector shall have the following powers and duties under this Code:

- A. Coordinate plan review; reviews plans, and specifications for adherence to state building code; supervises the receipt of applications and issuance of building permits.
- B. Assist the Zoning Administrator on administration and interpretation of Code provisions.
- C. Inspect building construction for compliance with codes in five trade areas (Building, Fire, Electrical, Plumbing and Mechanical); monitor foundations and framing processes; inspect commercial and institutional construction work; advise contractors in interpreting and applying code regulations.
- D. Ensure the maintenance of records of inspections, permits, plans, and other related documents; prepare necessary reports on inspection activities.
- E. Notify responsible parties of defects and re-inspect to determine if corrective actions have been taken; issue stop work orders or certificates of occupancy; make final determination regarding interpretation of state and local codes and ordinances.
- F. Work with Planning staff on inspections and zoning compliance on development sites.

### **Section 2.1.4 Public Services Director**

The Town Manager shall appoint a Public Services Director. The Public Services Director shall have the following powers and duties under this Code:

- A. Assist the Zoning Administrator on administration and interpretation of Code provisions.
- B. Serve as professional staff to decision-making and advisory boards.
- C. Take action authorized by this code to ensure compliance with or to prevent violations of its provisions.
- D. Work closely with code enforcement to assist with enforcement of this Code.
- E. Work with Planning staff in the review of plans and permits associated with this Code.
- F. Work with Planning staff on inspection and acceptance of infrastructure, maintenance of rights-of-way and easements, and setback requirements for new construction.

### **Section 2.1.5 Town Engineer**

The Town Manager shall appoint a Town Engineer. The Town Engineer shall have the following powers and duties under this Code:

- A. Assist the Zoning Administrator on administration and interpretation of code provisions.

- B. Serve as professional staff to decision-making and advisory boards.
- C. Take action authorized by this code to ensure compliance with or to prevent violations of its provisions.
- D. Perform civil engineering duties as required to facilitate customer response to inquiries on drainage, plan reviews and other engineering responsive abilities.
- E. Maintain close working relationship with regional, state, and federal regulatory agencies.
- F. Work with Planning and Public Services staff on inspection and acceptance of infrastructure and maintenance of rights-of-way and easements.

### **Section 2.2 Planning Board**

**Composition and term of office.** The Planning Board shall consist of seven members who are residents of the town. All appointed members shall serve a term of three years.

The Planning Board serves in an advisory function to assist in making decisions pertaining to this Code. The Planning Board shall operate in this capacity based upon their Rules of Procedure as adopted (or amended) by the Board of Commissioners.

The Planning Board shall advise the Board of Commissioners on decisions involving:

- Zoning Text Amendments
- Zoning Map Amendments
- Conditional Zoning Districts
- Special Use Permits
- Major Subdivisions

The Planning Board shall also provide the Board of Commissioners with advice and recommendations on plans and policies developed by the Town pertaining to planning, zoning, subdivision, and environmental issues.

In addition, and per G.S. 160A-388, the Planning Board shall perform all duties of the Board of Adjustment generally described in Section 2.4 below.

### **Section 2.3 Board of Commissioners**

The Board of Commissioners (BOC) shall render final decisions on all policies and processes except where this authority is delegated to an advisory board or administration as described in this Code.

The Board of Commissioners shall consider recommendations from the Planning Board pertaining to their decisions on:



- Zoning Text Amendments
- Zoning Map Amendments
- Conditional Zoning Districts
- Special Use Permits
- Major Subdivisions

The BOC shall take such other action not otherwise delegated as deemed necessary to implement the provisions of this Code pertaining to planning, zoning, and environmental policies.

### **Section 2.4 Board of Adjustment**

**Composition and term of office.** The Board of Adjustment shall consist of five regular members and two alternate members who are members of the town Planning Board. Alternate members shall serve in the absence for any cause of any regular member. All members and alternate members shall be appointed for terms to correspond with Planning Board member terms.

The Board of Adjustment shall have the following powers:

- To hear and decide appeals, where there is alleged error in any final order, requirements, decisions, or determinations made by an administrative official in the enforcement of the Code or any other ordinance that regulates land use or development.
- To hear and determine variances which relate to the establishment or extension of structures or uses of land following a determination by the Administrator that a requested action is not in compliance with the Code. The Board may not grant a variance which would allow a change in permitted uses.

Hearings before the Board of Adjustment shall be quasi-judicial based upon competent, material and substantial evidence presented by sworn-in witnesses. The chair of the BOA, any person acting as chair, or the clerk to the BOA may authorize oaths. The Board of Adjustment 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.

Following a determination of the Board of Adjustment on quasi-judicial matters, written decisions shall be provided that reflect the determination of contested facts and the application of the standards in the Code, signed by the Board of Adjustment Chair or duly authorized member of the BOA, filed by the Town Clerk, and delivered by personal delivery, electronic mail, or by first-class mail to the landowner(s), applicant(s), and any other party in interest requesting a written copy of the decision.

### **Section 2.4.1 Appeals from Decisions of the Board of Adjustment**

Any person who may have a substantial interest in any decision of the Board of Adjustment may appeal from any decision of the BOA 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 must be filed within 30 days from receipt of written notice.

### **Section 2.5 Historic Preservation Commission**

**Composition and term of office.** The Historic Preservation Commission shall consist of seven regular members who are residents of the town. All appointed members shall serve a term of three years.

The Historic Preservation Commission (HPC) serves in an advisory function to assist in making decisions pertaining to this Code. The HPC shall operate in this capacity based upon their Rules of Procedure as adopted (or amended) by the Board of Commissioners.

In addition to the advisory role, the HPC shall have powers and duties as described in the following section.

### **Section 2.5.1 Purpose and Powers of the Historic Preservation Commission**

The general purpose of the Historic Preservation Commission is to protect, preserve and sustain Waxhaw's historic buildings, landmarks and unique character. The Historic Preservation Commission (HPC) 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. 160D-942 including, but not limited to, the following:

- Undertake an inventory of properties of historical, prehistorical, architectural, and/or cultural significance.
- Recommend to the governing board areas to be designated by ordinance as "Historic Districts" and individual structures, buildings, sites, areas, or objects to be designated by ordinance as "Landmarks."
- 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 such properties, and to exchange or dispose of the property by public or private sale, lease or otherwise, subject to covenants or other legally binding restrictions that will secure appropriate rights of public access and promote the preservation of the property.
- Restore, preserve, and operate historic properties.
- Recommend to the governing board that designation of any area as a historic district or part thereof, or designation of any building, structure, site, area, or object as a landmark, be revoked or removed for cause.

- F. Conduct an educational program regarding historic properties and districts within its jurisdiction.
- G. Cooperate with the State, federal, and local governments in pursuance of the purposes of this Part. The governing board or the commission, when authorized by the governing board, 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 local government'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 Part.
- K. Negotiate at any time with the owner of a building, structure, site, area, or object for its acquisition or its preservation, when such action is reasonably necessary or appropriate.

### **Section 2.6 Technical Review Committee**

The Technical Review Committee (TRC) is established to assist Town Planning and Development Services staff with the review of plans, particularly when the plans require review from organizations outside of the Town. This committee is a review body only, and has no decision-making powers or duties. It shall be the responsibility of Town Planning staff to determine when plans should be forwarded to the TRC for technical review.

Organizations included in the TRC include (but are not limited to):

- NCDOT
- Duke Energy
- Union Power
- Piedmont Natural Gas
- Waxhaw Volunteer Fire Department
- Union County Planning
- Union County Public Works
- Union County Public Health
- Union County Schools

## ADMINISTRATION AND ENFORCEMENT PROCEDURES

Section 3.1  
General

Section 3.2  
Administrative Decisions

Section 3.3  
Legislative Decisions

Section 3.4  
Special Use Permits

Section 3.5  
Withdrawal of Applications

Section 3.6  
Effect of Denial on Subsequent  
Applications

Section 3.7  
Appeals and Variances

Section 3.8  
Violations

### **Section 3.1 General**

**Purpose.** The purpose of this section is to provide for the efficient, reasonable, and impartial administration and enforcement of this Code, and establish a procedure for compliance with this Code.

**Complete Application Required.** To initiate review by the Town, a complete application must be submitted. A complete application consists of a completed application form, all supporting material required including, but not limited to: site plans, building elevations, detailed drawings, plus all applicable fees. If the application process requires multiple copies of materials, all copies must be submitted for the application to be considered complete.

**Application Waivers.** The Zoning Administrator has the authority to waive any application requirement where the providing of that information is deemed unnecessary or impractical due to the type of use or scale of proposal. In the event such a waiver is granted by the Zoning Administrator, a substantive explanation for the waiver, provided by the Administrator, shall accompany the application through the review and approval process and must be made a part of the permanent record. Any application item waived by the Zoning Administrator subject to an advisory, legislative, or quasi-judicial approval process may be overturned by any of the public bodies involved in the review and approval process for such application.

**Fees.** Fees are established by the Board of Commissioners (BOC). A current fee schedule can be found on the Town's website. Application fees are non-refundable.

**Initiation of Request.** Unless otherwise specified for a particular request, all applications for consideration under this Code must be initiated by the affected property owner(s) or the affected property owner's authorized agent with written consent and permission from affected property owner(s).

**Burden of Proof.** The burden to prove intent and compliance with this Code rests fully on the applicant or property owner. If the Town determines that additional information is needed, beyond that required as part of a standard application, inspection, or enforcement process, such additional information must be submitted prior to full review and action in favor of the applicant or property owner.

**Applicant Required to be Present.** The applicant, or their authorized agent, must be present at any meeting required by this chapter. Failure to appear may be grounds for disapproval of any request.

**Files and Records.** A record of all zoning actions shall be kept on file in the Planning Department. Such records may be kept electronically and available for inspection online or maintained in paper form and available for review during normal business hours at the department's offices. Copies may be furnished through a public records request. Reimbursement for the cost of providing electronic or paper copies may be required by the Town prior to release in accordance with the adopted fee schedule. Unusual or excessive requests will be subject to review and determination by the Zoning Administrator with consultation from the Town Attorney.

**Traffic Impact Analysis (TIA) Required.** All developments and uses, whether permitted by right, conditional zoning, or special uses, shall be required to complete a traffic impact analysis if their development or use meets the criteria of the Town's adopted TIA ordinance. The Town reserves the right to require a traffic impact analysis for developments and uses that do not meet the requirements of the TIA ordinance as determined by the Town Engineer.

### **Section 3.1.1 Submittal and Review Types.**

The processes and procedures required for various decision-making in the proper administration and enforcement of this Code are described in Figure 3.1.1.

**Fig. 3.1.1 Submittal and Review Types**

Approval Type	Decision Type	Decision Maker	Requirements and Submittals	Approximate Review Time*
Administrative Permits	Administrative	Zoning Administrator	<ul style="list-style-type: none"> <li>completed application</li> <li>additional submittal materials</li> <li>applicable fees</li> </ul>	30 days or less – plot plan review 2-3 months – construction document plan review
Vested Rights Claim	Administrative	Zoning Administrator	<ul style="list-style-type: none"> <li>claim</li> <li>substantial proof</li> </ul>	30 days or less
Minor & Exempt subdivision review and approval	Administrative	Zoning Administrator	<ul style="list-style-type: none"> <li>completed application</li> <li>additional submittal materials</li> <li>applicable fees</li> </ul>	30 days or less
Zoning Text Amendment	Legislative	Board of Commissioners	<ul style="list-style-type: none"> <li>completed application</li> <li>pre-application meeting</li> <li>applicable fees</li> <li>proposed text</li> </ul>	2-3 months
Zoning Map Amendment	Legislative	Board of Commissioners	<ul style="list-style-type: none"> <li>completed application</li> <li>pre-application meeting</li> <li>applicable fees</li> <li>list of adjoining property owners</li> <li>Notices for large scale re-zoning</li> </ul>	2-3 months
Conditional Zoning	Legislative	Board of Commissioners	<ul style="list-style-type: none"> <li>completed application</li> <li>petition by all owners included in the application</li> <li>site plan</li> <li>written agreement to conditions</li> <li>TIA (if required)</li> </ul>	5 months
Major subdivision preliminary plat approval	Legislative	Board of Commissioners	<ul style="list-style-type: none"> <li>See Chapter 5</li> </ul>	3-4 months
Special Use Permit	Quasi-judicial	Board of Commissioners	<ul style="list-style-type: none"> <li>completed application</li> <li>information on intent, impacts and compliance</li> <li>TIA (if required)</li> <li>site plan (if required)</li> <li>Planning Board review</li> <li>applicable fees</li> <li>Public hearing</li> </ul>	2-5 months
Appeals and Variances	Quasi-judicial	Board of Adjustment	<ul style="list-style-type: none"> <li>Public hearing(s)</li> <li>Evidence presented for hearing</li> </ul>	1-2 months

\*Actual review time may vary depending upon the complexity of the request.

**Section 3.1.2 Statutory Vested Rights**

- A. **Establishment of a vested right; duration.** Amendments to this Code shall not be applicable or enforceable, in regards to any of the following types of approvals listed below. These approvals are granted in accordance with the requirements of this Code for the time limit specified, unless specifically excepted from its provisions within this section.
- Administrative permits.** An administrative permit expires six months after issuance unless work under the permit has commenced or, once started, is discontinued for a period of 12 months. However, an administrative permit shall not expire or be revoked because of the running of time while a vested right under this section exists.
  - Site-specific vesting plans.** The types of approvals that constitute site-specific vesting plans under this Code are special use permits and conditional zoning site plans. An approved vesting plan shall be valid for a period of two years unless an extension is expressly granted by the Town as a result of an approved amendment or modification to the site-specific plan. However, if conditional zoning approval includes a multi-phased development plan, the site plan for that development shall be valid for a period of seven years. A multi-phased development plan shall mean a development containing 25 acres or more that is intended for construction to occur in more than one phase and is subject to a master plan with committed elements showing the type and intensity of use of each phase.
  - Variances.** A variance shall not constitute a site-specific vesting plan. Approval of a site-specific vesting plan with the condition that a variance be obtained shall not confer a vested right unless and until the necessary variance is obtained.
  - Other local approvals.** Any other vested right obtained under this Code not specifically mentioned in this section shall expire one year after the effective date, if the work authorized by the approval has not been substantially commenced.
- B. **Effective date.** A vested right shall begin on the effective date of local approval or such other date as the BOC may stipulate in its approval provided the effective date occurs earlier than the issuance of a permit.
- C. **Effect of expiration.** No work or activity authorized by an expired development approval establishing the vested right shall thereafter be performed until a new development approval has been granted.
- D. **Amendments to site-specific vesting plans.** An approved site-specific vesting plan and its conditions may be amended with the approval of the owner and the Town in one of the following ways:



1. Any substantial modification must be reviewed and approved in the same manner as the original approval. If expressly approved by the BOC, an extension to the vested rights period may be granted concurrently with the substantial modification approval.
  2. Minor modifications may be approved by staff, as authorized by this Code. No extension of the vested rights period shall be granted as part of a minor modification.
- E. **Continuing review.** Following approval or conditional approval of a statutory vested right, the Town may make subsequent reviews and require subsequent approvals to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approval.
- F. **Conditions and forfeiture.** A site-specific vesting plan may be approved with terms and conditions as may reasonably be necessary to protect the public health, safety, and welfare. Such conditional approval shall result in a vested right, but failure to abide by the agreed upon terms and conditions will result in a forfeiture of vested rights.
- G. **Revocation.** The Town may revoke development approval and any associated statutory vested right for failure to comply with applicable terms and conditions or other applicable local development regulations that apply to the development in accordance with the procedures established in this Chapter.
- H. **Exceptions.**
1. Once established in accordance with this section, a vested right precludes any zoning action by the Town that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved vested right, except when any of the conditions stipulated in N.C.G.S. 160D-108(f) are present.
  2. The establishment of a vested right through approval of a site-specific vesting plan shall not preclude the application of overlay zoning or other development regulation that imposes additional requirements but does not affect the allowable type or intensity of use, or the application of ordinances or regulations that are general in nature and are applicable to all property subject to development regulation by the Town. Otherwise, applicable new regulations shall become effective with respect to property that is subject to a vested right established under this chapter upon the expiration or termination of the vested rights period.
  3. The establishment of a vested right under this chapter shall not preclude, change, or impair the authority of the Town to adopt and enforce development regulation provisions governing nonconforming situations or uses.
- I. **Rights and Assigns.** A vested right obtained under this chapter is not a personal right but shall attach to and run with the applicable property regardless of ownership.

## Section 3.2 Administrative Decisions

### Section 3.2.1 Vested Rights Claim

Any person who believes a past action or approval has granted them a statutory or common law vested right may submit their claim, along with substantial proof to the Zoning Administrator. The Zoning Administrator shall make an initial determination as to the existence of the right. This determination may be appealed to the Board of Adjustment or pursued as a civil action in accordance with procedures established by N.C.G.S. 160D-405.

### Section 3.2.2 Administrative Permits

- A. **Permit required.** No land shall be excavated, filled, paved, used, or occupied and no building hereafter structurally altered, erected, moved, used, or its use changed until a permit has been issued by the Zoning Administrator stating that the requested activity complies with the provisions of this Code.
- B. **Conformity required.** No permit shall be issued except in conformity with the provisions of this Code.
- C. **Types of permits.** Administrative permits include all permits and approvals pertaining to:
- zoning,
  - subdivision,
  - engineering,
  - transportation,
  - stormwater,
  - erosion control,
  - floodplain,
- and other similar permits required by the Town to assist Staff with the day-to-day administration of this Code.

This term does not pertain to permits required by the Waxhaw Building Inspections Division for compliance with the State of North Carolina Building Code. A complete list of permits required by this Code and requirements for application submittal is available from the Planning Department.

- D. **Application required.** A complete application is required prior to any review or decision regarding a permit request. A complete application is one that includes all materials required for submittal, with all applicable fees, along with sufficient information to determine the intent to fully comply with all applicable requirements of this Code.
- E. **Plot plan review.**
1. **Required.** No administrative permit shall be issued for construction on a single-family detached lot without completion of a plot plan review. This requirement includes accessory structures and additions to single-family detached housing.

2. **Contents.** The plot plan shall be a survey of the lot depicting the proposed building or structure, all proposed setbacks, and the percentage of built upon area to be constructed on the lot. The requirement for a survey as part of the plot plan review may be waived by the Zoning Administrator if they determine there is enough information to deem a survey unnecessary. In cases where a survey is not required, a legible plan must still be submitted for review.

F. **Construction document plan review.**

1. **Required.** No administrative permit shall be issued for single-family attached, multi-family, mixed-use, and non-residential development or re-development without the completion of a construction document plan review.
2. **Contents.** The applicant shall submit plans that are signed and sealed by a professional engineer and either a landscape architect or ISA certified arborist licensed in the State of North Carolina. This applies to all construction document and landscape/tree preservation/open space plan review. If deemed warranted by the Town Engineer, a Traffic Impact Analysis (TIA) will be required as part of a construction document plan review. A TIA must be conducted according to the standards of the Town's adopted TIA ordinance.
3. Technical Review Committee (TRC) comments. Staff shall distribute the construction document plans to the TRC for review and comment. Construction document plans will be approved once the applicant meets all requirements of this Code as determined by the Zoning Administrator from the TRC review. Construction document plans must be administratively approved prior to commencement of work on the site. Refer to Section 2.6 for additional details on the TRC.

- G. **Certificate of Compliance.** No structure or land hereafter erected, altered, or changed in use shall be used or occupied until the Zoning Administrator has issued a certificate of compliance. Whereas issuance of a zoning permit indicates an applicant has successfully proven to comply with this Code, a certificate of compliance is intended to indicate that, on its date of issuance, following any change or alteration, the property does comply to the best of the Zoning Administrator's knowledge. The certificate of compliance shall state that the building or portion of a building complies with the provisions of this Code, and with the information stated on the zoning permit. A certificate of compliance may be issued only 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 Code and the permit previously issued.

- H. **Expiration of Administrative Permit for Uses Allowed by Right.** Any administrative permit shall become invalid unless the work authorized is substantially begun within a period of one year from the date of issuance of the permit. Once a permit has expired, construction on the location in question cannot proceed until a new permit is issued.

### Section 3.3 Legislative Decisions

#### Section 3.3.1 General Procedures.

- A. **Pre-Application meeting required.** A pre-application meeting is required for all legislative decision requests. The purpose of the pre-application meeting is to allow staff to gather information about the project proposal and its merits and to inform the potential applicant on the requirements and processes. No application will be processed without completing a pre-application meeting.
- B. **Neighborhood meeting required.** A neighborhood meeting is required as part of all conditional zoning district and special use permit requests. Such meeting shall occur after the pre-application meeting and prior to application submittal. The neighborhood meeting is designed to provide an opportunity for community involvement from parties that may have interest in the conditional zoning or special use permit request, such as adjoining property owners and nearby businesses. The neighborhood meeting shall be structured according to the Waxhaw Neighborhood Meeting Guide which shall be provided to the applicant at the required pre-application meeting.

#### Section 3.3.2 Amendment Procedures

##### A. General Procedures.

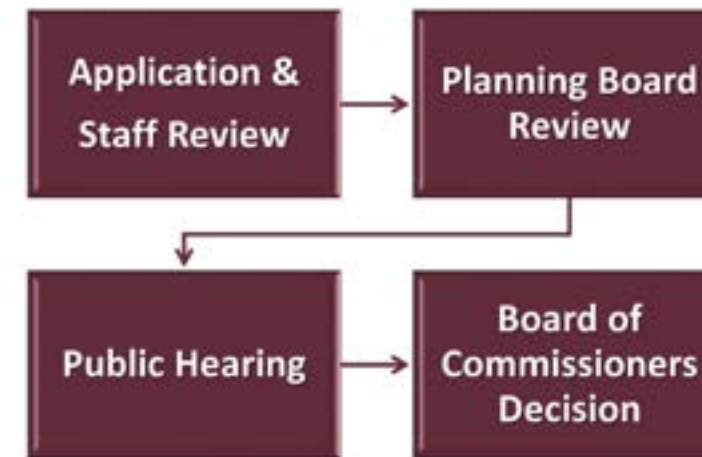
1. **Statement of consistency and reasonableness.** When adopting or rejecting any amendment, the BOC shall approve a brief statement describing whether its action is consistent or inconsistent with adopted plans. In addition, a brief statement of reasonableness shall be approved by the BOC. The statement of consistency and reasonableness may consider, among other factors:
  - a. The size, physical conditions, and other attributes of any area to be rezoned
  - b. The benefits and detriments to the landowners, the neighbors, and the surrounding community,
  - c. The relationship between the current actual and permissible development and the types of development that would be permissible under the proposed amendment,
  - d. Why the action taken is in the public interest,
  - e. Any changes in conditions warranting the amendment.

The statement of consistency and reasonableness may be approved as a single statement. If the BOC approves an amendment that is inconsistent with adopted plans, those plans shall be considered as revised by the amendment.

2. **Amendment initiation.** Amendments may be initiated by any one of the following entities. Anyone else having a substantial interest in the Code may petition the BOC to request that they initiate an amendment.
  - a. The Board of Commissioners
  - b. The Planning Board
  - c. Planning Staff
  - d. Property owner(s) or authorized agent(s) of the owner
3. **Planning Board inaction.** If the Planning Board does not make a recommendation within 30 days of their consideration of said amendment, then the BOC may act on the amendment without a Planning Board recommendation.
4. **Continuation of Planning Board consideration.** The Planning Board reserves the right to continue their consideration of an amendment to a subsequent meeting, date and time certain, if they determine that additional information is needed. However, the subsequent meeting must be less than 30 days after their initial consideration of the amendment as required by state law unless agreed to in person by the applicant at the meeting at which the continuation is announced and incorporated into the written record.
5. **Public hearing.** The BOC shall conduct a public hearing to give interested parties the opportunity to speak for or against the amendment. The public hearing shall be conducted and notice of the hearing shall be in conformity with the requirements of NCGS 160D.
6. **Board of Commissioners' action.** After the public hearing has been conducted, the BOC shall approve or deny the application for the amendment either at the same meeting as the public hearing was conducted or at the next regularly scheduled BOC meeting.
  - a. The BOC may revise a proposed text amendment if they determine such action is appropriate based on their review, the Planning Board's recommendation, and Planning staff's analysis. If the BOC's wish to revise the proposed text amendment, the applicant must agree to the revision prior to their vote. However, any significant change to the request may require additional notice and public hearing.
  - b. The BOC may revise a proposed conditional zoning district if they determine such action is appropriate based on their review, the Planning Board's recommendation, and Planning staff's analysis. If the BOC's wish to revise the proposed conditional zoning district, the applicant must agree to the revision prior to their vote. However, any significant change to the request may require additional notice and public hearing.

- c. The BOC reserves the right to continue their consideration of an amendment to a subsequent meeting, date and time certain, if they determine there is additional information needed or if the public hearing must be extended due to a large number in attendance.

**Fig. 3.3.2 Zoning Map and Zoning Text Amendment Procedure**



**Section 3.3.3 Zoning Map Amendments**

- A. Applications for zoning map amendments to this Code shall be in writing and filed with the Zoning Administrator. Applications will be considered complete only if the following conditions are met:
  1. Applicable fees are paid according the adopted fee schedule
  2. Application is filled out and signed
  3. A pre-application meeting has been completed
- B. **Additional application requirements.** Applicants must provide a list of all property owners adjoining the proposed map amendment. Adjoining shall mean all parcels that physically touch the subject parcel(s) as well as parcels that would physically touch the subject parcel(s) if not separated from the subject property by a street, railroad, or other transportation corridor.
- C. **Large-scale rezonings.** For a large-scale rezoning, optional notice requirements consistent with G.S. 160D-202 (b) will be followed. A large-scale rezoning is one which involves more than 50 properties owned by at least 50 different property owners.



- D. Completed applications must be received a minimum of 30 days prior to the Planning Board meeting. The Planning Board shall consider the application for the map amendment (and is encouraged to walk the site) and make a recommendation to approve or deny the map amendment. The recommendation shall be forwarded to the BOC for their review and approval.

### **Section 3.3.4 Zoning Text Amendments**

- A. Applications for zoning text amendments to this Code shall be in writing and filed with the Zoning Administrator. Applications will be considered complete only if the following conditions are met:
1. Applicable fees are paid according the adopted fee schedule
  2. Application is filled out and signed
  3. A pre-application meeting has been completed
  4. The proposed text to be amended accompanies the application
- B. Completed applications must be received a minimum of 30 days prior to the Planning Board meeting. The Planning Board shall consider the application for the text amendment (and is encouraged to walk the site) and make a recommendation to approve or deny the text amendment. As part of their recommendation, the Planning Board may revise the proposed text amendment if they determine appropriate based on their review and Planning staff's analysis on the text amendment. If the Planning Board wishes to revise the proposed text amendment, the applicant must agree to the revised language prior to their vote on the recommendation. The recommendation shall be forwarded to the BOC for their review and approval.

### **Section 3.3.5 Conditional Zoning Districts**

- A. **Purpose.** Conditional zoning districts are map amendments. They are reserved for situations where a particular use or mix of uses, when properly planned and sited, may be appropriate for a specific site, but where the general district has insufficient standards to mitigate site-specific impacts on surrounding properties and infrastructure. Conditional district zoning is not intended for use in securing early or speculative reclassification of property.
- B. **Potential uses restricted.** Uses which may be considered for a conditional zoning district are restricted to those uses permitted in the corresponding general zoning district.
- C. **Application required.** Conditional zoning districts are established on a case-by-case basis and only in response to a petition by all owners of the property included in the application. No other entity may initiate a conditional district rezoning.

- D. **Additional procedures required.** In addition to the general procedures required for zoning amendments (Section 3.3.2) and for zoning map amendments (Section 3.3.3), a request for rezoning to a conditional zoning district is also subject to the following specific procedures and considerations

1. **Certain additional approvals may be unnecessary.** A conditional zoning district approval will preclude an applicant from having to obtain a special use permit if the conditional zoning district application as approved by the BOC includes uses that are classified as a special use in the Table of Permitted Uses and the BOC determines that sufficient evidence presented by the detailed review of the applicant permits as required for such permits. Additionally, a conditional zoning district approval may preclude an applicant from having to obtain a preliminary plan approval for a major subdivision if the level of site detail is sufficient for review and approval.
2. **Deadline for submission of application.** Completed applications must be received a minimum of 90 days prior to the Planning Board meeting.
3. **Conditions may be applied.** Specific conditions may be proposed by the applicant or the Town, but only those conditions mutually agreed to by the applicant and the Town may be incorporated into an approval. Conditions imposed shall be limited to those that address conformity of the development and use of the site to this Code, potential impacts of the proposed rezoning on adjacent and nearby properties, public facilities or infrastructure, and conformity with adopted plans. The applicant must agree to these conditions in writing. If the applicant is unable to submit a written agreement at the meeting prior to approval, approval of a conditional zoning district request will be conditioned on receipt of such written agreement within 15 days from the date of approval. Failure to submit the written agreement in the time required will render the rezoning null and void. The form of the written agreement is subject to Town approval.
4. **Site plan required.** Applications for a conditional zoning district shall be accompanied by a site plan. This site plan shall be reviewed within the 90-day time frame prior to Planning Board review. Planning staff shall distribute the site plan to the Technical Review Committee for review and comment if the Planning Department deems necessary. The following information shall be provided on a site plan for conditional zoning district review.
  - a. Name, address, email, and phone number of the property owner(s) (or their agent(s) and the tax parcel number of the property.
  - b. A boundary survey and vicinity map showing the property's total acreage; zoning district(s); general location in relation to adjoining streets, railroads and/or waterways; and date, graphic scale, and north arrow.
  - c. Existing and proposed topography at two-foot contour intervals or less on the site and within 300 feet of the site boundary.
  - d. The owner's names and addresses, tax parcel numbers and existing land use(s) of all adjoining properties.



- e. Proposed use of all land and buildings or structures including the number of residential units (if applicable).
  - f. Proposed number and location of all buildings or structures and their approximate area and their approximate exterior dimensions, to include the height of all structures.
  - g. A description of all screening and landscaping required by this Code and any additional screening and landscaping proposed by the applicant.
  - h. All existing easements, reservations, and rights-of-way.
  - i. Proposed phasing, if any, and approximate completion time for each phase.
  - j. Delineation of areas within the regulatory floodplain as shown on the official Federal Emergency Management Agency (FEMA) Flood Hazard Boundary Maps.
  - k. Traffic, parking, and circulation plans showing the proposed location and arrangement of parking spaces and ingress and egress to adjacent streets, both existing and proposed.
  - l. Typical building elevation drawings proposed for the development that depicts exterior features and characteristics of the buildings consistent with Chapter 6 (Site Design and Architectural Standards), if applicable. Such drawings shall also depict the relationship such buildings will have with the streetscape.
  - m. Proposed number, type, design, and location of signs. The Zoning Administrator may require a master signage plan depending on the size and complexity of the proposed development.
5. **Traffic impact analysis.** A Traffic Impact Analysis (TIA), conducted according to the standards of the Town's adopted TIA ordinance, shall be required as part of the site plan review process for a conditional zoning district, if the project meets the criteria of the TIA ordinance as determined by the Town Engineer.
  6. **Notice of Public Hearing.** A notice of the public hearing shall be sent by first class mail by the Administrator to all property owners and occupants within 300 feet from the exterior boundaries of the proposed development, as well as to the affected neighborhood HOA, at least 10 and no more than 25 days prior to the public hearing.
  7. **Conditional zoning district site plan validity.** In accordance with NCGS 160D-108, an approved site plan as part of a conditional zoning district application shall be valid for a period of two years. If a conditional zoning district application includes a multi-phased development plan, the site plan shall be valid for a period of seven years.

8. **Minor modifications.** Minor modifications to an approved conditional zoning district site plan can be made by the Zoning Administrator as follows.
  - a. Only changes that are minor in nature and do not significantly alter the site plan or conditions will be considered. Minor modifications shall not include a change in use or density and shall not confer an extension to a vested right.
  - b. Any request for an administrative amendment shall be in writing, signed by the property owner, and shall detail the requested change.
  - c. The applicant must provide any additional information requested by the Zoning Administrator.
  - d. The applicable fee for administrative review, if any, must accompany the request as required by the current Town of Waxhaw fee schedule.
  - e. 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.
  - f. If the proposed alterations do not meet the criteria herein, or if the alterations are denied by the Zoning Administrator, the applicant must apply for a new conditional zoning district.

**Fig. 3.3.5 Conditional District Rezoning Procedure**



**Section 3.4 Special Use Permits**

A land use designated as a Special Use in the Table of Permitted Uses must meet the following permitting procedures.

### **Section. 3.4.1. Review Process**

- A. **Application Deadline.** Completed applications must be received by the Zoning Administrator a minimum of 90 days prior to the Planning Board meeting if a site plan is required. Completed applications must be received a minimum of 30 days prior to the Planning Board meeting if a site plan is not required.
- B. **Planning Board Action.** The Planning Board shall consider the application for the special use permit and make a recommendation to approve or deny the special use permit. The Planning Board must not conduct a formal evidentiary hearing but must conduct an informal preliminary discussion of the special use permit request. The recommendation shall be forwarded to the BOC for their review and approval.
- C. **Planning Board Inaction.** If the Planning Board cannot make a recommendation within 30 days of their consideration of said special use permit the BOC may act on the special use permit without a Planning Board recommendation.
- D. **Continuation of Planning Board Consideration.** The Planning Board reserves the right to continue the consideration of a special use permit to a subsequent meeting, date and time certain, if they determine that additional information is needed. However, the subsequent meeting must be less than 30 days after their initial consideration of the special use permit in accordance with state law unless agreed to in person by the applicant at the meeting at which the continuation is announced and incorporated into the written record.
- E. **Public Hearing.** The BOC shall conduct a public hearing to give interested parties the opportunity to speak for or against the special use permit. The public hearing shall be conducted and notice of the hearing made in accordance with the requirements of NCGS 160D.

### **Section. 3.4.2. Quasi-judicial Hearing Required**

The public hearing for a special use permit shall be quasi-judicial in nature, requiring the applicant and other interested parties to present competent, substantial, and factual evidence related to the required conclusions.

- A. The BOC must make all the following conclusions to grant approval of a special use permit.
  - 1. The proposed use will not materially endanger the public health or safety.
  - 2. The proposed use will comply with all regulations and standards generally applicable within the zoning district and specifically applicable to the particular type of special use or class of special uses.
  - 3. The proposed use will not substantially injure the value of adjoining property.
  - 4. The proposed use will be in harmony with the area in which it is located.

- B. The applicant bears the burden of presenting sufficient factual evidence to allow the BOC to reasonably make the necessary conclusions.
- C. After the public hearing has been conducted, the BOC shall approve or deny the application for the special use permit either at the same meeting as the public hearing was conducted or at the next regularly scheduled BOC meeting. The BOC's decision shall be based on the evidence presented.
- D. Specific conditions may be proposed by the applicant or the Town but only those conditions mutually agreed to by the applicant and the Town and authorized by NCGS 106D-705 may be incorporated into an approval. Conditions imposed shall be limited to those that address conformity of the development and use of the site to this Code, potential impacts of the proposed permit on adjacent and nearby properties, public facilities or infrastructure, and conformity with adopted plans. The applicant must agree to these conditions in writing. If the applicant is unable to submit a written agreement at the meeting prior to approval, a special use permit approval will be conditioned on receipt of such written agreement within 15 days from the date of approval. Failure to submit the written agreement within the time required will render the permit null and void. The form of the written agreement is subject to Town approval.
- E. The BOC reserves the right to continue the consideration of a special use permit to a subsequent meeting, date and time certain, if they determine additional information is needed or the public hearing must be extended based on the number in attendance.

### **Section. 3.4.3 Decisions**

The BOC shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing, reflect the BOC's determination of contested facts and their application to the applicable standards, and be approved by the BOC and signed by the Mayor or other duly authorized member of the BOC. A quasi-judicial decision is effective upon filing the written decision with the Zoning Administrator. The decision of the BOC shall be delivered within a reasonable time by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and any person who has submitted a written request for a copy prior to the date the decision becomes effective. The Zoning Administrator shall certify to the local government that proper notice has been made, and the certificate shall be deemed conclusive in the absence of fraud.

### **Section. 3.4.4. Information Required**

Applications for a special use permit shall be accompanied by sufficient information to allow the Town to determine intent, impacts, and compliance with this Code and adopted plans.

A. **Site Plan.** Site plans shall depict the same information required for the conditional zoning district site plan requirements in Section 3.3.4. In some cases, a site plan may not be required such as when a use designated as a special use is intended to occupy a space in an existing building or leasable space. The Zoning Administrator shall determine whether a site plan is appropriate for the special use permit request. The Zoning Administrator may distribute the site plan to the Technical Review Committee for review and comment if it is deemed necessary for adequate review.

B. **Traffic Impact Analysis.** A Traffic Impact Analysis (TIA) is required, if deemed warranted by the Town Engineer, as part of the site plan review process for a special use permit. A TIA must be conducted according to the standards of the Town's adopted TIA ordinance.

**Section 3.4.5. Minor Modifications.**

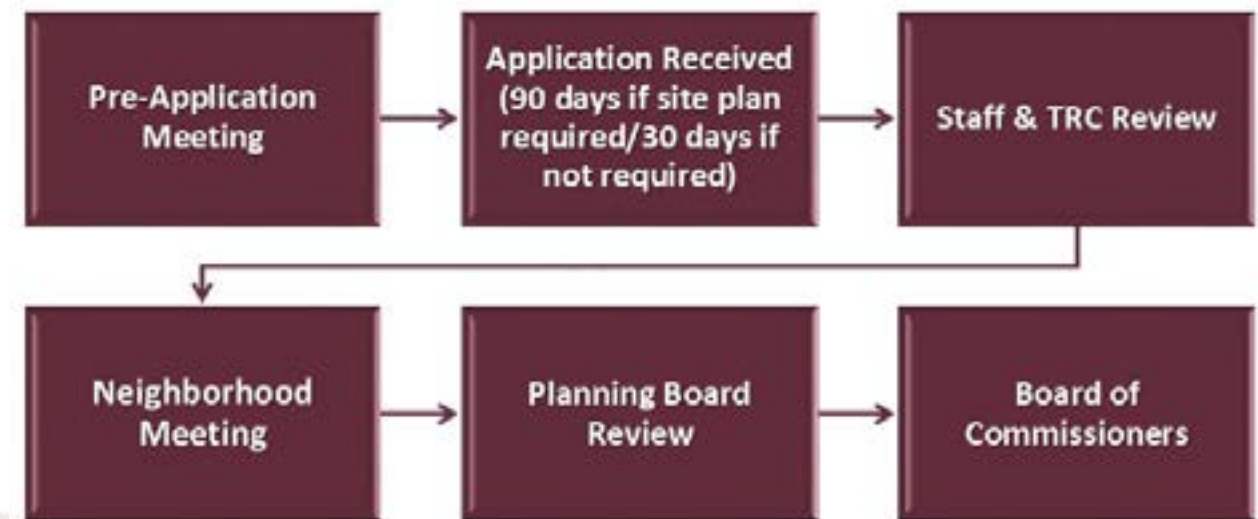
Minor modifications to an approved special use permit site plan may be considered by the Zoning Administrator.

- A. Only changes that are minor in nature and do not significantly alter the site plan or conditions shall be considered. Minor modifications shall not include a change in use or density and shall not confer an extension to a vested right.
- B. Any request for an administrative amendment shall be in writing, signed by the property owner, and shall detail the requested change.
- C. The applicant must provide any additional information requested by the Zoning Administrator.
- D. The applicable fee for administrative review, if any, as required by the current Town of Waxhaw fee schedule must accompany the written request.
- E. 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.
- F. If the proposed alterations do not meet the criteria herein or if the alterations are denied by the Zoning Administrator, then the applicant must apply for a new special use permit.

**Section 3.4.6. Judicial Review**

Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160D-1402. Appeals must be filed within 30 days after the decision is effective or after a written copy of the decision is provided in accordance with Section 3.4.3, whichever is later.

**Fig. 3.4.6 Special Use Procedure**



**Section 3.5 Withdrawal of Applications**

An applicant may withdraw their application at any time for a zoning text amendment, zoning map amendment, conditional zoning district, or special use permit by written notice to the Administrator. However, any withdrawal of an application after the giving of the first public notice as required shall be considered a denial of the petition. An applicant shall remain liable for any and all fees and costs regardless of withdrawal.

**Section 3.6 Effect of Denial on Subsequent Applications**

When the BOC denies an application or an application is withdrawn for a zoning text amendment, zoning map amendment, conditional zoning district, or special use permit; the BOC shall not consider the same or similar application for a period of one year. The Administrator shall determine if a subsequent application is dissimilar enough to the initial application to move through the process again.

**Section 3.7 Appeals and Variances**

**Section 3.7.1 General Procedures for Board of Adjustment Hearings**

A. **General Requirements.** In conducting its business, the Board of Adjustment (BOA) shall follow all procedures set forth in NCGS 160D-406 and its adopted Rules of Procedure. In carrying out these procedures, the BOA may administer oaths to witnesses, issue subpoenas, and weigh the evidence presented. The BOA may also continue the consideration of request to a subsequent meeting, date and time certain, if they determine additional information is needed or the public hearing must be extended based on the number in attendance.



- B. **Voting.** A concurring vote of four-fifths of the Board of Adjustment shall be necessary to grant a variance. A simple majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari.
- C. **Decisions.** The Board of Adjustment shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing, reflect the BOA's determination of contested facts and their application to the applicable standards, and be approved by the BOA and signed by the chair or other duly authorized member of the BOA. A quasi-judicial decision is effective upon filing the written decision with the Zoning Administrator. The decision of the BOA shall be delivered within a reasonable time by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and any person who has submitted a written request for a copy prior to the date the decision becomes effective. The Zoning Administrator shall certify to the local government that proper notice has been made, and the certificate shall be deemed conclusive in the absence of fraud.
- D. **Judicial Review.** Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160D-1402. Appeals shall be filed within 30 days after the decision is effective or after a written copy of the decision is given in accordance with Section 3.7.2, whichever is later. Waxhaw fee schedule must accompany the written request.

### Section 3.7.2 Appeals

- A. **Appeal of staff decision.** The Board of Adjustment may hear and decide appeals, where it is alleged there is error in any final order, requirements, decisions or determinations made by the Zoning Administrator.
- B. **Process.** Any person who is aggrieved by the Zoning Administrator's decision may make an appeal. An appeal to the Board of Adjustment shall be filed within 30 days of receipt of the decision, order, determination or interpretation made by the Administrator. Appeals to the BOA shall be filed with the Town Clerk and shall state the grounds for appeal.
- C. **Board of Adjustment hearing for appeals.** The Zoning Administrator shall transmit all documents and exhibits constituting the record upon which the action appealed is taken, to the Board of Adjustment and to the appellant and the property owner. The BOA shall meet to consider the appeal within a reasonable amount of time to give Planning staff the ability to prepare information for the BOA and for the public noticing requirements be met.

- D. **Effect of appeal.** An appeal stays enforcement of the action appealed from and accrual of any fines assessed unless the Zoning Administrator certifies to the Board of Adjustment in an affidavit that a stay would cause imminent peril to life or property, or if a stay would seriously interfere with the enforcement of the ordinance due to the transitory nature of the violation. 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 as provided in NCGS 160D-405(f).
- E. **Attendance required.** The official who made the decision, or their successor if that official is no longer employed, 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 BOA shall continue the hearing to another date.
- F. **Decision.** The Board of Adjustment may, by a majority vote, reverse or affirm, wholly or in part, or may modify the order, requirements, decision, or determination of the Zoning Administrator, and may direct the issuance of a Zoning Permit. A motion to uphold the decision and deny the appeal may also be made.

### Section 3.7.3 Variances

- A. **Required Findings.** When unnecessary hardships would result from carrying out the strict letter of a regulation in this Code, the Board of Adjustment may vary any of the provisions of the zoning regulation upon a showing of all of the following:
  1. Unnecessary hardship would result from the strict application of the Code. It shall be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
  2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.
  3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
  4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.
  5. No change in permitted uses will be authorized by the variance.
- B. **Conditions.** In granting a variance, the Board of Adjustment may attach appropriate conditions to any variance, provided that the conditions are reasonably related to the variance.



- C. **Time.** A variance, once granted, shall continue indefinitely unless otherwise specified at the time granted.
- D. **Runs with the Land.** A variance, once granted, runs with the land irrespective of ownership or tenancy.
- E. **Violation.** Departure from or violation of any of those conditions or safeguards shall be deemed a violation of this Code, and shall be subject to the penalties, as provided in this Chapter.

### **Section 3.8 Violations**

#### **Section 3.8.1 Violators**

Any of the following persons may be held jointly or individually accountable for violating the provisions of this Code.

- A. Any owner of property upon which a violation of this Code occurs.
- B. Any architect, engineer, builder, contractor, agent, or any other person who knowingly participates in, assists, directs, creates, or maintains a situation that constitutes a violation of this Code.
- C. Any tenant or occupant who has control over, or responsibility for, the use or development of the subject property.

#### **Section 3.8.2 Types of Violations**

Any of the following shall be a violation of this Code subject to the enforcement remedies and penalties provided in this Chapter and state law.

- A. **Development without approvals or permits.** This includes any action to engage in any development, use, construction, remodeling, or other activity of any nature upon land or improvements thereon subject to the jurisdiction of this Code without all required development approval permits, certificates, or other form of authorization set forth in this Code.
- B. **Development inconsistent with approvals or permits.** This includes any action to engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with any approved plan, permit, certificate, or other form or authorization granted for such activity.
- C. **Submitting false or incomplete information.** This includes knowingly submitting false or incomplete information either by writing, such as in an application, or in testimony regarding a permit or a request or item before a board.

- D. **Acts of omission.** This includes the omission of any term, variance, modification, condition, or qualification placed by the Board of Commissioners, Planning Board, Board of Adjustment, or administrative staff upon any required plan, permit, certificate, or other form of authorization for the use, development, or other activity upon land or improvements thereon.
- E. **Use in violation.** This includes any use of land or structures in violation of this Code as well as any action to reconstruct, alter, or convert any structure to allow such illegal use.
- F. **Failure to act.** This includes failing to comply with any lawful order related to this Code issued by the Zoning Administrator. Failing to comply also means disobeying, omitting, neglecting, or refusing to comply with or resisting the enforcement of any provision.
- G. **Transferring lots in an unapproved subdivision.** This includes any person who, being the owner or agent of the owner of any land located within the Town of Waxhaw, thereafter subdivides their land in violation of this Code or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under the provisions of this Code.
- H. **Damage to required postings.** This includes obscuring, obstructing, removing, or destroying any notice required to be posted or otherwise given under this Code.

#### **Section 3.8.3 Violations Continued**

Any of the following persons may be held jointly or individually accountable for violating the provisions of this Code.

- A. Nothing in this Code shall be interpreted to prohibit the continuation of previous enforcement actions undertaken by the Town under previously valid ordinances and laws.
- B. The adoption of this Code does not affect nor prevent pending or future prosecution of or action to abate violations of previous regulations.

#### **Section 3.8.4 Initiation of Enforcement Action**

- A. Complaints.
  1. Whenever a violation of this Code occurs, or is alleged to have occurred, any person may file a written complaint with the Zoning Administrator. The written complaint must clearly state the alleged violation. The Zoning Administrator shall record the complaint.
  2. Whenever a violation of this Code occurs, or is alleged to have occurred, any person may file an anonymous complaint with the Zoning Administrator.
  3. Suspected violations of this Code may be referred to the Zoning Administrator for investigation by any town official by any means.

B. Duty to act.

If, in the course of other duties, the Zoning Administrator is made aware of a violation or suspected violation, the officer has a duty to investigate and take action as needed and warranted by this Code regardless of whether or not a complaint has been filed.

C. Violations of Code provisions may incur individual or joint accountability.

**Section 3.8.5 Inspection and Investigation**

In order to determine violations of this Code, the Zoning Administrator shall have the following rights and powers.

- A. **Inspections.** Upon presentation of proper credentials, with consent of the owner or inspection warrant if necessary, to enter on any premises within the jurisdiction at any reasonable hour for the purposes of inspection, determination of code compliance, or other enforcement action required by this Code.
- B. **Investigations.** To conduct such investigations as they may reasonably deem necessary to carry out their duties as prescribed in this Code, and for this purpose to enter at reasonable times upon any public or private property with the consent of the owner for the purpose of investigating and inspecting the sites of any complaints or alleged violations of this Code.
- C. **Supporting documentation.** To require written statements, certificates, certifications, or the filing of reports with respect to pertinent questions relating to complaints or alleged violations of this Code.

**Section 3.8.6 Notice of Violation**

When any condition in violation of this Code is found to exist, the Zoning Administrator or designee shall issue a notice of violation to the person responsible for the violation and to the owner of the premises with an order to abate or remove the violation within 30 days. This notice shall:

- include a written description of the violation;
- include a photograph of the violation, if feasible;
- include a description of the premises sufficient for identification;
- set forth the violation;
- state that if the violation is not corrected as directed, the Town may proceed with any and all applicable enforcement remedies permitted by this Code and state law.

Any owner or occupant who has received a notice of violation may appeal in writing the decision of the Zoning Administrator to the Board of Adjustment. Service of the notice shall be by any one of the following methods.

- A. By delivery to any owner personally or by leaving the notice at the usual residence of the owner with a family member who is over the age of 16 years.

- B. Delivery of an electronic copy to the owner if electronic mail address is known.

- C. By depositing the notice, postage paid, in the USPS addressed to the owner at their last known address.

- D. By posting and keeping posted for 30 days a copy of the notice, in placard form, in a conspicuous place on the premises on which the violation exists, when notice cannot be otherwise served.

**Section 3.8.7 Remedies**

- A. The remedies and enforcement powers established in this Code are cumulative and the Town may exercise them in any order or combination.
- B. Each day a violation continues shall be considered to be a separate and distinct offense.
- C. **Development approval revocation.** Development approvals may be revoked by the Town by notifying the holder with a written statement describing the reason for the revocation. The Town shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval. Development approvals shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable local development regulation or any state law delegated to the local government for enforcement purposes in lieu of the state; or for false statements or misrepresentations made in securing the approval. Any development approval mistakenly issued in violation of an applicable state or local law may also be revoked. The revocation of a development approval by a staff member may be appealed to the Board of Adjustment.
- D. **Stop work orders.** Whenever a structure or any part of a structure is being constructed, demolished, renovated, altered, or repaired in substantial violation of any applicable provision of this Code, the Zoning Administrator may order the specific part of the work that is in violation, or would be in violation when the work is completed, to be stopped immediately. The stop work order shall be in writing and directed to the person doing the work, and shall state the specific work to be stopped, the specific reasons for cessation, and the action(s) necessary to lawfully resume work.
- E. **Stop use orders.** Whenever a structure or part of a structure is being used in violation of this Code, the Zoning Administrator may order the use to be immediately stopped.
- F. **Civil penalties.** If the owner of any property fails to comply with the notice given pursuant to this chapter, the owner shall be subject to a civil penalty in the amount of \$500.00 per day a violation continues. Each day shall be considered a separate offense subject to this penalty.

- G. **Abatement.** The Zoning Administrator may have the violation described in the notice summarily abated, removed or otherwise corrected if the condition is dangerous or prejudicial to the public health or public safety. All expenses incurred by the Town shall be chargeable to and paid by the owner of the property. If the expense is not paid, the Town may place lien on the land or premises where the violation occurred and the lien shall have the same priority and be collected as unpaid ad valorem taxes.
- H. **Injunction.** Enforcement of the provisions of this Code may also be achieved by injunction. When a violation occurs, the Zoning Administrator may, either before or after the institution of other authorized actions, apply to the appropriate division of the general court for a mandatory or prohibitory injunction commanding the defendant to correct the unlawful condition or cease the unlawful use of the property.
- I. **Equitable remedy.** The Zoning Administrator may apply to a court of competent jurisdiction for any appropriate equitable remedy to enforce the provisions of this Code. The court 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.
- J. **Forfeiture and confiscation of signs.** Any sign installed or placed on public property, except in compliance with these regulations, will be subject to forfeiture to the public and confiscation. The Town has the right to remove and dispose of such signs without notice and to recover from the sign owner or person who placed the sign, the full costs of sign removal and disposal.
- K. **Other remedies and enforcement powers.** The Town may seek such other remedies and use other enforcement powers as allowed by law.



# chapter 4

## ZONING DISTRICTS, DIMENSIONAL REQUIREMENTS AND GENERAL USE REGULATIONS

Section 4.1  
Base Zoning Districts Established

Section 4.2  
Conditional Zoning Districts Established

Section 4.3  
Overlay Districts Established

Section 4.4  
Zoning District Dimensional Requirements

Section 4.5  
General Use Regulations

Section 4.6  
Table of Permitted Uses

Section 4.7  
Special Requirements for Certain Uses

### Section 4.1 Base Zoning Districts Established

The Town is hereby divided into zoning districts as described in this Chapter. These zoning districts, along with the conditional zoning districts described in Section 4.2, are also shown and administered on the Town's Zoning Map. The symbol and title for each zoning district is as follows:

**R-1 Single Family Residential**

**R-3 Single Family Residential**

**R-4 Single Family Residential**

**NC Neighborhood Center**

**MS Main Street**

**TC Town Center**

**CC Corridor Commercial**

**EC Employment Center**

A description of each zoning district is found on the following pages.

### 4.1.1 R-1 Residential

#### District Description

R-1 Residential zoning allows for the development of single family detached homes at a rate of one unit per acre in a pattern that is in harmony with the rural character of much of Waxhaw's surrounding areas. R-1 is intended to provide traditional suburban housing with access to public water and sewer service.



#### Dimensional Standards

Lot Width, Minimum	100 Feet
Lot Depth, Minimum	200 Feet
Density, Maximum	1 Unit/Acre
Lot Coverage, Maximum	40 Percent
Front Setback, Minimum	30 Feet
Rear Setback, Minimum	30 Feet
Side Setback (Interior), Minimum	15 Feet
Side Setback (Corner), Minimum	25 Feet
Building Height, Maximum	45 Feet

#### Primary Uses

Single-Family, Detached Dwelling  
Religious Institutions  
Bed & Breakfast  
Horse Barns  
Parks  
Government Buildings/Facilities  
Associated accessory structures:  
Garages  
Pools  
Porches  
Sheds

#### Notes:

**Double Frontage Lots:** front yard setback distance required on both frontages.  
**Buffer Yards:** required around perimeter of all major subdivisions.  
**Corridor Overlay District:** See Chapter 4 Corridor Overlay district for required right-of-way dedication and expanded lot widths.

\*This page intended to provide some of the basic and most common standards of this district. Other applicable standards may be found elsewhere in this code.

#### Relevant Code Sections

Chapter 4:  
Dimensional Requirements,  
Special Requirements,  
Table of Permitted Uses  
Chapter 5: Subdivisions  
Chapter 7: Streets, Driveways & Parking  
Chapter 8: Buffering & Landscaping, Planting Species List  
Chapter 9:  
Environmental Standards



## 4.1.2 R-3 Residential

### District Description

R-3 Residential zoning allows for the development of single family detached homes at a rate of 3 units per acre in a pattern that is in harmony with the existing residential subdivisions found throughout the town. R-3 is intended to provide traditional suburban housing while encouraging the clustering of homes to promote the preservation of trees, open space, and other natural features. Developments that meet these goals may qualify for a density bonus of up to 0.5 units per acre.



### Dimensional Standards (cluster)

Lot Width, Minimum	80 (60) Feet
Lot Depth, Minimum	140 (105) Feet
Density, Maximum	3 (3.5) Units/Acre
Lot Coverage, Maximum	60 (75) Percent
Front Setback, Minimum	20 (15) Feet
Rear Setback, Minimum	30 (25) Feet
Side Setback (Interior), Minimum	10 (7.5) Feet
Side Setback (Corner), Minimum	20 (15) Feet
Building Height, Maximum	45 Feet

### Primary Uses

Single-Family, Detached Dwelling  
 Religious Institutions  
 Horse Barn  
 Parks  
 Government Buildings/Facilities

Associated accessory structures:  
 Garages  
 Pools  
 Porches  
 Sheds

### Notes:

**Double Frontage Lots:** front yard setback distance required on both frontages.  
**Buffer Yards:** required around perimeter of all major subdivisions.  
**Cluster Subdivisions:** See Section 5.8 for clustering standards.  
**Corridor Overlay District:** See Chapter 4 Corridor Overlay district for required right-of-way dedication and expanded lot widths.

\*This page intended to provide some of the basic and most common standards of this district. Other applicable standards may be found elsewhere in this Code.

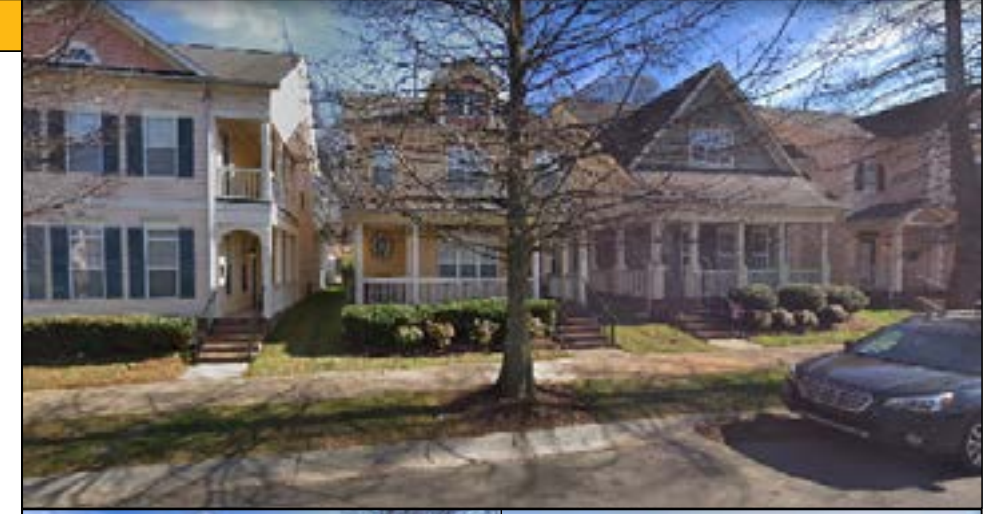
### Relevant Code Sections

Chapter 4:  
 Dimensional Requirements,  
 Special Requirements,  
 Table of Permitted Uses  
 Chapter 5: Subdivisions  
 Chapter 7: Streets, Driveways & Parking  
 Chapter 8: Buffering & Landscaping, Planting Species List  
 Chapter 9: Environmental Standards

## 4.1.3 R-4 Residential

### District Description

R-4 Residential zoning allows for the development of single family detached homes, single family attached homes, and duplexes, at a rate of 4 units per acre (5 units per acre for cluster subdivision). R-4 is intended to encourage infill development throughout the periphery of the downtown area to encourage a compact, walkable, and vibrant small town while promoting the historic, small town character of downtown.



### Dimensional Standards (cluster)

Lot Width, Minimum	60 (45) Feet
Lot Depth, Minimum	105 (80) Feet
Density, Maximum	4 (5) Units/Acre
Lot Coverage, Maximum	75 Percent
Front Setback, Minimum	15 Feet
Rear Setback, Minimum	20 Feet
Side Setback (Interior), Minimum	7.5 (5) Feet
Side Setback (Corner), Minimum	15 Feet (10) Feet
Building Height, Maximum	45 Feet

### Primary Uses

Single-Family, Detached Dwelling  
 Single-Family, Attached Duplex  
 Cottage Homes  
 Religious Institutions  
 Parks  
 Government Buildings/Facilities  
 Bed & Breakfast  
 Associated accessory structures:  
 Garages  
 Pools  
 Porches  
 Sheds

### Notes:

**Cluster Subdivisions:** when clustering developments in the R-4 district, an up to 1 unit/acre bonus and a 25% reduction in lot width, depth may be awarded. See Section 5.8 for clustering standards.  
**Duplexes:** Shall meet a 150% of the minimum lot width and depth standards. Duplexes are excluded from cluster provisions.  
**Double Frontage Lots:** front yard setback distance required on both frontages.  
**Buffer Yards:** required around perimeter of all major subdivisions.  
**Corridor Overlay District:** See Chapter 4 Corridor Overlay district for required right-of-way dedication and expanded lot widths.  
**Attached Single-Family Residential:** Shall not have a minimum lot width but the total width of each structure containing the attached, single-family homes and adjacent side yards shall be no less that 60 feet.

\*This page intended to provide some of the basic and most common standards of this district. Other applicable standards may be found elsewhere in this Code.

### Relevant Code Sections

Chapter 4:  
 Dimensional Requirements,  
 Special Requirements,  
 Table of Permitted Uses  
 Chapter 5: Subdivisions  
 Chapter 6: Design Standards for Single Family Attached  
 Chapter 7: Streets, Driveways & Parking  
 Chapter 8: Buffering & Landscaping, Planting Species List  
 Chapter 9: Environmental Standards



## 4.1.4 NC Neighborhood Center

### District Description

Neighborhood Center allows for smaller scale offices, neighborhood oriented retail and services as well as cottage homes, townhomes, duplexes, triplexes, and quadraplexes at a rate of no more than 8 units per acre. Located on the periphery of the Downtown core between the MS/TC Districts and the R-4 District and at strategic locations to serve surrounding suburban residential areas throughout town. NC is intended to encourage the creation of compact and walkable mixed use neighborhoods near the Downtown core and provide an alternative to auto oriented Corridor Commercial District and promote a town wide architectural identity.



### Dimensional Standards

Lot Width, Minimum	60 Feet
Lot Depth, Minimum	80 Feet
Density, Maximum	8 Units/Acre
Lot Coverage, Maximum	80 Percent
Front Setback, Minimum/Maximum	0/20 Feet
Rear Setback, Minimum	15 Feet
Side Setback (Interior), Minimum	5 Feet
Side Setback (Corner), Minimum	0 Feet
Building Height, Maximum	54 Feet

### Primary Uses

Single-Family, Attached  
Cottage Homes  
Duplex/Triplex/Quadraplex  
Upperstory Apartments  
Live Work Units  
Light Retail  
General Office  
Associated accessory structures:  
Garages  
Pools  
Porches  
Sheds  
Solid Waste Storage

### Notes:

**Non-Residential Buildings:** Shall not exceed a footprint of 10,000 square feet per building.  
**Multifamily Residential:** Residential units shall not be developed from the ground up and may be located only on the second floor or above in the NC district.  
**Other Residential Uses:** (Attached SF, Duplex/Triplex/Quadraplex, Cottages): If proposed, must be a part of a mixed-use development where residential and non-residential uses are proportionate to the lot size and approved by the Zoning Administrator on a case-by-case basis. Strictly residential projects shall be discouraged and, if proposed, will require a conditional rezoning and must follow the process outlined in Section 3.3.5.  
**Single-Family Attached:** The units shall not have a minimum lot width, but the total width of each structure containing the attached, single-family homes and adjacent side yards shall be no less than 60 feet.  
**Duplex/Triplex/Quadraplex:** Developments shall meet a 150% of the minimum lot width and depth standards.  
**Maximum Residential Density:** Shall not exceed 8 units/acre for all residential uses.

\*This page intended to provide some of the basic and most common standards of this district. Other applicable standards may be found elsewhere in this Code.

## 4.1.5 MS Main Street

### District Description

Main Street zoning allows for the development of traditional main street type buildings at a scale consistent with the historic downtown core on North and South Main Streets. This district allows for a wide variety of storefront retail and eating and drinking establishments, interspersed artisan studios, general office, as well as upper story apartments. MS is designed to foster an active streetscape with buildings set at the back of wide sidewalks while promoting the preservation of the historic main street buildings and adding to the downtown with buildings designed to fit harmoniously into the existing turn-of-the-century downtown.



### Dimensional Standards

Lot Width, Minimum	25 Feet
Lot Depth, Minimum	80 Feet
Density, Maximum	N/A
Lot Coverage, Maximum	100 Percent
Front Setback, Minimum	0/0 Feet
Rear Setback, Minimum	15 Feet
Side Setback (Interior), Minimum	0 Feet
Side Setback (Corner), Minimum	0 Feet
Building Height, Maximum	54 Feet

### Primary Uses

General Retail/Office  
Restaurants  
Brewery/Taprooms  
Upperstory Apartments  
Live/Work Units  
Theater/Gallery/Studios  
Government Facility/Parks  
Associated accessory structures:  
Decks/Patios  
Sidewalk Dining  
Solid Waste Storage  
Off-Street Parking

### Notes:

**Multifamily Residential:** Residential units shall not be developed from the ground up and may only be located on the second and third stories in the MS district.  
**Residential Density:** There shall be no maximum residential density in the MS District. Residential uses shall have a private parking area with the appropriate ratio of parking spaces per unit.

\*This page intended to provide some of the basic and most common standards of this district. Other applicable standards may be found elsewhere in this Code.

### Relevant Code Sections

Chapter 4:  
Dimensional Requirements,  
Special Requirements,  
Table of Permitted Uses  
Planting Species List  
Chapter 5: Subdivisions  
Chapter 6: Mixed Use and  
Commercial Buildings Design  
Standards, Civic/Landmark  
Building Design Standards  
Chapter 7: Streets, Driveways &  
Parking  
Chapter 9: Env. Standards



## 4.1.6 TC Town Center

### District Description

Town Center zoning allows for the development of larger scale mixed use buildings that accommodate retail, services, offices, artisan studios, light manufacturing workshops, landmark civic and institutional uses as well as upper story apartments. TC is intended to encourage an active urban core that provides employment, access to daily needs, entertainment, and housing that complements the design and scale of the historic downtown while maintaining the dynamic, walkable small town feel.



### Dimensional Standards

Lot Width, Minimum	50 Feet
Lot Depth, Minimum	80 Feet
Density, Maximum	N/A
Lot Coverage, Maximum	100 Percent
Front Setback, Minimum/Maximum	0/10 Feet
Rear Setback, Minimum	15 Feet
Side Setback (Interior), Minimum	0 Feet
Side Setback (Corner), Minimum	0 Feet
Building Height, Maximum	54 Feet

### Primary Uses

General Retail  
General Office  
Medical  
Restaurants  
Light Manufacturing  
Upperstory Apartments  
Government Facility  
Associated accessory structures:  
Decks/Patios  
Sidewalk Dining  
Solid Waste Storage  
Off-Street Parking

### Notes:

**Multifamily Residential:** Residential units shall not be developed from the ground up and may only be located on the second and third stories in the TC district.  
**Residential Density:** There shall be no maximum residential density in the TC District. Residential uses shall have a private parking area with the appropriate parking space ratio per unit.

\*This page intended to provide some of the basic and most common standards of this district. Other applicable standards may be found elsewhere in this Code.

### Relevant Code Sections

Chapter 4:  
Dimensional Requirements,  
Special Requirements,  
Table of Permitted Uses  
Chapter 5: Subdivisions  
Chapter 6: Mixed Use &  
Commercial Buildings, Civic/Land-  
mark Building Design Standards  
Chapter 7: Streets, Driveways &  
Parking  
Chapter 8: Buffering &  
Landscaping, Planting Species List  
Chapter 9: Environmental  
Standards

## 4.1.7 CC Corridor Commercial

### District Description

Corridor Commercial zoning provides for service and retail uses to meet daily needs of local residents in a manner conveniently accessible by automobile, while maintaining efficient vehicular and pedestrian access management. CC allows for growth consistent with the existing development primarily located along the Highway 16 corridor. It encourages infill development that is designed to be complementary of the historic downtown architecture and increase the walkability and access to surrounding residential neighborhoods.



### Dimensional Standards

Lot Width, Minimum	100 Feet
Lot Depth, Minimum	100 Feet
Density, Maximum	N/A
Lot Coverage, Maximum	80 Percent
Front Setback, Minimum	20 Feet
Rear Setback, Minimum	20 Feet
Side Setback (Interior), Minimum	10 Feet
Side Setback (Corner), Minimum	15 Feet
Building Height, Maximum	54 Feet

### Primary Uses

General Retail  
Shopping Centers  
General Offices  
Restaurants with drive-Through  
Automotive Uses  
Government Facility  
Medical Offices  
Associated accessory structures:  
Decks/Patios  
Sidewalk Dining  
Solid Waste Storage  
Off-Street Parking  
Outdoor Storage

### Notes:

**Corridor Overlay District:** See Chapter 4 Corridor Overlay District for required right-of-way dedication and expanded lot widths.

\*This page intended to provide some of the basic and most common standards of this district. Other applicable standards may be found elsewhere in this Code.

### Relevant Code Sections

Chapter 4:  
Dimensional Requirements,  
Special Requirements,  
Table of Permitted Uses  
Chapter 5: Subdivisions  
Chapter 6: Mixed Use and  
Commercial Buildings Design  
Standards, Civic/Landmark  
Building Design Standards  
Chapter 7: Streets, Driveways &  
Parking  
Chapter 8: Buffering &  
Landscaping, Planting Species List  
Chapter 9: Environmental  
Standards



## 4.1.8 EC Employment Center

### District Description

Employment Center zoning allows for the development of larger scale businesses to drive employment and economic opportunities including a variety of industries and uses that have limited impacts on surrounding areas such as office parks, light or high tech industrial campuses, and warehousing or distribution facilities. EC is intended to provide for high quality jobs that have managed impacts in areas that are well connected to current and future regional transportation routes.



### Dimensional Standards

Lot Width, Minimum	100 Feet
Lot Depth, Minimum	100 Feet
Density, Maximum	N/A
Lot Coverage, Maximum	75 Percent
Front Setback, Minimum	40 Feet
Rear Setback, Minimum	30 Feet
Side Setback (Interior), Minimum	15 Feet
Side Setback (Corner), Minimum	20 Feet
Building Height, Maximum	80 Feet

### Primary Uses

Hightech Manufacturing  
Light Industrial  
Research & Development  
Warehousing  
Distribution  
Office Parks  
Commercial Kitchens  
Associated accessory structures:  
Outdoor Storage  
Equipment Storage  
Off-Street Parking

### Notes:

**Corridor Overlay District:** See Chapter 4 Corridor Overlay district for required right-of-way dedication and expanded lot widths.

#### Residential Housing Options:

Single family attached and multi-family housing developments shall be allowed only as part of a conditional mixed use request. Exclusive housing developments will not be considered until non-residential uses are well established in the employment center.

\*This page intended to provide some of the basic and most common standards of this district. Other applicable standards may be found elsewhere in this Code.

### Relevant Code Sections

Chapter 4:  
Dimensional Requirements,  
Special Requirements,  
Table of Permitted Uses  
Chapter 5: Subdivisions  
Chapter 6: Employment Center  
Design Standards, Civic/Landmark  
Building Design Standards  
Chapter 7: Streets, Driveways &  
Parking  
Chapter 8: Buffering &  
Landscaping, Planting Species List  
Chapter 9: Environmental  
Standards

## 4.2.1 CZ-MU Conditional Zoning Mixed-Use

### District Description

Conditional Zoning Mixed-Use allows for flexibility in layout and design of larger parcels that are of significant public interest due to location, economic, environmental, or cultural characteristics or conditions. All uses allowed in the other districts may be developed in this district.



### Dimensional Standards

Lot Width, Minimum
Lot Depth, Minimum
Density, Maximum
Lot Coverage, Maximum
Front Setback, Minimum
Rear Setback, Minimum
Side Setback (Interior), Minimum
Side Setback (Corner), Minimum
Building Height, Maximum

### Primary Uses

All uses allowed in other districts.  
Subject to: Conditional Zoning  
Approval by Waxhaw Board of  
Commissioners.

See corresponding district charts.

### Notes:

**Conditional Zoning Districts:** Can be requested by an applicant with only consent of the owner. Town administration may not apply conditional zoning without owner consented application.

**Minimum Acreage:** minimum area for Conditional Zoning Mixed-Use District is 25 acres. This minimum shall be waived if application would increase area of preexisting conditionally zoned mixed-use area.

**Residential and Non-Residential Mix:** CZ-MU district shall be made up of a minimum of 20% and a maximum of 60% non-residential uses. These percentages may be adjusted if a project is found to provide a significant economic benefit to the town as determined by the Zoning Administrator.

**Conditional Zoning Mixed-Use District:** Allows an applicant flexibility in arrangement of a project. All requirements of the base Zoning Districts shall be adhered to.

\*This page intended to provide some of the basic and most common standards of this district. Other applicable standards may be found elsewhere in this Code.



## **Section 4.2 Conditional Zoning Districts Established**

In addition to the base zoning districts established, the following conditional zoning districts are established which correspond to the base zoning districts. Conditional zoning districts can be requested only by an applicant with owner consent. These conditional zoning districts can also be utilized when an applicant wishes to rezone an area but prefers to preclude the special use requirement when any of the proposed uses include those classified as a special use. The process for a rezoning to a conditional zoning district is found in Chapter 3.

CZ-R-1	Conditional Zoning Single Family Residential
CZ-R-3	Conditional Zoning Single Family Residential
CZ-R-4	Conditional Zoning Single Family Residential
CZ-NC	Conditional Zoning Neighborhood Center
CZ-MS	Conditional Zoning Main Street
CZ-TC	Conditional Zoning Town Center
CZ-CC	Conditional Zoning Corridor Commercial
CZ-EC	Conditional Zoning Employment Center
CZ-MU	Conditional Zoning Mixed Use District

## **Section 4.3 Overlay Districts Established**

The Town hereby establishes overlay districts. Within these overlay districts, requirements are imposed that either relax or are in addition to the conventional zoning district or conditional zoning district in which it is located. The following overlay districts are established:

- A. Corridor Overlay District
- B. Manufactured Home Overlay District

### **Section 4.3.1 Corridor Overlay District**

The purpose of the Corridor Overlay District is to provide for the protection and preservation of the Town's primary north-south thoroughfares in order to avoid significant deterioration of service levels, encourage assembly of smaller parcels along the thoroughfare, and to make for a more visually attractive streetscape.

The Corridor Overlay District applies to the development and re-development of properties in the Town's zoning jurisdiction with frontage located on Highway 16 north of Waxhaw Parkway and the entirety of Waxhaw-Marvin Road

- A. Lot Width – The minimum lot width shall be 150 feet. Lots or parcels that have access to a side street, which in turn has access to Highway 16 or Waxhaw-Marvin Road, are exempt from this requirement.

- B. Street Yard Landscape – A 20 foot wide street landscaping yard, that runs parallel to the street right-of-way, is required along the entire frontage. The street yard shall include trees planted 40 to 65 feet on center, and shrubs planted at a rate of 11 per tree arranged in order to establish a continuous hedgerow at maturing height.

### **C. Right-of-Way Dedication**

- 1. Highway 16: In order to progress the completion of the Highway 16 corridor widening project, minimum of 50 feet of right-of-way shall be dedicated for all parcels that front Highway 16 north of Waxhaw Parkway.
- 2. Waxhaw-Marvin Road: In order to progress the completion of widening of the Waxhaw-Marvin Road corridor, a minimum of 50 feet of right-of-way shall be dedicated for all parcels that front Waxhaw-Marvin Road.

The Town Engineer, with consultation from the NCDOT, may adjust the required right-of-way dedication to more or less than 50 feet on a case-by-case basis. Adjustments shall be made only when they are consistent with the plans and designs for the widening of Highway 16 and Waxhaw-Marvin Road.

## **Section 4.3.2 Manufactured Home Overlay District**

The purpose of the Manufactured Home Overlay District is to provide for the principal use of land developed in harmony with the conventional or underlying zoning district regulations by permitting the substitution of manufactured homes as a principal use type. The Manufactured Home Overlay District shall consist of no less than ten existing contiguous lots or 120,000 square feet of un-subdivided land, excluding public right of way. In addition, it can be applied to R-1, R-3 and R-4 districts within the Town's jurisdiction by approval of the Board of Commissioners.

- A. The following uses are permitted subject to obtaining an Administrative Permit from the Administrator:
  - 1. All uses permitted in the underlying zoning district.
  - 2. Manufactured Homes - Type 1 (permanent installation only)
- B. All dimensional and other requirements of the underlying zoning district shall be complied with in addition to the following specific requirements.
  - 1. The home is used only as a single family residence.
  - 2. The towing apparatus, wheels, axles, and transporting lights are removed or concealed.
  - 3. The longest axis of the home is oriented parallel or within a 20 degree deflection of being parallel to the lot frontage.

4. The home shall 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.
5. A continuous, permanent masonry foundation or masonry curtain wall is 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.
6. Exterior siding of the home shall be 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;
7. The home's roof pitch minimum vertical rise is three and one-half (3-1/2) feet for each 12 feet of horizontal run.
8. The home's roof is finished with a Class C or better roofing material that is commonly used in standard residential construction.
9. A permanent front porch is constructed of at least 32 square feet in area within 12 inches of the floor elevation and fully underpinned by permanent masonry to completely conceal the area beneath the porch and unit.

**Section 4.4 Zoning District Dimensional Requirements**

This section establishes dimensional standards for uses, structures, and lots related to the following elements, unless otherwise specified in this Code.

- A. Setbacks for front, side, and rear yards
- B. Height and number of stories of buildings and structures
- C. Percentage of lots that may be developed
- D. Density allowed in units per acre where applicable

These dimensional requirements are intended to be a baseline for each zoning district. Additional dimensional requirements for specific uses may be found in other chapters of this Code.

The location of required front, side, and rear yard setbacks on irregularly shaped lots will be determined by the Zoning Administrator.

When easements or other types of established access interfere with any of the required dimensional requirements, the Zoning Administrator shall determine how and to what extent the dimensional requirements are applied.

**Section 4.4.1 Dimensional Requirements Table**

REQUIREMENT	R-1 <sup>(1)</sup>	R-3 <sup>(1)</sup>	R-4 <sup>(1)(2)</sup>	MS	TC	NC <sup>(1)(2)(3)</sup>	CC <sup>(1)</sup>	EC <sup>(1)</sup>
Density	1 unit/ac.	3 (3.5*) units/ac.	4 (5*) units/ac.	n/a	n/a	8 units/ac.	n/a	n/a <sup>(3)</sup>
Front	30 <sup>(4)</sup>	20 (15*) <sup>(4)</sup>	15 <sup>(4)</sup>	0 min/ max	0 min/ 10 max	0 min/ 20 max	20 <sup>(4)</sup>	40 <sup>(4)</sup>
Rear	30	30 (25*)	20	15	15	15	20	30
Side (interior lot)	15	10 (7.5*)	7.5 (5*)	0	0	5	10	15
Side (corner lot /street side)	25	20 (15*)	15 (10*)	0	0	0	15	20
Lot Width (minimum)	100	80 (60*)	60 (45*)	25	50	60	100	100
Lot Depth (minimum)	200	140 (105*)	105 (80*)	80	80	80	100	100
Lot Coverage (maximum %)	40	60 (75*)	75	100	100	80	80	75
Building Height (maximum)	3 story	3 story	3 story	3 story	3 story	3 story	3 story	6 story

**(\*) For cluster development. See Section 5.8 for additional cluster subdivision requirements.**

- (1) Corridor Overlay District: See Chapter 4 Corridor Overlay District for required right-of-way dedication and expanded lot widths
- (2) Duplex/Triplex/Quadraplex: Shall meet 150% of the minimum lot width and depth standards and are excluded from cluster provisions
- (3) See special requirements for single-family attached and multi-family residential.
- (4) Double Frontage Lots: front yard setback required for both frontages.

## **Section 4.5 General Use Regulations**

### **Access to Property**

All buildings, structures, and uses of land shall front a public street and shall meet the dimensional requirements of the underlying zoning district. Existing lots prior to the adoption of this code without frontage to a public street shall require a 20 foot access easement to the public street before the lot can be developed.

Frontage on a public street shall not be required in the following situations:

- A. Lots within non-residential developments where property is administered by a developer or a managing association.
- B. Multi-family lots where individual lots are separated from the public street by land under common ownership by the owners of the multi-family development.
- C. Accessory structures or accessory dwellings with access to an alley as part of an approved residential development.

### **Accessory Dwellings**

Accessory dwellings are allowed in the R-1, R-3, R-4, NC, TC, MS and EC zoning districts, under the following conditions:

- A. Only one accessory dwelling is allowed per lot, unless approved by the Zoning Administrator
- B. The accessory dwelling may be attached to the principal structure or detached.
- C. Accessory dwellings shall be clearly incidental to the permitted principal structure.
- D. Accessory dwellings shall not exceed the height of the principal structure.
- E. Accessory dwellings shall not be located forward of the principal structure.
- F. An accessory dwelling 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.
- G. The accessory dwelling shall meet the dimensional requirements for an accessory structure in the zoning district in which it is located.
- H. Required additional parking space(s) shall be determined on a case-by-case basis by the Zoning Administrator.

- I. The habitable area of the accessory dwelling shall not be larger than 50% of the primary dwelling.

### **Accessory Structures**

Accessory Structures are allowed in all zoning districts, provided they meet the following requirements.

- A. Accessory structures shall not be placed within any required front yard setback.
- B. Accessory structures shall be a minimum of 5 feet from the property line.
- C. Accessory structures on corner lots shall meet the minimum dimensional requirements for the underlying zoning district.
- D. Accessory structures shall not cover more than 30% of the lot area.
- E. Accessory structures shall not exceed the height of the principal structure(s).
- F. Accessory structures shall be of similar building materials to the principal structure(s) in the NC, MS, TC, CC, and EC zoning districts. Building materials that are not similar to the principal structure(s) may be allowed if it fits within the context of the surrounding area as determined by the Zoning Administrator.
- G. A permanent outdoor stage as an accessory structure shall follow these requirements:
  - 1. The stage shall conform harmoniously with the topography of the site and be located so as to keep noise to adjacent residential areas to a minimum.
  - 2. The stage shall be designed with sound-absorbing materials such as foam, carpet, and acoustic panels to reduce excessive noise.
  - 3. Sound barriers such as masonry walls, acoustic fencing, large planters, and evergreen shrubs shall be included to help contain noise.
  - 4. If deemed necessary, the Zoning Administrator shall require an acoustic consultant to prepare a sound reduction plan.

**Accessory Uses**

The Accessory Uses listed below shall be permitted by right in any of the zoning districts set forth in the Zoning District column. These uses are subject to additional restrictions as defined in this Code.

ACCESSORY USE	ZONING DISTRICT
Accessory Dwellings	R-1, R-3, R-4, NC, MS, TC, EC
Athletic Courts/Fields (tennis, basketball, etc.)	R-1, R-3, R-4, NC, CC, EC
Automated Teller Machines (ATMs)	CC, EC, TC, MS, NC
Bike Sharing Stations	All zoning districts
Carports	R-1, R-3, R-4, NC
Clubhouses (Residential)	R-1, R-3, R-4, EC, NC
Community Gardens	All zoning districts
Electric Vehicle Charging Stations	CC, EC, TC, NC
Garages - detached	R-1, R-3, R-4, NC, EC
Fences and Walls	All zoning districts
Food Trucks	All zoning districts
Greenhouses (not commercial)	R-1, R-3, R-4, NC
Home Occupations	R-1, R-3, R-4, NC, MS, TC, EC
Ice Vending Machines	CC
Off Street parking facilities	All zoning districts
Outdoor Storage (Commercial)	CC, EC
Outside Sales	CC, TC, MS, NC
Produce Stands	CC, EC, TC, MS, NC
Recycling Drop Off Station	CC, EC
Restaurants/Cafeterias	CC, EC, TC
Sales Office (onsite for multi-family and single family attached; multi-tenant commercial, etc.)	All zoning districts
Satellite Dishes	All zoning districts
Signs	All zoning districts
Solar Panels (freestanding)	R-1, CC, EC
Stables and Barns	R-1, R-3, R-4
Storage Buildings	All zoning districts
Swimming Pools	All zoning districts
Telecommunication Antennas and Equipment to Support Tower	All zoning districts
Vending Machines (does not include ice vending)	CC
Any other building or use incidental to the principal building or use as determined by the Zoning Administrator	All zoning districts

**Fences and Walls for Screening of Dumpsters**

- A. Fences and walls used for the screening of dumpsters shall be a minimum of 6 feet in height. The maximum height shall be 8 feet, unless the height of a dumpster warrants the need for additional height as determined by the Zoning Administrator.
- B. The fence or wall shall be opaque. Permitted fence and wall materials for the screening of dumpsters include masonry (such as brick or stone), metal, or wood.
- C. Barbed, razor, or other similar type wire attached to a fence or wall is not allowed.
- D. A landscaped buffer may be used for screening in lieu of a fence or wall. A specific screening plan for the dumpster must be submitted to the Zoning Administrator and approved prior to construction.
- E. Fences shall be oriented finished side outward.

**Fences and Walls for Residential Uses**

- A. Fences and walls may be located on the property line or in any portion of the required setbacks, under the following conditions:
  - 1. If located in the front yard, such fence or wall shall be no greater than 4 feet in height.
  - 2. If located in the side or rear yard, such fence or wall shall be no greater than 8 feet in height.
- B. It is strongly encouraged that a fence or wall be placed in such a manner that the property owner has the ability to perform maintenance on the fence or wall without requiring access to an adjacent piece of property.
- C. Permitted fence and wall materials include masonry (such as brick or stone), decorative metal (such as wrought iron), wood, vinyl, chain link, or a combination of these materials.
- D. Barbed, razor, or other similar type wire attached to a fence or wall is not allowed.
- E. Fences shall be oriented finished side outward.

**Fences and Walls for Non-Residential Uses**

- A. Fences and walls may be located on the property line or in any portion of the required setbacks, under the following conditions:
  - 1. If located in the front yard, such fence or wall shall be no greater than 4 feet in height.
  - 2. If located in the side or rear yard, such fence or wall shall be no greater than 8 feet in height.



- B. Permitted fence and wall materials include masonry (such as brick or stone), decorative metal (such as wrought iron), wood, vinyl, or a combination of these materials. Chain link is allowed if coated in black, dark green, or dark brown vinyl.
- C. Barbed, razor, or other similar type wire attached to a fence or wall is allowed only in the side and rear yards and only if screened from direct public view.
- D. Fences shall be oriented finished side outward.

**Fences and Walls for Accessory Uses**

- A. All pools shall be enclosed from adjoining lots with a fence or wall. The fence or wall shall be a minimum 4 feet in height, and meet all current NC state regulations.
- B. Fences to enclose athletic courts and fields, such as tennis and basketball courts, shall be no more than 12 feet in height. Chain link shall be coated in black, dark green, or dark brown vinyl.
- C. Barbed, razor, or other similar type wire attached to a fence or wall is not allowed.
- D. Fences shall be oriented finished side outward.

**Food Trucks**

Food trucks are allowed in all zoning districts, under the following conditions:

- A. Food trucks in CC, EC, NC, R-1, R-3, R-4 zoning districts
  - 1. Permitted only on private property with the property owner’s consent
  - 2. The property must have an off-street parking area with a minimum of 10 parking spaces.
  - 3. A minimum of 5 parking spaces are required for each additional food truck and mobile vendor that wishes to locate on private property.
  - 4. No more than 3 food trucks can locate on a parcel at one time.
  - 5. Food trucks must meet all required setbacks for the zoning district.
  - 6. The property owner is responsible for the containment and removal of trash and recycling from the property each business day.
- B. Food trucks in TC, MS zoning districts
  - 1. Allowed in Town right-of-way if the food truck provides proof of general liability insurance that holds the Town harmless in case of accident or injury to a patron.

- 2. A maximum of 3 public parking spaces are allowed for each food truck.
- 3. If located on private property, must have property owner’s consent and must meet all required setbacks for the zoning district.
- C. All food trucks must apply for an administrative permit to occupy specific locations. The food truck must have proper permitting from the Union County Health Department to locate in the town limits. The administrative permit must be renewed on an annual basis. In addition, food trucks are subject to the requirements of Section 46-5 of the Town Code of Ordinances (Loud, Disturbing, and Unnecessary Noise).
- D. Four or more food trucks wishing to locate on a parcel are allowed only during a special event and shall be reviewed and approved on a case-by-case basis. See **Temporary Use** table.
- E. Food trucks are allowed on construction sites in all zoning districts without requirement of constructed parking spaces.
- F. All applicable local and state laws must be met, including returning to a commissary or similar base facility daily.

**Home Occupations**

Home occupations are permitted in all zoning districts that allow residential housing, under the following conditions:

- A. No display of goods, products, or services shall be visible from outside the dwelling.
- B. No business storage or warehousing of material, supplies or equipment is permitted outdoors. Storage is permitted in the principal dwelling unit or a fully-enclosed accessory structure only.
- C. There must be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of a home occupation.
- D. The requirements for shipping and receiving of materials in connection with the business does not create excessive noise or traffic.
- E. Traffic and parking will not be detrimental to the neighborhood or create congestion on the street.
- F. No on-premise 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).
- G. No more than two persons not a resident on the premises may be employed in connection with the purported home occupation.

- H. The use may not create objectionable noise, fumes, odor, dust or electrical interference.
- I. Not more than 25% 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.
- J. Only vehicles used primarily as passenger vehicles may be used in connection with the home occupation.

**Parking of Commercial Vehicles**

On any lot 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.

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.

See Town Code of Ordinances Section 66-21 for additional requirements for commercial vehicles.

**Parking of Recreational Vehicles**

A recreational vehicle shall not be deemed as a dwelling or an accessory dwelling in this Code. Recreational vehicles for dwelling purposes are not allowed on residential lots and shall be allowed only in an approved recreational vehicle park.

See Town Code of Ordinances Section 66-21 for additional requirements for recreational vehicles.

**Temporary Uses**

Temporary uses are certain uses that are considered seasonal or transient and allowed only on a short term basis. These type uses can be located on a developed lot or on an undeveloped lot. Temporary uses must receive an administrative permit pursuant to this Code. Criteria for approval of a temporary use include:

- A. Written permission from the property owner to conduct said temporary use at the location
- B. Compatibility with and effect on surrounding area
- C. Ability to provide adequate access to the use and off-street parking while not adversely affecting the parking requirements of an existing use on the property
- D. Meet the setback requirements for the underlying zoning district

Temporary uses are listed below with their maximum length of time. These uses are subject to additional restrictions as defined in this Code.

TEMPORARY USE	MAX. TIME ALLOWED AT LOCATION
Amusement Enterprises (carnivals, circuses, haunted attractions, etc.)	60 days
Construction Trailers	Duration of construction project
Religious Events	30 days
Sales Offices ( new residential developments, model homes, etc.)	Completion of development
Seasonal Sales (includes fireworks, Halloween sales, Christmas tree sales, and other similar seasonal sales)	60 days
Special Events	30 days

**Section 4.6 Table of Permitted Uses**

No use shall be authorized unless said use is listed as permitted use or special use in the Table of Permitted Uses. Uses not listed as a permitted use or a special use shall be presumed to be prohibited from the applicable zoning district. The Zoning Administrator shall determine if a use not listed in the table can reasonably be interpreted to fit into a listed use category and be deemed as a permitted use or special use.

Uses that are identified as **permitted** are listed with an “P.” Uses that are identified as a **special** use are listed with an “S.” Special Use permitting procedure is described in Chapter 3.

If the use has a definition it is listed in Chapter 13. The NAICS code is listed for certain uses to assist in defining said use or uses that are considered similar. A “SR” denotes that the use has **special requirements**. These special requirements are found in Chapter 4.

In the following table, the uses are listed in rows and the zoning districts are listed in columns.

1. Use	P = Permitted	S = Special Use	Definitions Chapter 13	NAICS	Special Requirements	Single-Family Residential R-1	Single-Family Residential R-3	Single-Family Residential R-4	Maintstreet MS	Town Center TC	Neighborhood Center NC	Corridor Commercial CC	Employment Center EC
<b>Residential</b>													
Dwelling, Attached Single Family	Yes		236115	SR	-	-	P	-	-	-	P & S	-	S
Dwelling, Cottage	Yes			SR	-	-	S	-	-	-	S	-	-
Dwelling, Detached Single Family	Yes		236115	SR	P	P	P	-	-	-	-	-	-
Dwelling, Duplex	Yes		236117	SR	-	-	P	-	-	-	P & S	-	-
Dwelling, Triplex & Quadplex	Yes		236117	SR	-	-	-	-	-	-	P & S	-	-
Dwelling, Manufactured Home (*Permitted only in Manufactured Home Overlay District - See Sec.	Yes			See Sec. 4.3.2	P*	P*	P*	-	-	-	P*	-	-
Dwelling, Multi-Family	Yes		236116	SR	-	-	-	P	P	P	P	-	S
Family Care Home	Yes		621610	SR	P	P	P	-	-	-	-	-	-
Live/Work Units	Yes			SR	-	-	-	P	-	-	P	-	-
Tiny Home Park	Yes			SR	-	S	S	-	-	-	-	-	-
<b>Civic &amp; Institutional</b>													
Animal Shelter	Yes		812910		-	-	-	-	-	-	-	S	-
Cemetery & Mausoleum	Yes		812220	SR	P	P	P	-	-	-	-	P	-
Civic, Social, Fraternal & Veteran Organization			813410		-	-	-	P	P	P	P	P	-
Community Center	Yes				-	-	-	-	P	P	P	P	-
Convention Center/Visitors Bureau			561591		-	-	-	-	P	-	-	P	P
Daycare Center (Child & Adult)	Yes		624120	SR	-	S	S	-	P	P	P	P	P
Event Center (ex. Wedding Venue)	Yes			SR	S	S	S	-	P	P	P	P	-
Food Pantry	Yes			SR	S	S	S				S	S	S
Food Bank	Yes												P
Funeral Home & Crematory			812210		-	-	-	-	-	-	-	P	-
Government Buildings & Facility			925120		P	P	P	P	P	P	P	P	P
Hospital			622110		-	-	-	-	-	-	-	P	P
Library & Archives (Private)			519120		-	-	-	-	P	P	P	P	-
Museum & Art Gallery			712110		-	-	-	P	P	P	P	P	-
Nursing Home & Assisted Living	Yes		623110		S	-	-	-	S	P	P	P	-
Parks			712190		P	P	P	P	P	P	P	P	P
Performing Arts Company & Studio			711190		-	-	-	P	P	P	P	P	P
Preschool			624410		S	S	S	-	-	-	P	P	P
Religious Institution	Yes		813110		P	P	P	P	P	P	P	P	-
Retirement Community	Yes		623311		-	S	S	-	-	-	S	-	-
School, Primary/Secondary			611110		P	P	P	-	P	P	P	P	P
School, Technical & Trade			611519		-	-	-	-	P	P	P	P	P
School, University or College			611310		-	-	-	-	P	P	P	P	P
Social Assistance	Yes		813319		-	-	-	-	-	-	S	P	-
Tutoring, Learning Center			611691		-	-	-	P	P	P	P	P	S
Zoo, Public or Private			712130		S	-	-	-	-	-	-	S	-



1. Use	P = Permitted S = Special Use	Definitions Chapter 13	NAICS	Special Re-requirements	Single-Family Residential R-1	Single-Family Residential R-3	Single-Family Residential R-4	Maintstreet MS	Town Center TC	Neighborhood Center NC	Corridor Commercial CC	Employment Center EC
<b>Professional Office/Business Services</b>												
Animal Hospital & Boarding	Yes	541940			-	-	-	-	P	-	P	-
Animal Kennel	Yes	812910			-	-	-	-	-	-	S	-
Bank & Financial Service		522110			-	-	-	P	P	P	P	P
General Office & Professional Service	Yes				-	-	-	P	P	P	P	P
HVAC, Electricity, Plumbing Sales and Service		238220			-	-	-	-	-	P	P	P
Medical Offices & Service		621491			-	-	-	S	P	P	P	P
Pest Control Service		561710			-	-	-	-	-	P	P	-
Printing Service		561439			-	-	-	-	P	P	P	-
Radio & TV Studio		515112		SR	-	-	-	-	S	-	-	P
<b>Retail, Commercial, &amp; Entertainment</b>												
ABC Store	Yes	445310			-	-	-	-	P	P	P	-
Adult Establishment	Yes			SR	-	-	-	-	-	-	S	-
Animal Grooming		812910			-	-	-	P	P	P	P	-
Art Gallery/Studio		453920			-	-	-	P	P	P	P	-
Auction House	Yes	453998			-	-	-	-	-	-	P	-
Auto, Truck, Boat, Motorcycle, & Recreational Vehicle Sales & Dealership		423110		SR	-	-	-	-	-	-	S	-
Automobile Body Shop	Yes	811121		SR	-	-	-	-	-	-	S	-
Auto Detailing	Yes	811192			-	-	-	-	-	-	P	P
Automobile Parts & Supply		441310			-	-	-	-	P	-	P	-
Automobile Rental		532111			-	-	-	-	-	-	P	-
Automobile Towing & Wrecker Service	Yes	488410			-	-	-	-	-	-	S	-
Automobile/Vehicle Repair & Service	Yes	811111			-	-	-	-	-	-	P	-
Bakery		424490			-	-	-	P	P	P	P	P
Barber & Salon		812112			-	-	-	P	P	P	P	-
Beer & Wine Shop		424810		SR	-	-	-	P	P	P	P	-
Bed & Breakfast Establishment	Yes	721191		SR	P	-	P	S	S	P	-	-
Brewery, Distillery, Winery (Primarily Retail)	Yes	312140		SR	-	-	-	P	P	P	P	-
Bicycle Sale & Service		423110			-	-	-	P	P	P	P	-
Bookstore					-	-	-	P	P	P	P	-
Butcher Shop		445210			-	-	-	P	P	P	P	-
Car Wash		811192			-	-	-	-	-	-	P	-
Clothing & Apparel Store		448140			-	-	-	P	P	P	P	-
Coffee, Tea & Juice Shop		722515			-	-	-	P	P	P	P	P

Use P = Permitted S = Special Use	Definitions Chapter 13	NAICS	Special Requirements	Single-Family Residential R-1	Single-Family Residential R-3	Single-Family Residential R-4	Mainstreet MS	Town Center TC	Neighborhood Center NC	Corridor Commercial CC	Employment Center EC
<b>Retail, Commercial &amp; Entertainment (continued)</b>											
Commercial Development, Under 10,000 sq ft footprint per building	Yes			-	-	-	P	P	P	P	-
Commercial Development, 10,001 sq ft - 60,000 sq ft footprint per building	Yes			-	-	-	P	P	S	P	-
Commercial Development, 60,001 sq ft & Above footprint per building	Yes			-	-	-	S	S	-	S	-
Convenience Store with fuel		447110	SR	-	-	-	-	-	-	P	S
Convenience Store without fuel		445120		-	-	-	P	P	P	P	S
Drug Store		446110	SR	-	-	-	P	P	P	P	-
Dry Cleaning Establishment		812320		-	-	-	-	P	P	P	-
Electronic Gaming (Sweepstakes)	Yes	713290	SR	-	-	-	-	-	-	S	-
Flea Market	Yes			-	-	-	-	-	-	S	-
Florist		453110		-	-	-	P	P	P	P	-
Gas Station		447110		-	-	-	-	-	-	S	S
Grocery Store		445110	SR	-	-	-	P	P	P	P	-
Gun & Ammunition Shop		423910		-	-	-	-	-	-	P	-
Hotel	Yes	721110	SR	-	-	-	S	P	-	P	S
Ice Cream & Dessert Shop		722515		-	-	-	P	P	P	P	-
Indoor Gaming (Arcade, Billiards, ...)		713120		-	-	-	P	P	P	P	P
Laundromat		812310		-	-	-	-	P	P	P	-
Medical Equipment		423450		-	-	-	-	P	-	P	-
Nightclub	Yes	722410	SR	-	-	-	-	P	-	P	-
Nursery, Garden Center, Farm Supply (Retail)		444220		-	-	-	-	P	-	P	-
Pawn Shop		522298		-	-	-	-	P	-	P	-
Personal Care Service		812199		-	-	-	P	P	P	P	-
Pet Store		453910		-	-	-	P	P	P	P	-
Postal Service Store (Packaging & Shipping)		491110		-	-	-	-	P	P	P	P
Rental Center (Household Items)		532310		-	-	-	-	-	-	P	-
Restaurant, with drive-thru		722513	SR	-	-	-	-	-	-	P	S
Restaurant, with no drive-thru		722511		-	-	-	P	P	P	P	S
Self Storage	Yes	531130	SR	-	-	-	-	-	-	P	-
Smoke & Tobacco Shop		453991		-	-	-	P	P	P	P	-
Taproom, Tasting Room	Yes	722410		-	-	-	P	P	P	P	-
Tattoo & Piercing		812199		-	-	-	-	P	-	P	-
Theater, Indoor	Yes	512131		-	-	-	P	P	-	P	-
Theater, Outdoor	Yes	512132		-	-	-	-	-	-	S	-

Use	P = Permitted	S = Special Use	Definitions Chapter 13	NAICS	Special Requirements	Single-Family Residential R-1	Single-Family Residential R-3	Single-Family Residential R-4	Mainstreet MS	Town Center TC	Neighborhood Center NC	Corridor Commercial CC	Employment Center EC
<b>Manufacturing, Industrial, &amp; Research</b>													
Brewery, Distillery, Winery (Primarily Manufacturing)				312140	SR	-	-	-	-	-	-	-	P
Cabinet & Woodworking				337110		-	-	-	-	P	-	P	P
Cold Storage Plant				493120		-	-	-	-	-	-	-	P
Commercial Kitchen	Yes					-	-	-	-	P	-	P	P
Contractor Storage & Equipment Yard				493110	SR	-	-	-	-	-	-	-	S
Distribution Center						-	-	-	-	-	-	-	P
Industrial Equipment Rental				532490	SR	-	-	-	-	-	-	S	S
Laboratory						-	-	-	-	P	-	-	P
Light Manufacturing	Yes					-	-	-	-	P	-	-	P
Machine Shop	Yes			332710		-	-	-	-	P	-	-	P
Manufacturing Machinery, Sales & Service				333249		-	-	-	-	-	-	-	S
Prototype Design & Development				541490		-	-	-	-	P	-	-	P
Repair & Service of Industrial Equipment				811310	SR	-	-	-	-	-	-	-	S
Research, Development, & Production						-	-	-	-	P	-	-	P
Server Farm						-	-	-	-	-	-	-	P
Spray Booth						-	-	-	-	-	-	-	S
Warehouse						-	-	-	-	-	-	-	P
Welding					SR	-	-	-	-	P	-	-	P
<b>Infrastructure &amp; Utilities</b>													
Automobile Parking Lot				812930		-	-	-	S	S	-	S	S
Automobile Parking Garage				812930		-	-	-	S	S	S	S	S
Cell Towers	Yes			237130	SR	S	S	S	S	S	S	S	S
Railroad Terminal				488210		-	-	-	S	-	-	-	S
Solar Electric Power Generation	Yes			221114	SR	S	-	-	-	-	-	-	-
Utility Facilities						P	P	P	P	P	P	P	P
Wastewater Treatment Facility/Package Plant				221320	SR	S	S	S	S	S	S	S	S
<b>Agricultural</b>													
Agritourism	Yes					S	-	-	-	-	-	-	-
Farmers' Market	Yes			454390		S	S	S	-	P	P	P	-
Farming Operation	Yes					S	-	-	-	-	-	-	-
Farming Structure (incl. Horse Barn)						P	P	-	-	-	-	-	-
Farming Supplies						-	-	-	-	P	-	P	-
Flower & Nursery Stock (Wholesale)				424930		S	-	-	-	-	-	-	S
Nursery & Tree Production (not Reforestation)				111421		S	-	-	-	-	-	-	S
Produce Stand	Yes			445230		-	-	-	-	P	P	P	-
Vineyard				115112	SR	S	-	-	-	-	-	-	S



Use	P = Permitted	S = Special Use	Definitions Chapter 13	NAICS	Special Requirements	Single-Family Residential R-1	Single-Family Residential R-3	Single-Family Residential R-4	Mainstreet MS	Town Center TC	Neighborhood Center NC	Corridor Commercial CC	Employment Center EC
<b>Recreation &amp; Assembly Uses</b>													
Amphitheater	Yes				SR	-	-	-	-	-	-	S	S
Amusement Park, Indoor	Yes	713110				-	-	-	-	-	-	P	P
Amusement Park, Outdoor	Yes	713110			SR	-	-	-	-	-	-	S	S
Aquarium		712130				-	-	-	-	-	-	S	S
Archery, Indoor		713990				-	-	-	-	-	-	S	-
Auditorium/Indoor Assembly						-	-	-	-	P	-	P	P
Auditorium/Outdoor Assembly					SR	-	-	-	-	-	-	S	S
Casino		713210			SR	-	-	-	-	-	-	S	S
Driving Range, Golf Facility						P	-	-	-	-	-	P	P
Equestrian Facility					SR	P	-	-	-	-	-	-	-
Fairground					SR	-	-	-	-	-	-	S	-
Firing Range, Indoor						-	-	-	-	-	-	S	-
Fitness Center, Gymnasium		713940				-	-	-	P	P	P	P	P
Fitness Instruction		611620				-	-	-	P	P	P	P	P
Golf Course, Country Club		713910				S	-	-	-	-	-	-	-
Mini Golf Facility						-	-	-	-	P	P	P	P
Pool, Indoor		713940				-	-	-	-	P	P	P	P
Racetrack, Outdoor	Yes	711212			SR	S	-	-	-	-	-	S	-
Recreation Facility, Indoor		713940				P	-	-	-	P	P	P	P
Recreation Facility, Outdoor					SR	P	-	-	-	-	-	P	P
Recreational Sports Club (Hunting, Fishing, etc.)		713990				S	-	-	-	-	-	-	-
Stadium	Yes				SR	-	-	-	-	-	-	S	S
<b>Accessory Uses</b>													
Accessory Dwelling	Yes					P	P	P	-	-	P	-	-
Accessory Structure	Yes				SR	P	P	P	P	P	P	P	P
Athletic Court/Field (tennis, basketball, etc.)						P	P	P	-	P	P	P	P
Automated Teller Machine (ATM)		334118				-	-	-	P	P	P	P	P
Automobile Parking Garage						-	-	-	P	P	P	P	P
Bike Sharing Station						P	P	P	P	P	P	P	P
Carport		332311				P	P	P	-	-	-	-	-
Clubhouse (Residential)						P	P	P	-	-	P	-	P
Community Garden	Yes					P	P	P	P	P	P	P	P
Dormitory	Yes	721310				-	-	-	-	-	-	S	S
Electric Vehicle Charging Station						-	-	-	-	P	P	P	P
Fence, Wall	Yes					P	P	P	P	P	P	P	P
Food Truck						P	P	P	P	P	P	P	P
Greenhouse (not commercial)						P	P	P	-	-	P	-	-

Use P = Permitted S = Special Use	Definitions Chapter 13	NAICS	Special Requirements	Single-Family Residential R-1	Single-Family Residential R-3	Single-Family Residential R-4	Mainstreet MS	Town Center TC	Neighborhood Center NC	Corridor Commercial CC	Employment Center EC
<b>Accessory Uses (continued)</b>											
Home Occupation	Yes		SR	P	P	P	P	P	P	-	P
Off Street Parking Facility				P	P	P	P	P	P	P	P
Outdoor Storage (Commercial)				-	-	-	-	-	-	P	P
Produce Stand	Yes			P	-	-	P	P	P	P	P
Propane				-	-	-	-	-	-	P	P
Recycling Drop Off Station				-	-	-	-	-	-	P	P
Restaurant, Cafeteria		722511		-	-	-	P	P	P	P	P
Sales Office (onsite for multi-family and single family attached, multi-tenant commercial, etc.)				P	P	P	P	P	P	P	P
Satellite Dish				P	P	P	P	P	P	P	P
Sign	Yes			P	P	P	P	P	P	P	P
Stable, Barn				P	P	P	-	-	-	-	-
Storage Building				P	P	P	P	P	P	P	P
Swimming Pool				P	P	P	P	P	P	P	P
Telecommunication Antenna and Equipment to Support Tower				P	P	P	P	P	P	P	P
Vending Machine				-	-	-	-	P	P	P	P
Any other building or use incidental to the principal building or use as determined by the Zoning Administrator				P	P	P	P	P	P	P	P

#### **Section 4.7 Special Requirements for Certain Uses**

This section establishes uniform criteria for certain uses permitted in the Table of Permitted Uses. These special requirements must be satisfied prior to a development approval or administrative permit issued. These requirements are designed to ensure that the listed uses are compatible with other permitted uses in the zoning district and the surrounding area.

Each use is listed in alphabetical order.

#### **Accessory Structure**

Refer to General Use Requirements (Section 4.5) for requirements.

#### **Adult Establishment**

- A. Adult establishments shall be located no closer than 1000 feet to a school, church, day care, civic building, park, residentially zoned or residentially used parcel.
- B. All windows, doors, or other openings shall have opaque glazing to discourage visibility of the interior.
- C. The maximum floor area for the use shall be 3000 square feet.
- D. No exterior signage or building element shall be pornographic in nature or convey any such idea or element.
- E. A legal conforming adult establishment shall not be rendered a nonconforming use by the subsequent location of a house, church, school, park, day care, or residentially zoned area with respect to the spacing requirement above.

#### **Amphitheater/Auditorium/Outdoor Assembly**

- A. Structures associated with an auditorium, including the stage and screen, shall be setback a minimum of 100 feet from the property line.
- B. Ingress and egress from a public street shall be designed and constructed to provide safe traffic movement and shall be accessed only from collector or arterial streets. They shall not be accessed from residential streets.

#### **Amusement Park, Outdoor**

- A. Outdoor amusement park primary buildings or amusement structures shall be located no closer than 500 feet to a residential zoning district.
- B. All buildings, whether permanent or temporary, may not be located within 100 feet of any lot line.

#### **Auto, Truck, Boat, Motorcycle, & Recreational Vehicle Sales & Dealership**

- A. Large surface parking lots with 30,000 square feet or more of vehicular access should be visually and functionally segmented into several smaller lots. The size of any single surface parking lot shall be limited to 3 acres, unless divided by a street or principal building.
- B. Outdoor public address systems that can be heard beyond the boundaries of the property are prohibited.

#### **Automobile Body Shop**

- A. The building containing such use shall be located at least 200 feet from the property line of any lot located in a residential zone.
- B. All vehicles, materials or equipment shall be stored within an enclosed building or outdoor storage with an opaque fence or wall. Such storage is restricted to the rear yard.
- C. Storage yards shall be located at least 50 feet from the property line of any lot located in a residential district.
- D. Repair work involving noise-producing equipment shall be performed indoors.
- E. Outdoor stockpiling or collection of automobiles for dismantling and use as spare parts is expressly prohibited.

#### **Automobile Repair and Service**

No nuisance or junk vehicles that are in violation of the Town of Waxhaw's Junk Vehicle Ordinance shall be allowed on premises.

#### **Bed & Breakfast Establishment**

- A. The bed and breakfast establishment shall be owner occupied.
- B. In the NC zoning district, all guest parking shall primarily be to the rear of the home. In the R-1 and R-3 zoning districts, the Zoning Administrator may approve parking to the side or in front of the home. On street parking may be counted towards the parking requirements for the use.
- C. Signage shall be permitted per Chapter 10 of this Code.

#### **Beer & Wine Shop**

A tap or tasting room is allowed in beer and wine retail shops. The tap or tasting room shall not exceed 50% of the total floor area.

### ***Brewery & Distillery***

The following standards shall apply to all Breweries and Distilleries located in the EC Zoning District:

- A. Shall be permitted to have a tap room, tasting room, or restaurant on the same lot.
- B. Beverages consumed and sold as retail shall be manufactured from such Breweries and Distilleries.
- C. Appropriately scaled special events are considered as an accessory use.
- D. Outdoor events and activities shall take place no closer than two hundred feet from any property line.
- E. All equipment used during the brewing or distillation processes (malt silos, mash tuns, lauter tuns, brew kettles, whirlpools, fermentation tanks, copper columns, infusion tanks, filtering tanks and storage tanks) visible from the street (excluding alleys), may be displayed for aesthetic appeal if they are in harmony with the building and its surroundings, and if deemed appropriate by the Zoning Administrator.
- F. Access and loading bays shall not face public streets (excluding alleys).
- G. Shall not emit odors, gas, dust, or any other pollutants detrimental to the health, safety, or general welfare of persons living or working in the surrounding properties.
- H. Long-term Outdoor storage of goods and materials shall not be permitted, including the use of portable storage units, cargo containers, and tractor trailers.

### ***Cell Tower (Telecommunication Tower)***

Cell towers (telecommunication towers) shall be allowed in all zoning districts by Special Use Permit, subject to the following standards:

- A. The applicant for a cell tower shall bear the burden of demonstrating by substantial evidence in a written record that a need exists for the proposed cell tower and that no reasonable combination of locations, techniques or technologies will prevent the need for, or mitigate the height or visual impact of, the proposed cell tower.
- B. Cell towers must be a monopole design that does not exceed 150 feet in height.
- C. Setback Limits for Cell Towers - In all districts the minimum setback requirement in all directions will be 1.5 feet for every 1 foot of tower height (e.g. a 150 foot tower would require a 225 foot setback).

- D. In addition to the notice requirements found elsewhere in this Code, the applicant for a special use permit for a cell tower shall be required to notify by regular mail all property owners within a one-quarter mile (1,320 feet) radius of the proposed location of any public hearing on the application at least ten days but no more than twenty five days prior to the hearing. The Zoning Administrator may require the applicant to conduct a crane or balloon test to simulate the height of the proposed tower. Notice of the dates and times of such tests shall be mailed by the applicant to all property owners within a one-quarter mile (1,320 feet) radius of the proposed location at least ten days prior to the primary test date.
- E. Applicants for cell towers are encouraged to consider properties owned by the Town before considering private properties. Public properties shall be subject to the same restrictions and standards of appropriateness as private properties. All such public agencies shall retain discretion as to whether to make a specific property available for wireless cell facilities and to make determinations with respect to site capacity, aesthetics, or suitability of such facilities.
- F. Co-location and use of existing structures is encouraged where appropriate. To that end, the following provisions shall apply to an application for a cell tower:
  - 1. A special use permit for a cell tower shall not be approved unless the tower is designed structurally, electrically, mechanically and in all respects to accommodate at least three users.
  - 2. A special use application for a telecommunication tower shall not be approved unless the equipment planned for the proposed tower cannot be accommodated on existing or approved telecommunication towers, buildings or alternative structures.
  - 3. Antennas associated with a wireless telecommunication facility may not be co-located on a tower or other support structure used by an amateur radio operator.
  - 4. No wireless telecommunication facility shall interfere with usual and customary radio and television reception excepting broadcast facilities as provided for in the regulations of the FCC.
- G. All telecommunication towers must comply with FCC and FAA regulations.
- H. A copy of the applicant's FCC license must accompany its application. If the applicant is not an FCC licensee, the applicant must demonstrate that it has binding commitments from one or more FCC licenses to utilize the wireless telecommunication facility and must submit a copy of each such wireless service provider's FCC license. If FCC licenses have previously been filed with the Town in conjunction with other wireless telecommunication facilities, the applicant may certify that such licenses remain in full force and effect.



- I. As part of its application, each applicant for a telecommunication tower shall be required to execute a standard maintenance/removal agreement binding the applicant and its successors and assigns to maintain properly the exterior appearance of and ultimately remove the facility within 180 days of the abandonment or cessation of operations of the facility. Such agreement shall require the applicant to pay all costs for monitoring compliance with, and enforcement of, the agreement and to reimburse the Town for all costs it incurs to perform any work required of the applicant by the agreement that it fails to perform. A \$5,000.00 cash bond, or other security acceptable to the Town, shall be required in conjunction with the maintenance/removal agreement. The applicant and its successors and assigns shall be required to continue such bond or other security until such time as the facility has been removed and all other requirements of the maintenance/removal agreement have been satisfied. Private business users operating a single wireless telecommunication facility at their principal place of business and governmental users are exempt from the bond requirement.
- J. Abandoned or unused telecommunication facilities shall be removed within 180 days of abandonment or cessation of operations. If not removed within that period, such facilities may be removed as provided in the permittee's maintenance/removal agreement and the costs of removal recovered from the permittee's bond or other security. Prior to removing a telecommunication facility pursuant to this provision, the Town shall give 30 days' written notice of its intention to do so to the permittee at their last known address.
- K. All telecommunication towers shall comply with FAA lighting requirements. Additionally, the Town may impose lighting requirements for those towers not required to be lighted per the FAA. No cell tower shall be located:
  - 1. On top of buildings; or
  - 2. In a locally or nationally designated historic area or property or on a nationally or locally designated historic structure or building. The location of a telecommunications tower shall not adversely impact the historic integrity of a locally or nationally designated historic area, property, or structure.
- L. Telecommunication towers shall be designed to meet the following standards:
  - 1. Towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment. The Town may condition approval on the use of specific concealment techniques where it determines that doing so is necessary to fulfill the intention of this Code.
  - 2. Guyed towers are prohibited. Commercial wireless telecommunication transmission towers shall be of a monopole design unless the Town determines that an alternative design would better blend in with the surrounding environment.
- 3. Use of dual-polarized antennas (which electronically combine the functions of transmit and receive antennas rather than spatial diversity antenna arrays which rely on antennas being physically separated), dual-band/multi-band antennas (allowing two or more providers of different types of commercial wireless services to share a common antenna), and use of combiners (allowing antenna sharing by providers using the same frequency band) are encouraged.
- 4. Antennas shall be mounted on telecommunication towers so as to present the smallest possible silhouette, profile, or cross-section.
- 5. No telecommunication tower shall have constructed thereon, or attached thereto in any way, platform, catwalk, crow's nest, triangular framework, or like structures or equipment, except during periods of construction or repair. Curved or straight davit arms or brackets used for antenna mounting shall be connected to the tower at the base of the arms or brackets only and such arms or brackets (and any antennas or hardware mounted thereon) shall not be physically interconnected with any similar arm or bracket.
- 6. All equipment enclosures and other improvements accessory to a tower shall be architecturally designed to blend in with the surrounding environment and shall be maintained in good appearance and repair. No equipment enclosure may exceed 12 feet in height. Ground mounted equipment shall be screened from view with a minimum "Class B" buffer (see Chapter 8), except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.
- M. Generators may not be used as a primary electrical power source. Backup generators shall be operated only during power outages or for testing and maintenance purposes.
- N. Telecommunication towers, equipment enclosures and other improvements shall be enclosed within a security fence consisting of chain link fencing at least eight feet in height. The fence shall not be topped with barbed wire. The Town may require as a condition of approval that the fencing be screened by landscaping or other means deemed appropriate by the Zoning Administrator. The Town may waive or modify the fencing requirement if it determines that doing so will enhance the overall appearance of the facility without any compromise in safety or security.
- O. Telecommunication towers shall have a flat gray or galvanized finish unless the Town determines another color scheme would be a preferable aesthetic alternative.
- P. Signage at any telecommunication tower site shall conform to the following provisions:
  - 1. A sign listing the name of the wireless telecommunication service provider operating the site, the site name or number and an emergency telephone number shall be posted at or near the entrance to the site so as to be readily visible to persons outside the site's security fencing.

2. Equipment hazard warning and informational signs are permitted.
3. The posting of any other signs or advertising is prohibited at any wireless telecommunication facility or upon any telecommunication tower.

Q. The Town may require any other conditions deemed necessary or desirable to minimize the impact of the tower on the adjacent properties and uses. Such conditions shall include, but are not limited to: the height of the tower; the construction or type of tower; lighting; and co-location of the antennas and facilities of different parties on a single tower.

#### **Cemetery & Mausoleum**

- A. Tombstones, columbariums, crypts, monuments and mausoleums shall be located a minimum of 20 feet from any side or rear lot line and at least 30 feet from a street right-of-way, unless greater setbacks are required in the zoning district within which the use is located.
- B. 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 grave site. This definition shall be construed to include bona fide pet cemeteries.

#### **Convenience Store with fuel**

- A. Gasoline canopy area shall not be located in front of the convenience store building.
- B. Vehicle vacuuming facilities may be located outside of the building but may not be located within any required buffer or setback.
- C. A freestanding automatic car wash facility may be located on the same lot and must meet the same buffer and setback requirements as the convenience store building.

#### **Daycare Center (Child & Adult)**

- A. Outdoor play areas may be located in the rear yard or side yard only and not in any required setback.
- B. All outdoor play areas shall be surrounded by a fence or wall at least four feet in height.
- C. 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 must equal or exceed the number of enrollees certified by the State of North Carolina to attend the day care center.

- D. If the day care center is to be located in a structure originally constructed as and designed for a single-family dwelling, the exterior of the structure shall not be altered in a manner that diminishes its single-family dwelling characteristics.

#### **Drug Store**

No drive thru facility for prescription pick up shall be located in front of the building.

#### **Dwelling, Attached Single Family**

A single-family attached dwelling may take the following forms:

- A. Attached row with rear vehicular access – Multiple units attached side by side meeting a zero foot front setback with vehicular access via a rear alley.
  1. Rear setback for alley access is 15 feet from the centerline of the alley.
- B. Attached row with front vehicular access – Multiple units attached side by side meeting required setbacks with vehicular access from the front or corner side street.
- C. The allowed dwelling units per acre shall be the same in the EC zoning district as in the NC zoning district.
- D. In no case shall a row of attached single family dwellings be less than 60 feet. All single family attached dwellings shall meet the design standards found in Chapter 6 of this Code.
- E. Dwellings may have frontage on common open space or courtyard.
- F. In the NC District, attached single family dwellings must be a part of a mixed-use development where residential and non-residential uses are proportionate to the lot size and approved by the Zoning Administrator on a case-by-case basis. Strictly residential projects shall be discouraged and, if proposed, will require a conditional rezoning and must follow the process outlined in Section 3.3.5.
- G. A good ratio of non-residential and residential shall be provided as deemed appropriate on a case-by-case basis by the Zoning Administrator.

#### **Dwelling, Cottage**

- A. Density and Setbacks
  1. Beyond density restrictions, there is no required minimum lot size for lots created through the subdivision process.
  2. 8 units per acre in R-4 and NC Districts. In the NC District, Cottages shall be a portion of a mixed-use development.

3. Units shall have a maximum of 2,800 square feet, not including detached garages. Projects shall feature a variety of unit sizes within a single development.
4. The minimum setbacks between all structures in a development shall be 15 feet. Eaves may project into the required setback.
5. All other setbacks for all structures shall be according to the standards for the underlying zoning district with a reduction to:
  - a. Front: 10 feet
  - b. Rear: 10 feet
  - c. Side (Interior): 5 feet
  - d. Side (Corner): 10 feet
  - e. The minimum setback from interior roads
6. In the NC District, cottage dwellings must be a part of a mixed-use development where residential and non-residential uses are proportionate to the lot size and approved by the Zoning Administrator on a case-by-case basis. Strictly residential projects shall be discouraged and, if proposed, will require a conditional rezoning and must follow the process outlined in Section 3.3.5.

**B. Common Open Space.**

The minimum common open space requirements set forth in this section are intended to provide a sense of openness, visual relief, and community within the Cottage Home development. Common open space shall be centrally located to provide gathering areas for the development.

1. A minimum of 400 square feet of common open space per cottage is required. A smaller area may be considered on a case-by-case basis by the Zoning Administrator.
2. Required common open space may be divided into separate areas.
3. To be counted as common open space, the area shall have a minimum dimension of 45 feet on all sides.
4. A minimum of 300 square feet of private open space per cottage is required.
5. Landscaping located in common open space areas shall be designed to allow for easy access and use of the space by all residents, and facilitate maintenance needs. Existing mature trees should be retained.

6. Parking areas, yard setbacks, private open space, and driveways do not qualify as common open space. If a community building or amenities are provided, this can count towards the calculation.
7. Dwellings may have frontage on common open space or courtyard.

**C. Pedestrian Connectivity and Walkability.**

A system of interior paved walkways and trails shall connect all cottages with each other, the common open space, and the sidewalks abutting any public streets abutting the development.

**D. Design Standards.**

See Chapter 6 *Design Standards* for design recommendations and requirements.

**E. Parking**

1. See Chapter 7 *Streets, Driveways, and Parking* for parking requirements for single-family dwellings.
2. To offer flexibility, the options of no garage or rear detached and rear attached garages shall be required for variety and styling differences.

***Dwelling, Duplex, Triplex and Quadraplex***

- A. Duplexes, triplexes and quadraplexes shall meet 150 percent of the minimum lot width and depth standards for the zoning district.
- B. In the R-4 zoning district, duplexes are excluded from the cluster subdivision standards.
- C. In the NC District, Dwelling, Duplex, Triplex and Quadraplex must be a part of a mixed-use development where residential and non-residential uses are proportionate to the lot size and approved by the Zoning Administrator on a case-by-case basis. Strictly residential projects shall be discouraged and, if proposed, will require a conditional rezoning and must follow the process outlined in Section 3.3.5.
- D. A good ratio of non-residential and residential shall be provided as deemed appropriate on a case-by-case basis by the Zoning Administrator.

***Dwelling, Multi-Family***

Multi-family developments shall meet the following requirements:

- A. There is no maximum dwelling units per acre in the NC, MS and TC Zoning Districts. These uses are allowed on the 2nd and 3rd stories of multi-use buildings.

- B. Allowed for all stories in the EC district as a special use or conditional zoning only.
- C. Maximum dwelling units per acre is 24 in the EC Zoning District.
- D. Off-street parking shall be located behind or below the building or buildings.

**Electronic Gaming (Sweepstakes)**

- 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 days per week.
- B. The maximum number of machines/terminals/computers for any electronic gaming business is 20.
- C. The establishment must be a minimum of 300 feet from the property line of any residential use located within or outside the Town of Waxhaw municipal limits.
- D. The establishment must be a minimum of 1,000 linear feet from any religious institution and associated uses including cemeteries, congregate care facilities, public and private daycare centers, non-profit clubs, and public or private schools.

**Equestrian Facility**

- A. An equestrian facility may be located on a lot as the principal use or on a lot with a single family residence.
- B. The lot shall be a minimum of 5 acres.
- C. All structures housing horses must meet the following setbacks:
  - 1. At least 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.
  - 2. At least 50 feet from all front, side and rear property lines.
  - 3. At least 100 feet from any pre-existing residential structures located on neighboring properties.

**Event Center**

An event center shall be located only on a property that has access to a collector street, minor thoroughfare, or major thoroughfare. In no case shall an event center locate on a property with access only to a local street.

**Fairground**

All fairground facilities shall be located at least 500 feet from a residential zoning district. Otherwise, all buildings whether permanent or temporary, may not be located within 100 feet of any lot line.

**Family Care Home**

Family care homes shall be allowed as a use by right in the R-1, R-3, and R-4 zoning districts provided that no family care home shall be allowed within on half mile radius of another family care home.

**Food Pantry**

A food pantry in the Residential Zoning Districts can only be permitted as an accessory use to a planned or established nonresidential principal use through a special use permit process.

**Grocery Store**

No drive thru facility for prescription pick up shall be located in front of the building.

**Hotel**

- A. Retail uses and restaurants may be located as accessory uses within any hotel.
- B. Off-street parking facilities shall be separately computed at 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 that is open to the general public.
- C. Entry to sleeping spaces may be from an internal hallway only.

**Live/Work Units**

Live/work units shall meet the following provisions:

- A. The work area use shall be located on the first (ground) floor only and shall occupy up to 50% of the total area of the live/work unit.
- B. Up to two nonresident employees may be allowed in the work portion of the live/work unit when additional parking spaces are provided as required in Chapter 7.
- C. Live/work units shall not exceed 3,000 square feet in gross floor area. The residential and nonresidential portions may be side-by-side or stacked and are not required to have a solid wall separation between them. Live work units shall be designed and constructed to meet all applicable building codes.



### **Nightclub**

Live music shall not be audible beyond property boundary at decibel levels louder than normal background noise if establishments are located within 350 feet of a residence.

### **Racetrack, Outdoor**

- A. No portion of the racecourse perimeter shall be located closer than 300 feet from any exterior lot line.
- B. All racecourses for any motorized vehicle shall be paved.

### **Radio & TV Studio**

The transmission tower may exceed the maximum height requirement for the zoning district in which it is located.

### **Recreation Facility, Outdoor**

- A. All structures (with the exception of swimming pools) shall be located at least 20 feet from any side or rear lot line, except 50 feet shall be required if the structure is in or adjacent to a Residential (R) District. Rear and side yard setbacks for outdoor swimming pools shall be 50 feet.
- B. Fencing, netting, trees, berms, or other control measures shall be provided around the perimeter of driving ranges to prevent golf balls from going onto adjacent properties. Such devices, where applicable, may be counted towards any required screening provided.
- C. Customary buildings and uses such as concession/restaurant facilities, bleachers or outdoor seating for events, and other similar structures shall be considered an accessory use.

### **Recreation Vehicle Park**

The following standards shall apply for all recreational vehicle parks:

- A. The land in a recreational vehicle park development shall be under single ownership or management by the applicant.
- B. The minimum lot size for a recreational vehicle park shall be 5 contiguous acres.
- C. The maximum density shall be 10 parking pads per acre.
- D. A leasing office is required for all recreational home park developments. The office should have regular business hours but also have 24 hour availability for emergencies.
- E. Each individual recreational home lot shall have a dedicated parking space.

- F. Dumpsters are required for solid waste collection and shall meet the screening requirements of Chapter 8 of this Code.
- G. All streets within a recreation vehicle park shall be privately maintained. The minimum width of a one-way street shall be 12 feet and the minimum width of a two-way street shall be 20 feet.

### **Repair & Service of Industrial Equipment**

All repair and servicing operations shall be in an indoor facility.

### **Restaurant with Drive-Thru**

No drive thru facility shall be located forward of the restaurant building.

### **Self Storage**

- A. Driveways providing ingress and egress to the site shall not permit any parking or loading extending to within 30 feet of the adjoining street right of way.
- B. Outdoor storage shall be screened by an opaque fence or wall.
- C. Security lights are to be shielded from all Residential Zoned property adjacent to the self-storage units to prevent undue bright light.

### **Short Term Rental**

- A. A renter may not use a short-term rental for a purpose not incidental to its use for lodging and sleeping purposes. This restriction includes using the rental for weddings, receptions, concerts, fundraisers, or any similar group activity.
- B. No additional parking is required beyond that which is normal to a residential area.
- C. Signs, other than address/tenant identification signs which meet the requirements of Chapter 10 of this Code, shall not be permitted.

### **Solar Electric Power Generation (Solar Farm)**

Solar Electric Power Generation (Solar Farms): Solar Electric Power Generation, also referred to as solar farms, are permitted with a Special Use Permit in the R1 (single family residential) zoning district, subject to the following standards:

- A. Setback: Solar Farms shall adhere to the setback requirements of the underlying zoning district in which the property is located. Additional restrictions may be imposed as part of the approval of a Special Use Permit
- B. Height: Solar panels shall be up to 20 feet tall at maximum tilt

- C. Lot Size: Solar Farms shall be located on parcels of land that are 25 acres or greater in size.
- D. Fencing: All large-scale solar systems shall be enclosed by fencing to prevent unauthorized access. Warning signs with the owner's contact information shall be placed on the entrance and perimeter of the fencing. The height and type of fencing shall be determined by the Town as part of the Special Use Permit review process.
- E. Electrical Lines Underground: On-site electrical interconnection and distribution lines shall be placed underground, unless otherwise required by the utility provider.
- F. Removal of Vegetation: The removal of existing vegetation is limited to the extent necessary for the construction and maintenance of the solar farm installation.
- G. Removal: All obsolete or unused systems and those that are obviously in disrepair or partially dismantled shall be removed within twelve months of cessation of operations by the lot owner.
- H. Decommissioning plan: The applicant must provide a decommissioning plan signed by the party responsible for decommissioning and the landowner (if different) that describes the anticipated life of the solar farm, the estimated decommissioning costs in current dollars, the method for ensuring that funds will be available for decommissioning and restoration, and the anticipated manner in which the solar farm project will be decommissioned and the site restored to its condition prior to the development of the solar farm.

Decommissioning will be required following a continuous six-month period in which no electricity is generated by the facility. The permit holder shall have 12 months to complete decommissioning of the solar farm. Decommissioning shall include removal of solar panels, foundations, structures, cabling, electrical components, conduit, and any other associated facilities as described in the decommissioning plan.

Prior to issuance of an Administrative Permit, the applicant must provide the Town with a performance guarantee in the form of an irrevocable letter of credit in the amount of 125 percent of the estimated decommission cost minus the salvageable value or \$50,000, whichever is greater.

### **Stadium**

Stadiums as a primary use are allowed only by special use in the CC zoning district, under the following:

- A. All principal structures (including bleachers) shall be located a minimum of 100 feet from all adjacent lot lines.

- B. Access to the site shall be provided by major thoroughfares only.
- C. Off-street parking requirements shall be required if the stadium is freestanding and not an accessory use to a school.

Stadiums are allowed as an accessory use on campuses for primary and secondary schools, colleges, or universities.

### **Tiny Home Park**

The following standards shall apply for all tiny home parks:

- A. The land in a tiny home park development shall be under single ownership or management by the applicant.
- B. The minimum lot size for a tiny home park shall be five contiguous acres.
- C. The maximum density shall be eight dwelling units per acre.
- D. A leasing office is required in all tiny home park developments. The office shall have regular business hours but also have 24 hour availability for emergencies.
- E. Each individual tiny home lot shall have a dedicated parking space.
- F. Dumpsters are required for solid waste collection and shall meet the screening requirements of Chapter 8 of this Code.
- G. All streets within a tiny home park shall be privately maintained. The minimum width of a one-way street shall be 12 feet and the minimum width of a two-way street shall be 20 feet.

### **Vineyard & Winery**

Vineyards are allowed only by special use in the EC district only when their operation includes manufacturing and/or distribution by way of an onsite winery, and must be approved by the Zoning Administrator.

The following standards shall apply to all Vineyards and Wineries located in the EC Zoning District:

- A. Shall be permitted on land consisting of at least ten acres, with at least five acres being dedicated to the growing of fruits used to create wine, and only if it meets all State permit requirements for such facilities.
- B. Shall be permitted to have a tap room, tasting room, or restaurant on the same lot.
- C. Wine consumed and sold as retail shall be manufactured from such Winery.

- D. Appropriately scaled special events may be considered an accessory use to a Vineyard and Winery.
- E. Outdoor events and activities shall take place at a minimum of two hundred feet from any property line.
- F. Shall not produce odors, gas, dust, or any other pollutants detrimental to the health, safety, or general welfare of persons living or working in the surrounding properties.
- G. All equipment used during the wine making process visible from the street (excluding alleys), shall be screened using architectural features consistent with the principal structure.

***Wastewater Package Plant***

- A. Wastewater Package Plants are allowed only by special use in all zoning districts.
- B. Screening Standards shall follow the Equipment and Utility Screening as outlined in Section 8.8.1.B. The Zoning Administrator may require additional screening at their discretion as allowed in Section 8.8.1.D.
- C. When abutting adjoining properties, a Class D Buffer shall be required to reduce potential disturbances.
- D. Wastewater Package Plants shall meet all regulations of the National Pollutant Discharge Elimination System (NPDES) including program requirements and criteria, electronic recording, and standards for use or disposal of sewage sludge.
- E. Required maintenance and exercise of control shall be established for the wastewater package plant as required for common areas and facilities as outlined in Section 5.4 Homeowners' Association.

***Welding***

The manufacturing, compounding, or processing of goods or materials shall be conducted within a completely enclosed building. The manufacturing, compounding, or processing of goods or materials shall be conducted within a completely enclosed building.

# chapter 5

## SUBDIVISION REGULATIONS

Section 5.1  
Purpose

Section 5.2  
Compliance and Criteria for  
Approval

Section 5.3  
Applicability and Exemptions

Section 5.4  
Homeowners Association

Section 5.5  
Types of Subdivision Review

Section 5.6  
Minor Subdivisions

Section 5.7  
Major Subdivisions

Section 5.8  
Cluster Subdivisions

Section 5.9  
Final Plat Review Procedure

Section 5.10  
Certificates Required for Final  
Plats

Section 5.11  
Information Required for Plot  
Plans, Preliminary Plans,  
Construction Document Plans,  
and Final Plats

Section 5.12  
Lot Design Standards

Section 5.13  
Improvements

Section 5.14  
Inspections of Improvements

Section 5.15  
Acceptance of Improvements

Section 5.16  
Improvement Guarantees /  
Partial Release

### **Section 5.1 Purpose**

This chapter establishes procedures and standards for the subdivision and development of real property within the corporate and zoning limits of the Town, in an effort to ensure proper legal description, identification, documentation, and recordation of real property boundaries. Further, this Code shall promote the orderly layout and appropriate use of the land; provide safe, convenient, and economic circulation of vehicular traffic and pedestrian movement; provide suitable building sites that are readily accessible to emergency vehicles; assure the proper installation of streets and utilities; promote the eventual elimination of unsafe or unsanitary conditions; and help conserve and protect the physical, environmental, and economic resources of the Town of Waxhaw.

### **Section 5.2 Compliance and Criteria for Approval**

All plats for the subdivision of land within the Town shall comply with all requirements of NCGS 160D and the requirements specified in this chapter as well as the requirements of this Code before any plat can be recorded or lots sold. No final plat of a subdivision within the jurisdiction of the Town shall be recorded by the Union County Register of Deeds until it has been approved as provided in this Code.

Refer to Section 5.11 for complete list of plat requirements.

### **Section 5.3 Applicability and Exemptions**

A subdivision shall include all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets. However, the following shall not be considered a subdivision nor be subject to the requirements of this chapter and shall be considered exempt:

- A. 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 these regulations.

- B. The division of land into parcels greater than ten acres where no street right-of-way dedication is involved.
- C. The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.
- D. The division of a tract in single ownership whose entire area is not greater than two acres into not more than three lots, where no street right-of-way dedication is involved, and where the resultant lots are equal to or exceed the standards of the underlying zoning district.
- E. The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the North Carolina General Statutes.
- F. Cemeteries that divide plots of land for burial of the deceased.

### **Section 5.4 Homeowners' Association**

A homeowners' association shall be required for maintenance of improvements that are associated with a subdivision and are not dedicated for public use. The homeowners' association must have clear legal authority to maintain and exercise control over the common areas and facilities and 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 the legal document granting this authority 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.

### **Section 5.5 Types of Subdivision Review**

- A. Exempt Subdivision – Subdivision of property exempted as defined in Section 5.3 of this Code and NCGS 160D.
- B. Minor Subdivision – a subdivision having:
  1. no more than 9 lots,
  2. no installation of a private wastewater treatment facility or a private water supply system for more than one lot or building site,
  3. no dedication of public right of way for the lots being created, and
  4. no new installation of drainage improvements through one or more lots to serve one or more other lots.



C. Major Subdivision – all subdivisions not defined as minor or exempt by this Code.

**Classification of Subdivision Review:**

Subdivision Type	Review Type	Decision Maker	Review Time
Minor Subdivision	Plot Plan	Administration	30 days
Minor Subdivision	Final Plat	Administration	15 days
Major Subdivision	Preliminary Plan	Board of Commissioners	3 months
Major Subdivision	Construction Document Plan	Administration	
Major Subdivision	Final Plat	Administration	
Exempt	N/A	Administration	5 days

**Section 5.6 Minor Subdivisions**

A plot plan per requirements of Section 5.11 shall be prepared and submitted in conjunction with an application for a proposed minor subdivision. Staff shall review the plot plan and may also distribute the plans to the Town’s Technical Review Committee. A plot plan must be approved prior to any work commencing on the site. A final plat shall be submitted for recordation within one year of a plot plan approval, otherwise the plot plan shall be considered null and void.

**Section 5.7 Major Subdivisions**

Major subdivisions shall be identified as all other subdivisions that do not qualify as minor in Section 5.6 or exempt as per Section 5.3.

A Traffic Impact Analysis (TIA) is required if warranted as part of the preliminary plan review process for a major subdivision. A TIA must be conducted according to the standards of the Town’s adopted TIA ordinance. The Town Engineer shall determine if a TIA is warranted.

A pre-application meeting is required for all major subdivisions. The purpose of the pre-application meeting is for staff to gather information about the project proposal and its merits and to inform the potential applicant on the requirements and processes. No subdivision application will be processed without completing a pre-application meeting.

**Section 5.7.1 Preliminary Plan Review and Approval Process by Board of Commissioners**

A preliminary plan shall be prepared per the requirements of Section 5.11 and submitted in conjunction with an application for a proposed major subdivision. Staff shall distribute the preliminary plans to the Technical Review Committee for review and comment if the Planning Department deems necessary. Section 5.11 depicts the information required for a complete submittal of a preliminary plan.

A conditional zoning district approval may preclude an applicant from having to obtain a preliminary plan approval for a major subdivision. If the proposed subdivision is located in an approved conditional zoning district and conforms to the approved plan, the Zoning Administrator may determine that it is exempt from preliminary plan approval.

The Planning Board shall review the preliminary plan and recommend to the Board of Commissioners approval or denial of the plan based upon meeting the criteria of this chapter, this Code, and NCGS 160D. If a preliminary plan is approved, the applicant may then prepare construction document plans for review per the process in Section 5.7.3 and per information required in Section 5.11.

A final plat prepared per Section 5.11 shall be submitted for recordation within two years of a preliminary plan approval, otherwise the preliminary plan shall be considered null and void. Application can be made to extend a preliminary plan approval an additional two years. The extension shall be approved or denied by the Board of Commissioners.

**Section 5.7.2 Revisions to an Approved Preliminary Plan**

Minor revisions to a preliminary plan may be approved by the Zoning Administrator under the following conditions:

- A. Lot configuration changes that do not amount to more than 10% of the project area.
- B. Reduction in number of lots approved by the Board of Commissioners during the preliminary plan approval.
- C. A change in location of open space on not more than 10% of the designated open space area.
- D. Changes to the street alignment that do not change the scope of the project. Other lot design standards that equal no more than a 10% change to the project area.
- E. Other changes that in no way significantly alter the original approved preliminary plan.
- F. All other revisions to a preliminary plan shall require a new review and approval from the Board of Commissioners.

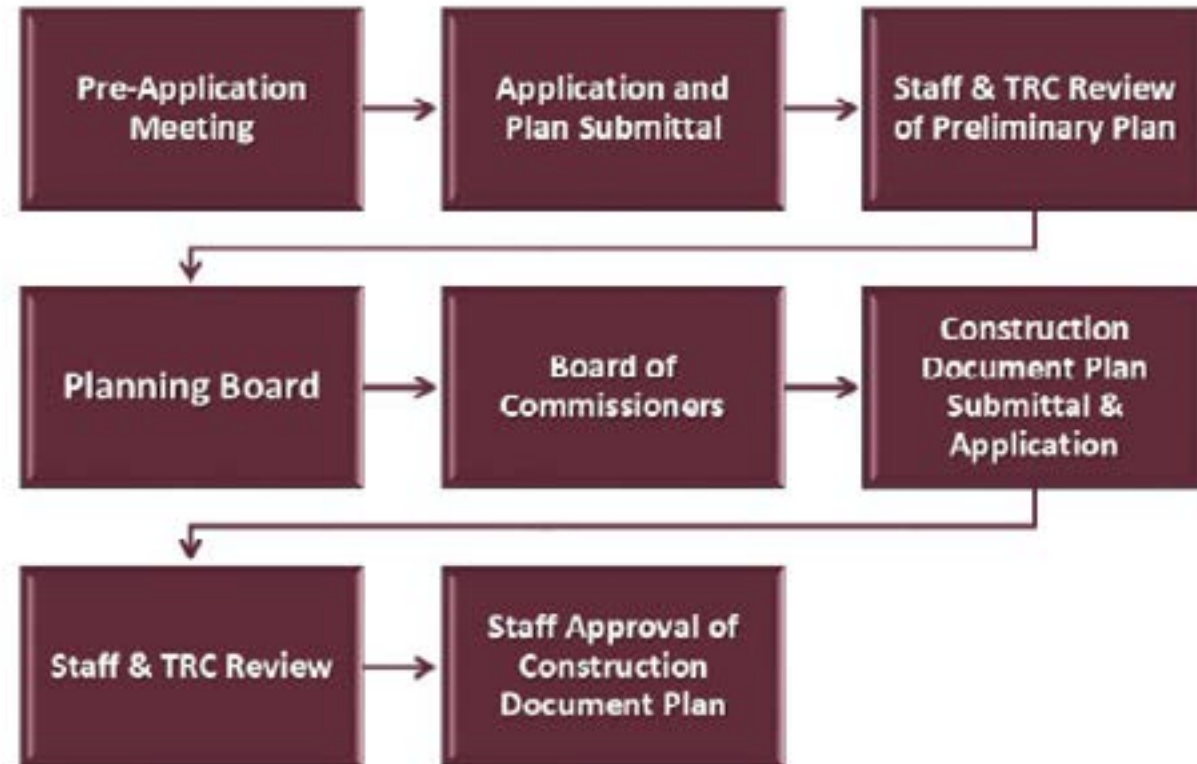
**Section 5.7.3 Construction Document Plan Review Process**

Preliminary plans for major subdivisions approved by the Board of Commissioners must then complete a construction document plan review. The applicant may submit the construction document plans based on their proposed phasing if desired. The applicant shall submit fully engineered plans for the construction document review. Section 5.11 (Information Required for Preliminary Plans, Construction Documents Plans, and Final Plats) depicts the information required for a complete submittal of a construction document plan.

Staff shall distribute the construction document plans to the Technical Review Committee (TRC) for review and comment. Staff shall approve the construction document plans once the applicant meets all requirements of this Code and requirements of other TRC review agencies, if applicable.

Construction document plans must be administratively approved prior to work commencing on the site.

**Fig. 5.7.3 Construction Document Plan Review Process**



**Section 5.7.4 Phasing**

Lots may be recorded and public improvements may be constructed in phases. The Zoning Administrator shall ensure that the phasing plan is in accordance with the approved preliminary plan. The preliminary plan must clearly show how many phases are proposed.

The phasing plan shall include a timetable for estimated phasing, completion of grading, infrastructure improvements, landscaping, lighting, and any other improvements to be dedicated to the public.

Final plats can be submitted for one or more phases at a time.

A residential subdivision of single family detached homes must be larger than 50 lots for phasing to be implemented. All other uses may be phased as determined by the Zoning Administrator.

**Section 5.8 Cluster Subdivisions**

Cluster Subdivisions are allowed only in the R-3 and R-4 Single Family Residential districts, and are applicable to only single-family attached and single-family detached homes. The maximum dwellings per acre may increase from 3 units per acre to 3.5 units per acre for single family detached housing in the R-3 district and 4 units per acre to 5 units per acre in the R-4 district, subject to the following criteria:

A. Must be able to connect to the public water and sewer system

Union County Public Works may allow septic systems in special circumstances where a small percentage of the proposed lots cannot reasonably connect to the public sewer system.

B. A minimum of 20% of the land must be designated as open space.

1. The open space shall be owned by the homeowners' association.
2. All or a portion of the open space may be dedicated to the Town if the Town determines there is a public interest and benefit.
3. All or portion of the open space may be dedicated to an organization that conserves land if the Town determines there is a benefit.

C. Lot dimensional requirements may be reduced by 25% of the standards of the R-3 and R-4 Single Family Residential Districts.

If 25% or more of the land is dedicated to open space then the side setbacks can be reduced by 50%, but in no case shall be less than 5 feet.

D. The project area must be a minimum of 5 acres in size. A smaller area may be considered on a case-by-case basis by the Zoning Administrator.

**Section 5.9 Final Plat Review Procedure**

Prior to recording, a final plat shall be prepared and submitted to the Planning Department for review and approval. No final plat will be considered for approval without first:

- A. Obtaining administrative approval of a plot plan for minor subdivisions; or obtaining Board of Commissioner's approval of a preliminary plan for major subdivisions.
- B. Obtaining administrative approval of construction document plans for major subdivisions.
- C. Completing the installation of required improvements in accordance with the approved construction document plan requirements of this Code; and completing a satisfactory inspection of the improvements that have been installed by Town staff and other relevant agencies and organizations.

Financial guarantees in a form acceptable to the Town (such as a bond or irrevocable letter of credit) that guarantees the improvements will be completed as shown on a preliminary plan and construction document plan. See **Section 5.16 Improvement Guarantees/Partial Releases**

Section 5.11 (Information Required for Preliminary Plans, Construction Documents Plans, and Final Plats) depicts the information required for a complete submittal of a final plat.

Once all requirements of the construction documents plans have been met, the final plat shall be prepared and submitted to the Town for review and approval by the Zoning Administrator. Following execution of the final plat, the plat can be recorded at the Register of Deeds.

As built drawings shall be prepared and provided to the Town for permanent file.

**Fig. 5.9 Final Plat Review Procedure**



The Town and other review agencies reserve the right to ask for additional information deemed necessary for review of a proposed subdivision. Conversely, the Zoning Administrator may waive any of the information required if deemed unnecessary. Refer to submittal checklists described in this section for submittal requirements.

**Section 5.10 Certificates Required for Final Plats**

Before the Zoning Administrator accepts a final plat, the following certifications shall appear on the prepared plat:

**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 Jurisdictional 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, 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 plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book \_\_\_\_\_, Page \_\_\_\_\_, and/or other description); that the boundaries not surveyed are clearly indicated as drawn from information found in Book \_\_\_\_\_, Page \_\_\_\_\_; that the ratio of precision as calculated is 1: \_\_\_\_\_; that this plat was prepared in accordance with NCGS 47-30 as amended.

Witness my original signature, registration number and seal this \_\_\_\_\_ day \_\_\_\_\_ of, 20\_\_.

\_\_\_\_\_ Surveyor's Signature \_\_\_\_\_ Registration Number



**CERTIFICATION OF APPROVAL**

I hereby certify that this Final Plat is in substantial compliance with the Preliminary Plan as approved in accordance with the Waxhaw Land Development Code, 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

**REVIEW OFFICER'S CERTIFICATE**

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

\_\_\_\_\_  
Date Review Officer

**Section 5.11 Information Required for Plot Plans, Preliminary Plans, Construction Documents Plans, and Final Plats**

Information	Plot Plan	Preliminary Plan	Construction Document Plan	Final Plat
<b>A. General Information:</b>				
Name of Subdivision	X	X	X	X
Name and contact info of Owner/ Subdivider	X	X	X	X
Location (including municipality, county, state)	X	X	X	X
Scale of drawing depicted in words and graphics	X	X	X	X
Date of plan prepared	X	X	X	X
Name, contact info, registration number, seal of the registered land surveyor	X	X	X	X
Name and contact info of the preparer	X	X	X	X
Vicinity Map	X	X	X	X
North Arrow	X	X	X	X
Corporate Limits, county lines if on subdivision tract.	X	X	X	X
New boundary lines created by a subdivision	X	X	X	X
Existing boundary lines prior to new subdivision	X	X	X	X
Parcel number(s) of subject tract and adjoining tracts	X	X	X	X
Names of owners of adjoining tracts	X	X	X	X
Acreage/square feet in total tract to be subdivided	X	X	X	X
Total parcels created by subdivision	X	X	X	X
Acreage of parcels created by subdivision	X	X	X	X
Lots numbered consecutively throughout the subdivision	X	X	X	X
Mailbox locations		X	X	
Historical Properties on National or State Register, if Applicable	X	X	X	X
<b>B. Zoning Dimensional Information:</b>				
Existing/proposed zoning district of subject property	X	X	X	X
Existing zoning of adjoining tracts	X	X	X	
Building setback lines	X	X	X	X
Existing buildings	X	X	X	
Proposed buildings	X	X	X	
Building height requirements	X	X	X	X

Information	Plot Plan	Preliminary Plan	Construction Document Plan	Final Plat
<b>C. Environmental Information:</b>				
Wooded areas, marshes, swamps, rock outcrops, ponds or lakes, streams or streambeds, and any other natural features affecting the site.	X	X	X	X
Location of the flood hazard, floodway, and floodway fringe areas from the community's FEMA maps or other approved maps.	X	X	X	X
Topography (contour lines)	X	X	X	
Landscaping Required by Code	X	X	X	
Erosion and Sedimentation Control Plan			X	
Stormwater Control Structure locations	X	X	X	X
Stormwater Control Structure Details			X	
<b>D. Streets and Blocks Information:</b>				
Proposed streets	X	X	X	X
Existing streets within and adjoining subdivision	X	X	X	X
Rights-of-way, location and dimensions	X	X	X	X
Street cross sections and pavement details			X	
Design engineering data for all corners and curves			X	
Block lengths in linear feet		X	X	
Cul-de-sac details			X	
Curb and gutter locations		X	X	
Curb and gutter details			X	
Sidewalk locations		X	X	
Sidewalk details			X	
Handicap ramp locations		X	X	
Handicap ramp details			X	
Traffic Control Devices			X	
Traffic Site Triangle			X	X
Street lighting (location and type used in subdivision)			X	
Street signs (type used in subdivision)			X	
Street names			X	X

Information	Plot Plan	Preliminary Plan	Construction Document Plan	Final Plat
<b>E. Utility Information</b>				
Water line locations and sizes	X	X	X	
Fire hydrant locations	X	X	X	
Fire hydrant details			X	
Sewer line locations and sizes	X	X	X	
Sewer line details			X	
Storm drainage locations and sizes	X	X	X	
Storm drainage details			X	
Storm drainage calculations			X	
Septic systems, if necessary	X	X	X	
Easements existing and required (water, sewer, drainage)	X	X	X	X
Other utility locations (natural gas, electric, telephone, cable, internet, etc.) above/below ground	X	X	X	
Other utility easements (natural gas, electric, Telephone, cable, internet, etc.) above/below ground	X	X	X	
<b>F. Landscaping Information:</b>				
Street tree locations	X	X	X	
Street tree details			X	
Utility strip locations	X	X	X	
Perimeter buffer and screening locations	X	X	X	X
Perimeter buffer and screening details			X	
<b>G. Recreation, Public and Open Space Information:</b>				
Pedestrian and bike path locations	X	X	X	
Pedestrian and bike path easements	X	X	X	
Pedestrian and bike path details			X	
Parks and recreation areas and acreage with specific type indicated	X	X	X	X
School sites and acreage, if applicable	X	X	X	X
Areas and acreage to be dedicated to or reserved for public use	X	X	X	X
Areas and acreage to be dedicated to homeowner's association	X	X	X	X
Proposed homeowners association documents and covenants			X	
Recorded homeowners association documents and covenants				X
<b>End of table</b>				

**Section 5.12 Lot Design Standards**

All subdivisions must meet the minimum lot design standards herein. All subdivisions must meet the requirements of applicable sections of this Code within and outside this chapter and the Town’s Engineering Design and Construction Standards Manual. 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. A buffer yard shall be required around the perimeter of all major subdivisions. For minimum buffer yard requirements, refer to Section 8.6 Residential Perimeter Tree Buffer. This does not pertain to portions of a subdivision that fronts a street. Refer to Chapter 8 of this Code for Street Buffer Yard requirements.
- B. Lighting along public streets is required for all major subdivisions. Refer to Chapter 8 of this Code and the Town’s Engineering Design and Construction Guidelines Manual for lighting requirements.
- C. Refer to Chapter 7 of this Code and the Town’s Engineering Design and Construction Guidelines Manual for streets, blocks, sidewalks, greenways, utility standards and details.
- D. Every lot or parcel of land shall front a public street and shall meet the dimensional requirements of the underlying zoning district, unless otherwise approved as part of a conditional zoning or special use permit.
  - 1. Frontage on a public street shall not be required in the following situations, if an easement to connect the lot to the public street is provided.
    - a. Parcels within non-residential subdivisions
    - b. Multi-family lots where individual lots are separated from the public street by land under common ownership by the owners of the multi-family development
    - c. Cottage Homes or single-family attached, where homes front a common open space or courtyard. See Special Requirements in Chapter 4 of this Code.
  - 2. Lots or parcels located on a cul-de-sac shall provide:
    - a. Lot frontage of at least 50% of the minimum required from the underlying zoning district, but in no case less than 25 feet.
    - b. The minimum required lot width at the front building setback line.
- E. Corner lot lines shall be at right angles to straight street lines or radial to curved street lines.
- F. Corner lots shall add 5 feet to the minimum side yard setback dimensional requirement on the street side.

- G. Double frontage lots shall meet the minimum front yard setback dimensional requirement for both frontages.
- H. Flag lots may be developed on a limited basis in subdivisions where individual development of each lot is contemplated and the Zoning Administrator determines that no future street access through the property will be needed. Flag lots may be used to better use irregularly shaped properties or sites with physical limitations, or to eliminate or reduce access to a thoroughfare or collector street. Flag lots shall not be permitted in any proposed Subdivision except as provided for in this section. The minimum lot width shall be 25 feet for all flag lots.

Size of Subdivision	Maximum Number of Flag Lots
2 - 20 lots	1 lot
Over 20 lots	1 per very 20 lots

**Section 5.13 Improvements**

All site improvements shall be in accordance with applicable standards, including, without limitation, the provisions of this Code and the Town’s *Engineering Design and Construction Standards Manual*, 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 (NCDOT and all its applicable rules, regulations, and policies).

All construction sites shall be kept in a manner that is reasonably safe. If works ceases, or is expected to cease, for a period of 90 days or more, the site shall be made reasonably safe and secure.

Except as herein provided, before a final plat is eligible for approval 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.

**Section 5.14 Inspections of Improvements**

During the installation of land and the installation of improvements for a subdivision, periodic inspections may be made by the appropriate staff from both Town and State agencies at any time during the progress of work to ensure conformity with the approved plans, specifications, and standards.

**Section 5.15 Acceptance of Improvements**

Once a final plat has been recorded, a developer shall apply to the Public Services Director to have their improvements accepted by the Town for maintenance. For the Town to accept improvements, the Public Services Director and Town Engineer shall find that the applicant has satisfactorily met the acceptance criteria in this Code and the *Waxhaw Engineering Design and Construction Standards Manual*.



The Town Engineer shall certify that the improvements meet Town standards and then the Board of Commissioners shall accept the improvements for maintenance. The Town will accept only those improvements that have been completed and will not accept any improvements that are part of an improvement guarantee.

No local residential street shall be accepted by the Town until the sufficient percentage of lots on the street, as described in the *Waxhaw Engineering Design & Construction Standards Procedures Manual*, have been issued a Certificate of Occupancy. All other streets shall be considered for acceptance at the discretion of the Town.

As-built drawings are required prior to final inspections of improvements. Refer to the *Waxhaw Engineering Design & Construction Standards Procedures Manual* for As-built drawing requirements.

### **Section 5.16 Improvement Guarantees/Partial Releases**

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 one or more phases of the subdivision. Once the agreement is approved by the Zoning Administrator, executed by the Town and the applicant, and the applicant provides the required security, a final plat for the entire subdivision or subdivision phase may be approved by the Town if all other requirements of this Code 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. Prior to submitting the guarantee, the applicant must submit a cost estimate which details the improvements to be secured by the guarantee. The Town's Engineer will review the estimate to The Town's Engineer will verify the 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 will 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:

- A. 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 improvements are accepted for maintenance by the Town. Zoning Administrator accepts the improvements.
- B. 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 a letter of credit or other instrument is used to secure the improvements language must be included in the letter of credit or other instrument which states that it automatically renews until such time as the improvements are accepted by the Town. 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:

1. 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
2. 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.

Should the applicant fail to complete required improvements within 12 months of the final plat approval or receive a written extension 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 their discretion, may use all or a portion of the dedicated funds as deemed 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.

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 be allowed only one such request for each recorded plat. Such funds shall be released within ten days after the corresponding improvements have been approved.

Upon completion of all the improvements and acceptance by the Town, the applicant will request a final release of the remaining amount of the security in writing. The request must include the date that the improvements were accepted by the Town (to be verified with the Public Services Director), the instrument number or other identifying information, the amount, and the name and address where the security will be mailed. The security will be released and mailed to the applicant within ten days of the date of the request.

## DESIGN STANDARDS

Section 6.1  
Purpose

Section 6.2  
Scope

Section 6.3  
General Principles

Section 6.4  
General Architectural Standards

Section 6.5  
Civic/Landmark Buildings, the  
NC District, and Public Art

Section 6.6  
Commercial, Mixed-Use, and  
Multi-Family Design Standards

Section 6.7  
Employment Center Design Stan-  
dards

Section 6.8  
Residential Design Standards

### **Section 6.1 Purpose**

The design standards set forth in this chapter are intended to serve planners, designers, developers, artists, landowners and the general public.

These design standards are intended to promote:

- The development, improvement, and redevelopment of land, buildings and structures in a manner that is consistent with the identity and character of Waxhaw as expressed through its design pattern and detailing set forth in the adopted vision and planning documents of the Town.
- High quality, pedestrian-scale architecture and site design.
- High connectivity of transportation modes including streets, sidewalks, bike lanes, greenways and trails to provide a variety of transportation choices/opportunities for residents and visitors.
- A diversity of housing types that attract residents of all age groups and socioeconomic status.
- Opportunities for investment to improve the vitality of the various districts of the Town.
- The creation of commercial, office and industrial developments which result in increased local employment opportunities and a positive community influence.
- Health, safety and high quality of life for the Waxhaw community.

These standards are further provided to inform readers regarding many of the most common design and aesthetic intentions and minimum standards of the Town.

### **Section 6.2 Scope**

The design principles set forth are intended to inform and guide all expressions of built form in the Town, including: developments, buildings, structures, paths, streetscapes, alleys, squares and parks, fountains, temporary event structures, monuments, building ornamentation, murals, and other public art.

The provisions of this Chapter shall apply to all properties and rights-of-way within the zoning jurisdiction of the Town of Waxhaw. The Zoning Administrator shall determine if the requirements and intent of this chapter are being met.

### **Section 6.3 General Principles**

#### **A. Waxhaw identity**

1. The rich architectural vocabulary of Waxhaw presents a wide variety of development opportunities using traditional forms while avoiding any sense of monotony. Buildings are expected to be added to the Town as long-term additions to the architectural vibrancy of the community.
2. 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.
3. Buildings that are stylized to use the building itself as advertising shall be discouraged, particularly where the proposed architecture is the result of a “corporate” or franchise style.

#### **B. Sustainable Building Practices and resilience to natural hazards.**

Use of alternative energy sources is encouraged, including but not limited to solar panels and photovoltaic solar collectors. The appearance of such items must be approved by the Administrator prior to any construction.

#### **C. Context sensitive development goals - sensitivity to historical, cultural and natural environment.**

1. Respect or emulate existing or envisioned context and spatial patterns of development and the surrounding environment (transect). The development shall be designed, operated and maintained in a manner considered consistent by the Administrator with the character of adjacent property and the surrounding area.
2. Preserve the environmental, scenic, aesthetic, historic, and natural resource values of the area.
3. Keep development in harmony with the community, with minimal disruption.

4. Diagrammatic compatibility – matching the key schematic elements of a composition for a block or district. This includes approximate massing, proportions, overall height and setback lines, relationship of the building to the street, to its site, and the rhythm of buildings along the street in relation to one another.

D. Architectural integrity

1. A way of building that emphasizes form following function.
2. The purpose of artistic components and detailing is to reveal and complement the larger design and function of a structure. Ornamentation that appears tacked on, haphazard, devoid of utility, or in any other way does not fulfill a design purpose appropriate within the Town is prohibited. For example, false front commercial architecture.

E. ADA Compliance/Accessibility

All new construction and alterations of public and commercial facilities shall comply with Americans with Disabilities Act (ADA) current standards.

**Section 6.4 General Architectural Standards**

**6.4.1 Applicability**

The standards described in this section apply to all construction and alterations within the zoning jurisdiction of the Town of Waxhaw.

**6.4.2 Architectural Style**

The building design standards of this section 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. The standards herein are not intended to precisely replicate the existing built form of Waxhaw, but are intended to recall a certain stylistic impression, as well as encourage imaginative and quality design that is complimentary to the existing built environment.

**6.4.3 Compatibility:**

- A. Adjacent buildings should relate in similarity of scale, bulk, height, architectural style, materials, and configuration unless approved by the Zoning Administrator. Spatial elements like massing, proportion, scale, setbacks, spaces between buildings and their relative positions should be used to integrate new development into existing surroundings.
- B. All new construction shall conform in lot width and setbacks to adjacent existing and proposed structures, unless approved by the Zoning Administrator.

- C. Whenever possible, retain and preserve historic storefronts and materials such as entryways, display windows, doors, architectural detail, etc. When repairing or renovating, remove non-historic storefront or façade treatments that include metal cladding.

**6.4.4 Proportions and Scale:**

- A. Architectural elements like openings, sill details, bulkheads, posts, and other architectural features shall be used to establish human scale at the street level.
- B. Windows, doors, columns, eaves, parapets, and other building components must be proportional to the overall scale of the building.
- C. All windows shall be vertically shaped with a height greater than width (unless the architectural style dictates a different proportion), including display windows but not transoms or decorative attic windows.

**6.4.5 Siting and Orientation:**

- A. The principal building shall front a street or recreational open space.
- B. Insofar as is practicable, developments in NC, MS and TC zoning districts shall be oriented toward streets, and/or significant public spaces, such as parks or plazas.
- C. All new construction shall be oriented to the street, unless otherwise specified in this Code or approved by the Zoning Administrator.
- D. Insofar as is practicable, developments should be arranged so as to preserve or enhance vistas.
- E. If alley access is provided, the principal building may front common open space. The alley shall be sufficiently designed to allow for emergency services, utilities, and garbage collection. In districts that permit multiple buildings per lot, accessory and secondary buildings may have orientations that vary; however, the rear façade, or service side of any building, shall not front a street or common open space. When there is no clear or definable principal building, such as in the case of a shopping center, development is considered a Campus-Style Development.
- F. Campus-Style Development is typically characterized by the clustering of uses within inwardly-oriented buildings that address one another, a public common space, or parking area, and where there is generally greater open space and buffering from surrounding lesser intensive uses. This type of development typically includes:
  1. A unified system of sidewalks, paths, streets, and drives;
  2. A unified design of common themes represented in building design, material, signage, and lighting; and



3. A master utility plan.

G. Elements of the development plan should be arranged to maximize the opportunity for privacy by the residents of the project and minimize infringement on the privacy of adjoining land uses.

#### 6.4.6 Patterns and Repetition

Building designs shall avoid long, monotonous, uninterrupted walls or roof planes on their visible facades. Exceptions may be approved by the Zoning Administrator for developments that include architecturally significant colonnades or arcades in their facades. Linear structures shall include architectural elements such as covered walkways, colonnades, arcades, and similar features designed to provide shelter, encourage pedestrian movement, and visually unite the building. 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.

Reducing building mass and providing a human scale of building design may be achieved through a variety of architectural methods including, but not limited to: variations in roofline, building texture, paint color, or the inclusion of features such as colonnades, arcades, awnings, porches, etc.

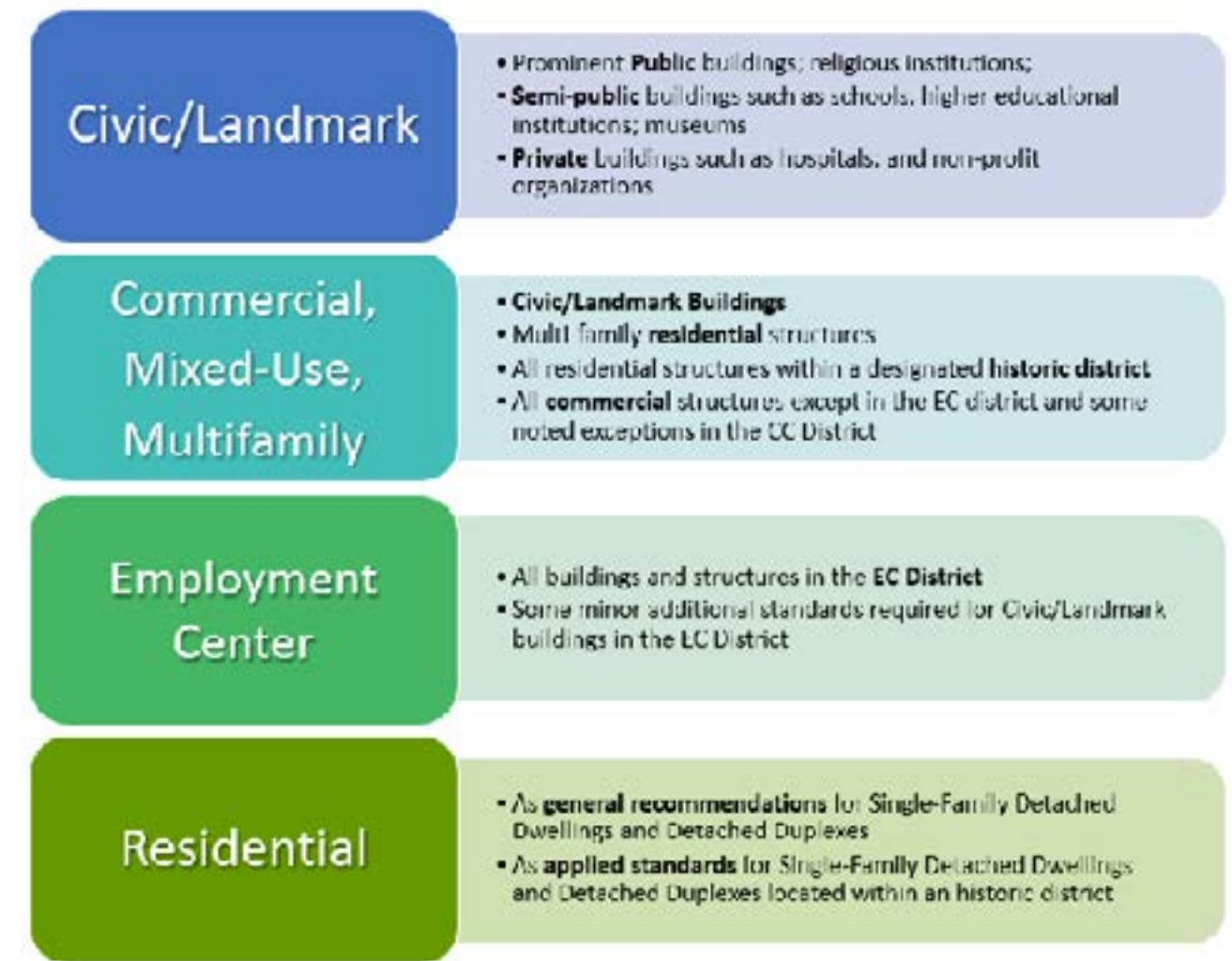
#### 6.4.7 Design Standard Levels

A. While the design standards set forth in this Code are intended to promote and produce a common design identity throughout the Town and all of its districts, various degrees of standardization are necessary within various district types in order to meet the broader goals of the Town.

B. All design standards are to be classified into one of the following levels:

1. Civic/Landmark Buildings, the NC District and Public Art Standards
2. Commercial, Mixed-Use and Multi-family Design
3. Employment Center
4. Residential

Figure 6.4.7 Design Standard Levels



#### Section 6.5 Civic/Landmark Buildings, the NC District and Public Art

##### 6.5.1 Applicability

The Civic/Landmark building type includes prominent institutional public buildings such as libraries, town halls, civic halls, post offices and other government facilities; religious institutions; semi-public buildings such as museums, universities, colleges and schools; private buildings such as hospitals; and non-profit or charitable clubs and organizations. These standards do not apply to ancillary buildings or structures used primarily for maintenance or storage in support of the primary use of the property.

##### 6.5.2 Standards for Civic/Landmark Buildings

Civic/Landmark Buildings shall:

A. Be sited to terminate a street vista whenever possible and must incorporate appropriate prominent features, designs, and entrances to celebrate a visual termination.

- B. Incorporate architectural and site features, building heights, scale, detailing, materials, colors, forms and patterns that are found in the Main Street (MS) District’s National Historic District, though in a manner that is authentic to the intended style of the new building or structure. These elements shall include but are not limited to: roofing, cornice lines, arches, fenestration, furnishings, lighting, and paving patterns.
- C. Include well-designed pedestrian plazas, courtyards, or similar landscaped areas in an architecturally appropriate manner, in order to serve dominant pedestrian circulation needs, permit significant views, allow natural lighting and flow of air into interior spaces, increase aesthetic appeal, meet architectural historic precedent, and provide for the general quality of the public realm.
- D. Respect the character of the fronting streets through the provision of a pedestrian-friendly orientation including clear entrances from the street, adjacent plazas, courtyards and greenways, as well as walls with adequate fenestration of a proportion, quantity and arrangement appropriate to and reflective of the building’s architectural style.
- E. Meet all Mixed-Use and Commercial Building Design Standards that do not conflict with or detract from the aforementioned standards.
- F. Alteration of Surfaces in the Main Street (MS) District:
  1. Historic Commercial Buildings or contributing structures located within the MS District shall retain and preserve masonry features that serve to define the overall historic character of the building (such as walls, brackets, railings, cornices, window, and door surrounds, steps, and columns). Applying paint or other coatings to masonry that has been historically unpainted or uncoated is not allowed.
  2. Non-historic Commercial Buildings or noncontributing structures located within the MS District shall be kept compatible with the style and character of the Downtown. Applying paint or coatings to the masonry shall be permitted only when deemed compatible by the Zoning Administrator with surrounding historic commercial buildings within the MS District.

### 6.5.3 Public Art Defined

Public art is defined in this Code as physical or visual artistic expression produced through any media that has been planned and executed with the intention of being performed or displayed either in public space, or within view of the public realm, and that may or may not be physically accessible to the public. This Code defines “art” as: a selective re-creation of reality according to an artist’s metaphysical value judgments.

Public art may vary widely in terms of size, media, permanency, form, degree of functionality, interactivity, and integration with existing architecture or landscape. Examples may include but are not limited to: free-standing sculpture, mobiles, murals, collages, bas-reliefs, paintings, drawings, photography, stained-glass, textile wall-hangings, mosaic pavements, fountains, decorative outdoor furniture, carvings,

engravings, multi-media productions, architectural ornamentation, monuments, live or recorded performance, digital projections, and creative landscapes and earthworks.

### 6.5.4 Standards for Public Art and Ornamentation

As with all other elements addressed by this Code, public art occupies the shared public realm and affects the welfare and quality of life within it. Therefore, this Code provides sensible guidelines for its production and execution with the following standards:

- A. Advertisement – Public art shall not include advertisements but may include a placard indicating the name of the artwork, the name of the artist, and information about the artwork. Advertisement includes logos, images, text or elements that relate directly to a specific business or organization’s branding or marketing themes.
- B. Nuisance/hazard – Public art shall not present a safety hazard, or any nuisance in terms of noise or other distraction or present any physical or visual obstruction to the public right-of-way.
- C. Profane or vulgar – public art shall not violate the standards of common decency.
- D. Yard art clutter – Public art shall be distinctive and not excessive in quantity on any particular site.
- E. Durability – Public art that is intended for an extended period of outdoor exposure shall be constructed using all-weather materials. Permanent public art shall include a maintenance agreement.
- F. Public artwork must be approved by the Board of Commissioners. Refer to the current Waxhaw Public Art Policy for the process and procedure of the Town’s acquisition, display, retention and deaccession of public art.

## Section 6.6 Commercial, Mixed-Use and Multi-family Design Standards

### 6.6.1 Applicability

The standards of this section shall apply to all Civic or Landmark Buildings, all residential structures other than Single-Family Detached Dwellings and Detached Duplexes (unless located within a national or local historic district, per N.C.S.L. 2015-86); and all commercial structures in all districts except the EC district, and some exceptions for the CC district noted in **bold**.

### 6.6.2 Roof and Eaves

- A. All roof forms shall have no less than two of the following features:
  1. A flat roof with parapet
  2. A cornice or molding to define the top of a parapet

3. Overhanging eaves
  4. Sloping roofs
  5. Multiple roof planes
- B. Flat roofs are permitted but shall be detailed with a parapet to conceal all rooftop appurtenances from view. Flat Roofs shall be screened with parapets on all sides.
- C. Sloped roofs shall be of dimensional composition shingles, tile, slate, shakes, standing seam roofing or combinations thereof.
1. Minimum pitch of sloped roof should be 5:12 and 6:12.
  2. 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 slope of less than 6:12.
  3. Sloped roof overhangs must project in a manner in keeping with the architectural style of the building.
- D. 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.
- E. Main roofs on residential buildings shall include gables, hips or clerestory with a pitch between 5:12 and 12:12.
- F. Flush eaves must be finished by profiled molding or gutters.
- G. Mansard roofs used for a story façade is not permitted. Mansard roofs should have functional dormers.
- H. Other Roof Requirements
1. Roof drainage shall not be directed across any walkways, streets or adjoining properties unless approved by the Zoning Administrator.
  2. Skylights shall be flat (non-bubble).
  3. All rooftop equipment shall be screened from public view.
- I. Roofs shall be clad in slate, sheet metal, corrugated metal, or diamond tab asphalt shingles, or other material similar in appearance and durability.
- J. Civic buildings - Gutters and down spouts shall be made of copper or galvanized painted metal.

**1. In the CC District, gutters and down spouts may be constructed of other industry standard materials approved by the Zoning Administrator.**

- K. All roofs shall have a minimum 25-year roof warranty.
- L. Roll roofing is not permitted on pitched roofs.
- M. Rooftop patios shall meet all applicable state building standards, and use railing and/or parapets that are consistent with the architectural style of the building.

**6.6.3 Façade Treatment and Building Walls**

- A. The appearance of all exposed façades (not just the street side façade) is important and shall be addressed in development design.
- B. Façades of buildings shall contain at least two building materials which contrast in color and texture.
- C. The predominant material of the façade, exclusive of windows, doors and trim, shall consist of stone or brick, unless approved by the Zoning Administrator. 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. Commercial building walls shall primarily consist of brick, or cut stone. Residential applications such as field stone and ledge stone are prohibited.
- D. Detailing shall be used to add relief and shadow patterns to otherwise flat facades.
- E. On corner lots, distinctive architectural elements shall be incorporated at the corner of buildings facing the intersection.
- 1. In the CC District, distinctive architectural elements at the corner of buildings facing the intersection are encouraged but are not required.**
- F. 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.
- G. If a primary building facade plane length exceeds 25 feet, provide a jog or articulation in the facade to divide it into subordinate elements that will be less than 15 feet in length each. The articulation should be a minimum of 20% of the facade plane height.
- H. For buildings less than 75 feet in width, one interruption is required within 30 feet on either side of the center of the building.



- I. For buildings greater than 100 feet in width, there shall be no uninterrupted wall length exceeding 75 feet. An interruption may consist of a change in plane or a change in texture/masonry patterns.

Exceptions to the above Section 6.6.3 G, H and I may be approved by the Zoning Administrator for developments that include architecturally significant colonnades or arcades in the facade.

- J. Windows and doorways must be the predominant features in the street-level facade.
- K. Chimneys shall extend to the ground.
- L. Foundation walls (except those under porches) shall be finished with split face concrete block, brick or stone. If crawlspaces of porches are enclosed, they shall be enclosed with split face concrete block, brick, stone, lattice or any combination of those materials.
- M. The crawlspace of buildings, if provided, must be enclosed.
- N. Security bars or roll down doors shall be installed on the interior when facing a public street.

#### **6.6.4 Balconies, Porches and Stoops**

- A. Usable porches and stoops are encouraged as a predominate motif of residential building design and should be located on the front and/or side of end units clearly visible from public streets.
- B. When constructed, a front porch shall be roofed and project at least 6 feet from the exterior wall of the house and the width shall extend a minimum of two times the depth. This subsection shall not apply to a portico or stoop as defined by this ordinance.
- C. Stoops and entry-level porches shall not be enclosed with screen wire or glass.
- D. Roofed or non-roofed balconies, porches, and stoops are permitted as encroachments. To the extent possible, these features are to remain visually permeable so that the front door can be easily seen from the street or sidewalk.
- E. Rear Yard Encroachments: Open decks, porches, patios, and other similar structures not exceeding an average finished height above grade of 30 inches may encroach into the side and rear setback to within five feet of the property line. Enclosure of these areas with walls or screening is considered a room and shall not be permitted as an encroachment.
- F. Encroachments over the Public Right-of-Way: With approval of the Town or NCDOT (whichever has authority over a street), upper story balconies or bay windows may encroach into the right of way but shall be a minimum of 3 feet behind the curb.

- G. Balconies, stoops, chimneys and bay windows are permitted to encroach into any setback up to five feet.
- H. Columns, if provided, shall be made of wood, cast concrete, or fiberglass, or other materials approved by the Zoning Administrator.
- I. Porch, colonnade and arcade columns shall have a minimum diameter of 7 inches.

#### **6.6.5 Entryways, Doors and Steps**

- A. Pedestrian access shall be provided from street sidewalks to principal entrances by means of a sidewalk or other all-weather walkway.
- B. The primary entrance shall be both architecturally and functionally designed on the front façade, or at the building front corner, facing the primary public street. Such entrances shall be designed to convey their prominence on the fronting façade.
  - 1. CC District primary entrances may be designed to face the primary customer parking area.**
- C. Where the main entrance does not face the adjacent street, buildings shall nonetheless be designed to provide an attractive street side façade.
- D. The use of fire-escape or exit-only doors as primary entrances is explicitly prohibited.
- E. The primary pedestrian access to all ground-level commercial uses shall be from a public sidewalk. In mixed-use developments, entrances to residential units shall be physically separated from the entrance to the commercial use and clearly marked with a physical feature such as a recess or projection incorporated into the building or appropriately scaled element applied to the façade.
- F. The primary entrance shall be designed for the pedestrian and be clearly distinguishable from the rest of the building. Additional entrances may be oriented toward side or rear parking lots. Service entrances for shipping and receiving shall be oriented away from the street. Unless located within a national or local historic district, not applicable to one or two-family dwellings per N.C.S.L. 2015-86.
- G. Raised Entrance
  - 1. A dwelling unit between 20 and 40 feet from the sidewalk shall be raised a minimum of one foot.
  - 2. A dwelling unit greater than five feet but less than 20 feet from the sidewalk shall have the primary entrance and lowest floor above grade raised above the sidewalk grade a minimum of 1½ feet.
  - 3. A dwelling unit between zero and five feet from the public sidewalk shall be raised a minimum of three feet.

- H. Each exterior door that provides access to an individual unit or any shared door shall contain a porch, stoop, or awning that forms as the predominant aspect of the building design.
- I. Exterior entry steps shall have enclosed risers.
- J. Keep new doors compatible with existing units in proportion, shape, positioning, location, size, materials, and details.
- K. Doors shall not be recessed behind the building facade a distance that would create a sight or safety hazard.
- L. At least one ground entrance to every dwelling shall be located within a walking distance of 100 feet to the parking area within the development designated to serve that dwelling.
- M. 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 that faces the fronting street. Buildings located on street corners may have a corner entrance.
- N. Primary pedestrian entrances on the Principal Frontage shall be recessed a maximum of seven feet from the exterior facade. They shall remain unlocked during normal business hours, and have a surface area that is a minimum of 70% glass. This maximum recessed measurement shall not include the width of any architecturally significant colonnade or arcade as determined by the Zoning Administrator.
- O. 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.
- P. Outdoor Living Area for Residential Units. A minimum of 36 square feet per unit of outdoor living area must be provided for residential units. This requirement may be met by common or private open space or a combination of the two. Common areas may consist of landscaped areas, patios, swimming pools, barbecue areas, and similar improvements designed to serve residents. Landscaped rooftop gardens may fulfill up to 50 percent of this requirement. Private areas may consist of balconies, decks, fenced yards, and similar areas directly accessible from a unit.

#### 6.6.6 Windows

- A. For commercial buildings, at least 60% of street frontage wall areas (including parapets) shall be transparent windows or doorways and at least one half of the first-floor façade (unless approved otherwise in the CC District by the Zoning Administrator). Street level windows shall be visually permeable. Reflective, highly tinted glass, faux windows or enclosed casement display windows are prohibited in meeting the transparency requirement.

- B. No street facade length (except in the CC District) may remain unpierced by a window or functional general access doorway for more than 16 feet without intervening glass display windows or glass entry doors.
- C. Except in the CC District, 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.
- D. 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. Publicly accessible sides of a building shall have fenestration. Corner entry buildings shall have fenestration on both sides of the building comprising the entry.
- E. Windows, doors and other building components shall be proportional to the overall scale of the building.
- F. Windows and door openings should be proportioned so that verticals dominate horizontals. Continuous ribbon windows shall not be permitted.
  - 1. **Certain exceptions are encouraged in the CC district, where the interior use has an aesthetic appeal, such as a car wash, doughnut shops, breweries, etc., subject to the approval of the Zoning Administrator.**
- G. Windows shall be vertically aligned.
- H. Keep new windows compatible with existing units in proportion, shape, positioning, location, size, materials, and details.
- I. Establish a pattern of windows, columns, and other architectural treatments at a pedestrian scale.
- J. Recess windows, even if slightly, and articulate them with headers, sills, columns, and/or mullions.
- K. Windows may be grouped horizontally (maximum 3 per group) if each grouping is separated by a muntin, mullion, column, pier or wall section that is a minimum seven inches wide but is also proportional to the wall and windows.
- L. Windows shall have muntins and/or mullions with the exception of street level store front windows.
- M. Entry facade window trim shall not be flush with the exterior wall and shall have a minimum relief of one-fourth inch from the exterior wall. All windows shall be recessed, even if slightly, and articulated with headers, sills, columns, and/or mullions.

- N. Fenestration shall be architecturally related to the style, materials, colors and details of the building.
- O. Glass shall be transparent with a minimum of tint to preclude opacity. A maximum of one specialty window per facade may be incorporated and may utilize stained, opalescent, or glass block. Stained glass or other decorative window treatments are encouraged in civic buildings. Mirrored glass is not permitted in any location.
- P. Exterior shutters, if applied, shall be sized and mounted appropriately for the window (one-half the width), even if inoperable.
- Q. The maximum pane size for office uses is 48 inches vertical by 40 inches horizontal.
- R. Faux or display casements are not permitted in lieu of exterior window treatments for the frontage elevation.
- S. Bay windows and overhanging eaves shall not exceed a maximum projection of two feet from the primary wall. In addition, bay windows shall not contain habitable floor space, but may provide seating as an integral element.
- T. Doors and windows that operate as horizontal sliders are prohibited except where renovating an historic building with this window type.

#### **6.6.7 Canopies and Awnings**

Fabric awnings or horizontal rigid canopies were used historically on commercial buildings to provide shelter and sun protection. Awnings can create a unifying pattern when repeated along the block. The use of awnings is encouraged.

When a building canopy, awning, or similar weather protection is incorporated in a building design, the following requirements must be met:

- A. Awnings shall be of fabric, canvas, fixed metal, or similar material (non-reflective, non-shiny). 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.
- B. Awnings shall fit the shape of the window and into the frame of the window, door, or storefront without obscuring important details.
- C. Awnings shall be sloped in a manner appropriate to the architecture. Crown, umbrella, bubble, or domed awnings are not permitted.
- D. Maximum projection shall not exceed the side of the planting strip closest to the façade.
- E. There shall be no internal illumination or transparent awnings.

- F. Weather protection elements shall not be placed over blank walls. Rather, a true window or door must be present below the awning/canopy.
- G. Weather protection elements shall be incorporated into the building architecture 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.
- I. Operable fabric awnings shall be rolled up during winter storms and cleaned regularly to protect and extend the life of the material.
- J. All awnings, if provided, shall be supported by a frame attached directly to the building receiving beneficial use of the awning. Awnings shall not be supported by a frame attached to the sidewalk or other public right-of-way.

#### **6.6.8 Colonnades, Arcades, Porticoes and Port Cocheres**

- A. Colonnades, arcades and porticoes must maintain within their gallery a continuous pedestrian passage width of no less than six feet.
- B. Porte cocheres must meet standard minimum clearances for vehicular passage as defined by the Town's current Engineering Design & Construction Standards Procedures Manual. An additional width of no less than six feet must be provided in the gallery where it is intended to permit passage for pedestrian access. Subject to approval of the Zoning Administrator, the pedestrian passage width may be reduced in the CC District to the current ADA minimum when necessary to meet site constraints.
- C. A colonnade, arcade, portico or porte cochere gallery may be located adjacent to the building façade, or incorporated into the building itself.
- D. A colonnade, arcade, or portico gallery may be located in Town right-of-way to incorporate an existing or proposed sidewalk subject to approval by the Zoning Administrator.

#### **6.6.9 Materials and Surfaces**

- A. Materials shall be durable, attractive and compatible with the architectural vernacular of the region.
- 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. Wall materials shall not transition to a different material at a building corner.



- D. Material transitions shall be made according to standards appropriate to the architectural style used, or where it is logical to do so from a construction standpoint — as where an addition (of a different material) is built onto the original building.
- E. Residential building walls must be clad primarily in brick, wood clapboard, cementitious fiber board, wood shingle, wood drop siding, wood board and batten or stone.
- F. Building façade materials, with the exception of corner treatments and columns, shall be combined only horizontally, with the heavier below the lighter.
- G. Construction materials and techniques should complement those of traditional development in Waxhaw, expressing the construction techniques and structural constraints of traditional, long-lasting, building materials.
- H. Building materials and colors shall be similar to the materials already in use 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.
- I. All accessory buildings must be clad in materials similar to the principal structure, with the exception of the MS zoning district.
- J. Simple configurations and solid craftsmanship are favored over complexity and ostentation in building form and the articulation of details.
- K. All building materials to be used shall express their specific properties. For example, heavier more permanent materials (masonry) support lighter materials (wood). When two wall materials are combined horizontally on one façade, the heavier material should be below the lighter.
- L. Acceptable building materials include: brick, tile, stone, metal, concrete, masonry, wood, stucco, EFIS, fabric, cable, and exotic materials as provided in the manner described here:
  - 1. Brick and tile masonry shall be of color and style to complement neighboring structures.
  - 2. Stone must appear native to the Piedmont Region.
  - 3. Exterior metal shall be used for beams, lintels, trim elements and ornamentation only. 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.
  - 4. Concrete cast masonry shall be used sparingly for decorative applications.

- 5. Wood shall be of superior grade and treated for resistance to rot and infestation, or naturally so.
- 6. Stucco and EFIS may be used only in accent or decorative uses, smooth or sand finish only.
- 7. Fabric - must be kept reasonably clean and free of mildew
- 8. Cable
- 9. Exotic materials as deemed appropriate by the Zoning Administrator

All other materials must be approved by the Zoning Administrator.

- M. The following materials shall not comprise more than 10% of the commercial building exteriors:
  - 1. cementitious fiber board,
  - 2. hard-coat stucco,
  - 3. EFIS-type stucco,
  - 4. wood components, or regular or
  - 5. decorative concrete block.

All accessory buildings must be clad in materials similar in appearance to the principal structure.

Incidental appurtenances, such as pipes, vents, wires, cables, and similar items that are not directly related to the structure of the building may still be considered under this section if they are visible to a significant degree.

- N. Color and paint
  - 1. 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.
  - 2. Wall materials shall not transition to a different material at a building corner.
  - 3. Material transitions shall be made according to standards appropriate to the architectural style used, or where it is logical to do so from a construction standpoint — as where an addition (of a different material) is built onto the original building.

4. Residential building walls must be clad primarily in brick, wood clapboard, cementitious fiber board, wood shingle, wood drop siding, wood board and batten or stone.
5. Do not paint unpainted brick, stone, copper or bronze. When working with a previously painted brick building, restore the natural brick finish when possible, or repaint with a color that matches the original masonry as closely as possible.
6. Maintain painted surfaces appropriately.
7. A color board shall be submitted as part of the project application prior to approval.
8. Any color changes from the original color board shall be approved by the Zoning Administrator.

#### **6.6.10 Common Open Space**

- A. Squares, urban parks, and other forms of common open space are intended to shape the design and character of a project through a connecting system of pedestrian areas that create a relationship among the various components of the built environment. Such areas shall be designed to create places where workers, residents and shoppers are encouraged to gather, browse, sit, interact or congregate.
- B. Common space shall be arranged with open areas and landscaping and may include a wide variety of elements such as water, seating, planting, decorative architectural elements and plaza space as part of the design, and may include impervious surfaces.
- C. Provide seating facilities and lighting fixtures for optimal safety, comfort and aesthetics.
- D. Seating may be accomplished in whole or in part using planters or other similar structures.
- E. Common space for a development shall include two or more of the following amenities: ornamental fountains, ornamental stairways, waterfalls, public art, arbors, trellises, planted beds, drinking fountains, clock pedestals, awnings, canopies, informational kiosks, and similar amenities.
- F. Unless interior common space is approved by the Zoning Administrator, common space shall be outdoors.
- G. Include well-designed pedestrian plazas, courtyards, or similar landscaped areas in order to serve dominant pedestrian circulation needs, permit significant views, natural lighting and flow of air to interior spaces, increase aesthetic appeal, meet architectural historic precedent, and provide for the general quality of the public realm.

### **Section 6.7 Employment Center Design Standards**

#### **6.7.1 Applicability**

The standards of this section shall apply to all structures in the EC District.

All Civic/Landmark Building requirements described in Section 6.5.2 shall be waived in the EC District with the following exceptions:

- A. Primary pedestrian entrances and access ways shall adhere to Section 6.5.2.B regarding architectural detailing, forms and patterns.
- B. Section 6.5.2.C

It is intended that Civic/Landmark buildings located in the EC District reflect a Waxhaw stylistic identity - particularly at primary pedestrian entrances - while allowing for the broad flexibility of standards for buildings in the EC District.

#### **6.7.2 Roofs**

Roof drainage shall not be directed across any walkways, streets or adjoining properties unless approved by the Zoning Administrator.

#### **6.7.3 Façade Treatment and Building Walls**

- A. Avoid all-metal public street-facing facades. If utilized in façades facing public rights-of-way, metal facades should be decoratively color coated and include features that provide visual interest.
- B. Utilize color to provide building hierarchy, indicate pedestrian entrances, and guide pedestrian usage on site.

#### **6.7.4 Entryways, Doors and Steps**

- A. Pedestrian access shall be provided from street sidewalks and greenways to principal entrances by means of a sidewalk or other clearly indicated paved pedestrian facilities.
- B. The primary entrance shall be clearly indicated architecturally and sited for ease of pedestrian access from public rights-of-way, including primary streets and greenways. The use of fire-escape or exit-only doors as primary entrances is explicitly prohibited.

#### **6.7.5 Windows**

Mirrored glass is not permitted unless approved by the Zoning Administrator. False windows are not permitted unless approved by the Zoning Administrator. Whenever practical, the form of the building should follow or display the function.

### **6.7.6 Canopies and Awnings**

The use of canopies and awnings as an architectural element is encouraged, as they can provide multiple site benefits. Through proper design, the shade they provide can mediate both interior and exterior temperatures in and around the buildings, creating a more comfortable working environment, removing interior sun glare, and decreasing heating and cooling costs. Additionally, they provide an attractive and distinctive building accent design feature.

### **6.7.7 Materials and Surfaces**

- A. Materials shall be durable and resistant to natural and man-made deterioration or fading.
- B. Simple configurations and solid craftsmanship are favored over complexity and ostentation in building form and the articulation of details.
- C. Color shall be selected to promote an overall harmonious composition with the surrounding environment, never to shock the senses or scream for attention.
- D. A minimum of 75% of the exterior walls seen from a public way should have muted colors. Bright colors should be reserved for accents.
- E. Maintain painted surfaces appropriately.

## **Section 6.8 Residential Design Standards**

### **6.8.1 Applicability**

The standards of this section are intended as general recommendations for standard Single-Family Detached Dwellings and Detached Duplexes that are located outside of national or local historic districts, per N.C.S.L. 2015-86. For those homes located within national or local historic districts, the standards in this section shall apply. Additional standards for Cottage Homes are included in this section.

### **6.8.2 General Recommendations**

- A. Avoid repetition of dwelling unit facades by not repeating the same design more than five times within each block face for both sides of any street, and by separating similar facades by at least four lots with different facades.
- B. Residential development should contain a variation of façades and materials so as to not present a row or strip housing appearance. Means to accomplish this goal may include the use of dormers, gables, recessed entries, covered porch entries, bay windows, cupolas or towers, and a variation in the depth and height of walls, among others.
- C. On corner lots, provide distinctive architectural elements at the corner of dwellings facing the intersection.

- D. Provide detailed design along all dwelling elevations using architectural features as appropriate for the architectural style, including:
  - 1. dormers and gables;
  - 2. eaves with a minimum ten inch projection which may include gutter;
  - 3. front porches projecting a minimum depth of eight feet under roof from the house and a minimum width of two times the depth; cupolas or towers and pillars, posts, or columns;
  - 4. balconies;
  - 5. offsets in building face or roof that are a minimum 16 inches;
  - 6. bay windows;
  - 7. wooden shutters;
  - 8. brick veneer or detailing; and
  - 9. bright colors and decorative patterns on exterior finish.

### **6.8.3 Cottage Home Standards**

- A. Orientation of Dwelling Units. Dwellings within a cottage housing development should be oriented to promote a sense of community, both within the development, and with respect to the larger community, outside of the cottage project.
  - 1. Each dwelling unit shall have a primary entry and/or covered porch oriented to the common open space or pathway connecting to the common open space.
  - 2. Each dwelling unit abutting a public R/W shall have an inviting façade, such as a primary or secondary entrance or porch, oriented to the public R/W.
  - 3. Each dwelling unit abutting a public R/W shall incorporate façade modulation, windows, and roofline variations to avoid blank walls that orient to the public R/W.
- B. Variation in unit sizes, building and site design. Cottage projects shall establish building and site design that promote variety and visual interest.
  - 1. Projects shall include a variety of unit sizes within a single development.
  - 2. Proposals shall provide a variety of building styles, features, colors, and site design elements within a cottage housing development.



3. Dwellings shall use distinctively unique exterior finish materials and architectural design elements for each cottage cluster to avoid repetition.
- C. A cottage shall have a gable roof or a hipped roof. A cottage shall not have a flat roof. Dormers are allowed.
  - D. Maximum height of cottage units with a minimum roof slope of 6:12 shall be 25 feet, subject to all parts of the roof above 14 feet shall be pitched.
  - E. Maximum height shall be 18 feet for cottages without a roof sloop of 6:12 and for all accessory structures.
  - F. Porches. The intent of this porch requirement is to create outdoor space in each cottage that is visually and physically connected to the common open area and to other cottages.
    1. Cottage units shall have an unenclosed, covered front primary entry and porch. If fronting a Public street and Common Open Space, cottage units shall have covered entry and porch on both facades.

# chapter 7

## STREETS, DRIVEWAYS AND PARKING

Section 7.1  
General Street Standards

Section 7.2  
Connectivity

Section 7.3  
Driveways

Section 7.4  
Greenways

Section 7.5  
Parking

### Section 7.1 General Street Standards

Streets shall be designed based upon the following general criteria:

- A. Provide streets in accordance with adopted plans
- B. Provide for adequate vehicular access to all properties
- C. Provide street connections to adjacent properties to ensure adequate traffic circulation within the area
- D. Provide a local residential street system that disperses traffic to multiple points, encourages traffic calming, and provides adequate access for fire, police, and other emergency vehicles
- E. Provide a sufficient number of collector streets to accommodate the present and future traffic demands of the area
- F. Balance the competing needs of pedestrian, bicycle, and vehicular traffic through integrated streets and access management

In addition to this Chapter, more specific design criteria regarding streets is found in the Town's *Engineering Design and Construction Standards Manual, Specifications and Special Provisions*.

#### Section 7.1.1 Types of Streets and Right-of-Way Required

A proposed street right-of-way must be of sufficient width to accommodate the required cross section. Typical street right-of-way are listed in the following table.

Additional examples of street rights-of-way can be found in the *Engineering Design and Construction Standards Manual*. Street rights-of-way that differ from any of these standards shall be reviewed by the Town Engineer on a case by case basis.

STREET TYPE	RIGHT-OF-WAY (feet)
<b>Residential Local</b>	
Without On-Street Parking	51
Parking on One Side of Street	57
Parking on Both Sides of Street	63
Ditch-lined Without On-Street Parking	71
<b>Residential Collector</b>	
With Bike Lanes	61
Divided with Median	74
Divided with Left Turn Lane	79
Ditch-Type Section	60
<b>Retail/Mixed Use Local Street</b>	
Without On-Street Parking	64
Parking on Both Sides of Street	64
With Median and Parking	83
Parking & Green Zone on Both Sides	67
<b>Retail/Mixed Use Collector Street</b>	
With Bike Lanes	63
With Median and Bike Lanes	82
<b>Industrial Local Street</b>	
Without On-Street Parking	63
Parking on One Side of Street	70
Parking on Both Sides of Street	77
<b>Industrial Collector Street</b>	
With Median and No Parking	87
With No Parking	63

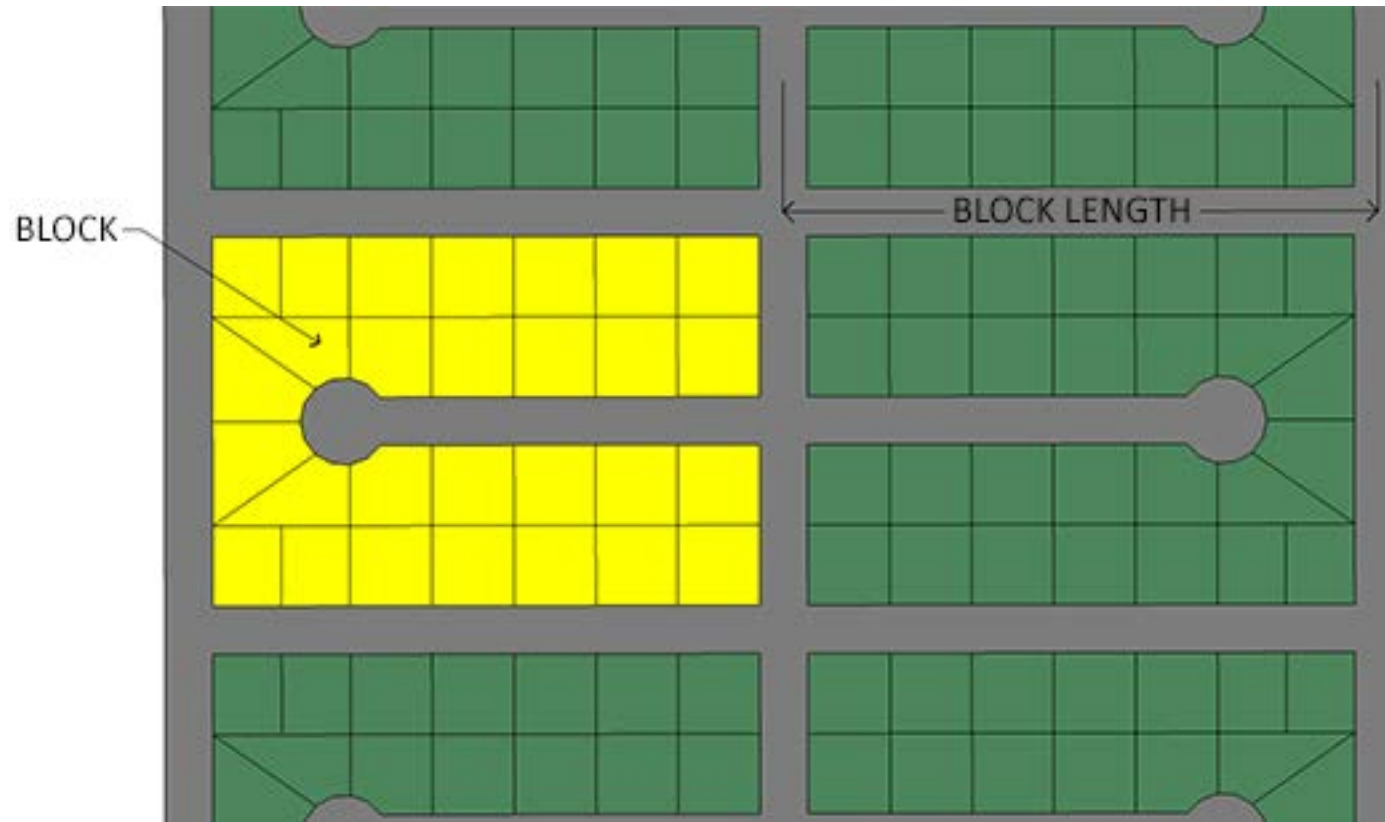
#### Section 7.1.2 Curb, Gutter, Sidewalks Required

All new streets within Town limits shall be constructed with curb, gutter, and sidewalks on both sides of the street. The Town Engineer may waive all or part of this requirement under circumstances where:

- A. There are topographical or geographical limitations
- B. There are environmental restrictions (Local, State, or Federal)
- C. Residential developments in cases with very low density

The Town Engineer shall approve streets with ditch sections on a case-by-case basis.

### Section 7.1.3 Block Length and Width



Block length requirements are described in Section 7.2.1 Street Connectivity.

Blocks shall be at least wide enough to allow two 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.

### Section 7.1.4 Cul-de-sacs

In order to promote better street connectivity and access management, cul-de-sacs are generally discouraged as a street design option. Cul-de-sacs as part of any plan shall be reviewed on a case-by-case basis by the Town Engineer. Streets that terminate with cul-de-sacs, where deemed appropriate, shall not exceed 400 feet in length.

In general, permanent cul-de-sacs are discouraged in the design of street systems and should be used only when topography, the presence of natural features, and/or vehicular safety make connection impractical. Permanent cul-de-sacs shall comply with the design standards set forth in this code and the Town's *Engineering Design and Construction Standards Manual*.

### Section 7.1.5 Payments in Lieu

A payment-in-lieu of street right-of-way improvements may be accepted by the Town Engineer when one of the following conditions exist:

- A. Circumstances that would cause the construction of the street right-of-way improvement to be impractical.
- B. The Town or other agency (e.g. NCDOT) has committed funding for the same improvements as part of one the Town's adopted plans and capital improvement projects.

The payment shall be equal to the full cost estimate for construction of the street right-of-way improvements with said estimate having been found acceptable by the Town Engineer. All payments-in-lieu shall be used exclusively towards transportation and pedestrian improvements within the Town.

### Section 7.2 Connectivity

The following standards shall be met for all development sites and subdivision plans including redevelopment of sites. The purpose is to provide interconnected streets and multi-modal transportation systems in order to:

- A. Connect neighborhoods to each other and to local destinations such as schools, parks, and shopping;
- B. Maximize arterial capacity to better serve regional long distance travel needs;
- C. Promote multi-modal options;
- D. Provide multiple access routes for emergency and service vehicles;
- E. Reduce vehicle miles of travel and travel times for all users.

### Section 7.2.1 Street Connectivity

- A. Residential Developments.** All residential developments shall be required to connect to existing street stubs or provide stubs and rights-of-way to adjacent properties. Public right-of-way and access easements shall be dedicated to allow for future construction and connection of a street and sidewalks from the adjacent property.

Any residential development of 20 parcels or more shall be required to achieve a **Connectivity Ratio of 1.4 or greater**. A loop would be an example of a block. Regardless of the bends or curves no decisions are required while traveling from node to node via a loop so regardless of length a loop will be considered as only one block. Street blocks on existing adjacent streets that are not part of the proposed subdivision are not included in the connectivity ratio (CR) calculation. *Figure A* provides an example of how to calculate CR.

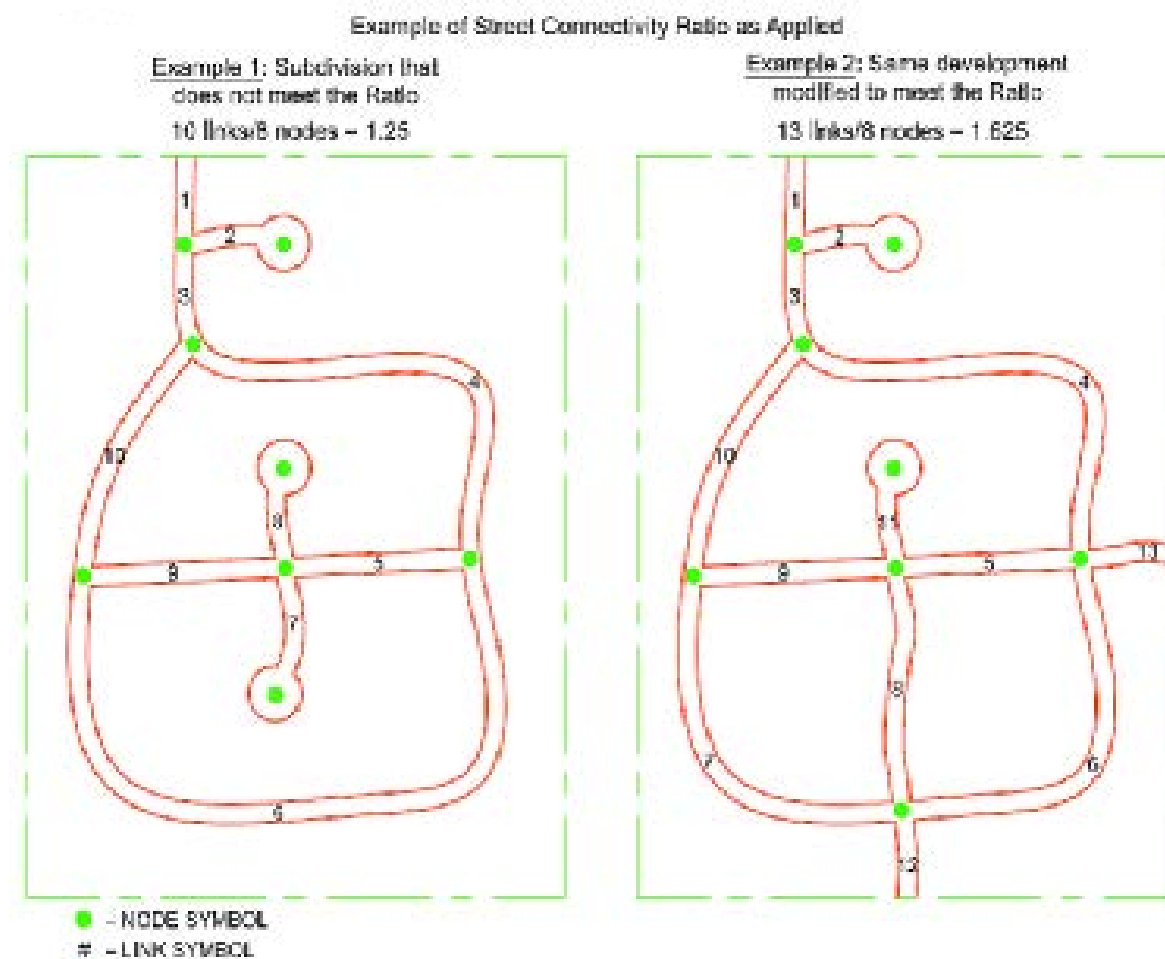


At a minimum, two functioning vehicular and pedestrian access points to at least two public streets of the existing public street system (not a stub-out) is required for developments that exceed 100 residential units. A third shall be required for developments that exceed 500 residential units. Second and third access points shall be open and functioning prior to the issuance of the 101st and 501st Certificate of Occupancy respectively for the development.

In the event these conditions cannot be met without undue hardship due to environmental or physical property constraints, the Zoning Administrator may waive or modify the connection requirement.

The Connectivity Ratio shall be the number of street blocks (not including alleys) divided by the number of nodes (i.e. intersections and cul-de-sac heads).

## FIGURE A



**B. Non-Residential Developments.** All non-residential sites including sites five acres or less, must provide street connections with all adjacent properties, taking into account the future development or redevelopment of these properties, or must provide an organized and complete street network with an emphasis on connectivity throughout the development and for future adjacent developments as so deemed by the Zoning Administrator. Non-residential, multi-family, or mixed used development of greater than five acres, must provide an organized and complete street network with an emphasis on connectivity throughout the development and for future adjacent developments.

Primary circulation through a development shall meet the following standards:

1. Vehicular access spacing on the street is limited to no less than 150 feet from a signalized intersection.
2. Vehicular access spacing on the street is limited to no less than 100 feet from a non-signalized intersection.
3. Intersections, driveways, or drive aisle connections with 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 degrees.
4. Proposed access points shall align with an opposing access point on the street or shall be offset by at least 150 feet, unless median controlled.
5. Adjacent outparcels must share access drives. Where access cannot be shared as determined by the Town Engineer the minimum driveway separation shall be provided as per the Town of Waxhaw *Engineering Design and Construction Standards Procedures Manual*.

**C. Street Arrangement.** The proposed public and/or private street system shall be designed to provide vehicular and pedestrian interconnections to facilitate internal and external traffic movements in the area. In addition to the specific connectivity requirements described above, roadway interconnections shall be provided between the development site and its adjacent properties with one roadway connection every 1,250 to 1,500 linear feet for each **directional quadrant** which the property abuts.

*Figure B* provides an illustration of a directional quadrant. If the common property in any direction is less than 1,250 linear feet, the subject property will be required to provide one interconnection in that direction.

Where new development is adjacent to vacant land that could potentially be subdivided, developed, or redeveloped, all streets, bicycle paths, sidewalks or pedestrian pathways, and access ways in the development's proposed street system shall provide easements for future access or continue to the boundary lines of the area under the same ownership as the subdivision, to create a continuous network as determined by the Zoning Administrator. In addition, all redevelopment and street improvement projects shall take advantage of opportunities for retrofitting existing streets to provide increased vehicular and pedestrian connectivity, such as sidewalks, crosswalks, and multi-use paths.

Street stub-outs 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 future development to construct the connection to an existing stub street. Vehicular connections from adjacent property (street stub-outs) must be utilized unless the connection is deemed impractical by the Town Engineer due to topographic conditions, environmental constraints, property shape or property accessibility. If it is determined by the Town Engineer that a vehicular connection in any direction cannot be accomplished to the subject property, pedestrian connections may still be required.

**D. Block Lengths:** Maximum block lengths within proposed developments shall not exceed block length as shown in the following table. Short block lengths are intended to create a better pedestrian-scaled environment. Deviations from this requirement may be allowed if it is determined by the Zoning Administrator that the proposed lengths are impractical due to topographic conditions, environmental constraints, property shape or property accessibility.

<b>ZONING</b>	Commercial/ Industrial CC, EC	Residential R-1	Residential R-3, R-4	Downtown & Neighborhood Centers MS, TC, NC
<b>BLOCK LENGTH</b>	1,200 ft	800 ft	600 ft	400 ft

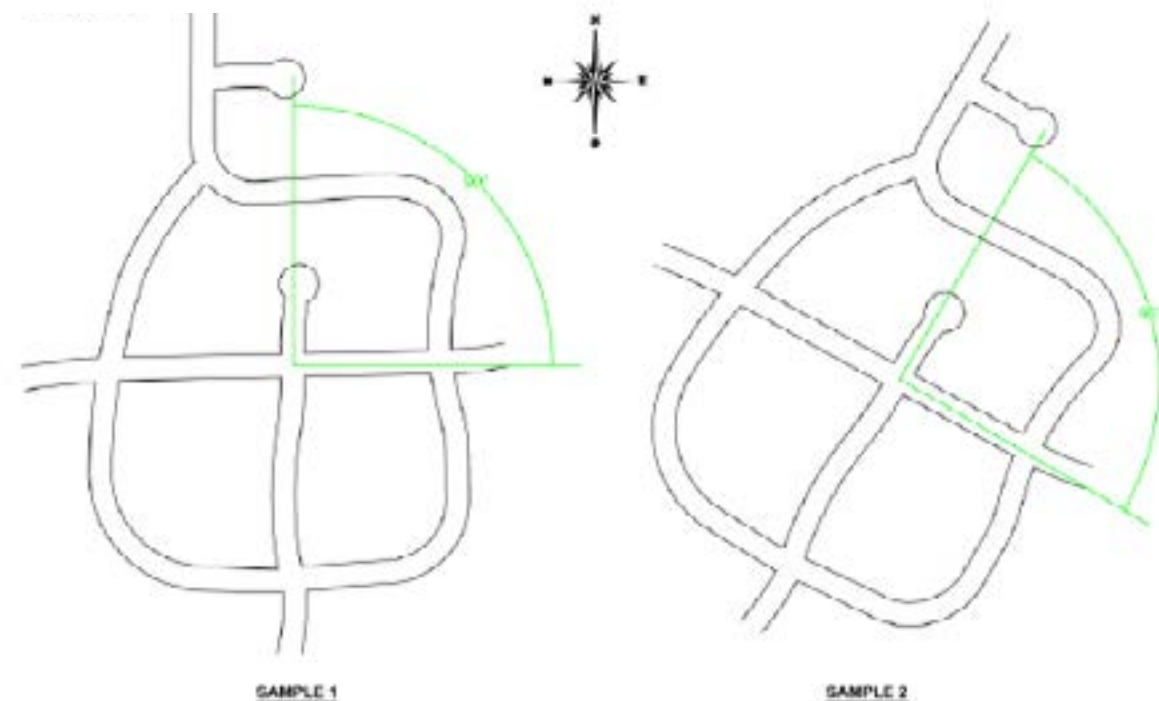
**E. Exceptions for All Residential and Non-Residential Properties.** The Town Engineer may provide exceptions to street stubs and connection when:

1. A street in a proposed development abuts an existing development and no existing right-of-way or streets extend to the common property line and no factors indicate the intent at the time of approval that the street would be constructed at a later time, such as:
  - a. Recordation of construction easements
  - b. Physical constraints such as a stream buffer or topographic issues present that would make the extension to the property line infeasible at the time of constructions
2. There are no apparent safety issues such as inadequate fire and police protection and response capability if the proposed new development does not connect to the adjacent existing development.
3. If land use relationships are not consistent or compatible as determined by the Zoning Administrator.
4. Creating future connections to State Highways is discouraged. However, the Town Engineer may provide an exception when a property abuts a State Highway under the following circumstances:
  - a. Town may require connection to a State Highway with coordination with NCDOT.
  - b. Town may require shared accesses when possible.
  - c. Town may limit direct access to a State Highway if alternative access is available.

**Section 7.2.2 Pedestrian/Bicycle Connectivity**

**A. Connections to Trails and Parks.** When lots abut trails, parks and open space areas, access ways must be provided at a minimum of every 1/4 mile. Where a cul-de-sac street is permitted within a development, access ways to trails, parks and open space areas must be provided.

**FIGURE B**



THE INTENT OF DIRECTIONAL QUADRANTS IS TO PROVIDE CONNECTIVITY IN MULTIPLE DIRECTIONS. HOWEVER, BECAUSE WAXHAW AND UNION COUNTY WAS NOT ESTABLISHED ON A CARDINAL GRID, ALTERNATIVE ROTATIONS WOULD APPLY WHEN NECESSARY AS DISPLAYED IN SAMPLE 2. AT LEAST ONE STUB SHOULD BE PROVIDED IN FOUR DIRECTIONS WITH AS NEAR TO 90 DEGREE SEPARATION AS POSSIBLE TO OPTIMIZE CONNECTIVITY.

**B. Connection of Cul-de-sacs.** Where 2 cul-de-sac streets end within 300 feet of each other, pedestrian access ways shall be provided between the cul-de-sacs where feasible.

**C. Surface Width.** The minimum pedestrian/bicycle access way surface width shall be five feet with a right-of-way of six feet.

**D. Surface Treatment.** The surface of access ways shall be constructed of a smooth, compactible material that is accessible for wheelchairs and strollers. Acceptable materials include asphalt, concrete, and crushed stone.

### **Section 7.2.3 Cross Access for Non-Residential Developments**

All non-residential development shall be designed to allow for both vehicular and pedestrian cross-access to adjacent properties to encourage shared parking and shared access points on public or private drives. A minimum distance of 100 feet shall be required between a cross access way and an intersection or driveway entrance. Development plans shall provide cross-access easements and complete connections that can provide an immediate benefit. If a block is to be constructed in the future, the grade on the connection, parking, landscaping and other improvements must be set to allow for extension into the adjacent property.

One vehicular and pedestrian cross access shall be required for every 400 linear feet in each direction where commercial properties abut a common property boundary. Pedestrian cross-access shall be required for all properties. If the common property boundary is less than 400 linear feet, cross-access to adjacent lots may be required to achieve adequate connectivity and provide cross-access to all parcels by providing drives or stub-outs per the direction of the Zoning Administrator.

### **Section 7.3 Driveways**

Driveways connecting to state right-of-way shall be approved by the NCDOT. Driveways connecting to Town right-of-way shall be approved by the Town Engineer. Driveways shall be reviewed as part of the plan review processes described in Chapter 3 *Administration and Enforcement Procedures* and Chapter 5 *Subdivisions Regulations*.

The Town reserves the right to require the closure of driveways on redeveloped lots as well as any drive-in parking. The Town may require the realignment of a driveway or allow a shared access driveway with adjacent properties when developed.

### **Section 7.4 Greenways**

Greenway locations and alignments shall be approved by the Zoning Administrator as depicted on the Town's adopted plans. Public greenways may be located along Town right-of-way adjacent to streets or through private property if an easement for public maintenance is acquired.

## **Section 7.5 Parking**

### **Section 7.5.1 General Purpose**

The provisions of this article are intended to help protect the public health, safety, and general welfare by:

- A. Promoting economically viable and beneficial use of land;
- B. Providing flexible methods of responding to the transportation and access demands of various land uses; and
- C. Helping avoid the negative impacts that can result from requiring excess supplies of off-street parking (e.g. impervious surfaces, stormwater runoff, and visual environment).

### **Section 7.5.2 Applicability**

- A. General.** Off-street parking and loading must be provided and maintained in accordance with the provisions of this Chapter. Unless otherwise expressly stated, the regulations apply to all districts and uses
- B. New Uses and Development.** The regulations of this Chapter apply to all new buildings constructed and all new uses established in all zoning districts.
- C. Change of Use.** If a new use of a building or structure requires more off-street parking than the use that most recently occupied the building or structure, additional off-street parking is required in an amount equal to the difference between the parking required for the new use and the parking that would have been required for the previous use if current parking requirements had been applicable.
- D. Enlargements and Expansions.** The regulations of this article apply whenever an existing building or use is enlarged or expanded to include additional dwelling units, floor area, seating capacity or other units of measurement used for establishing off-street parking requirements. In the case of enlargements or expansions that trigger requirements for additional parking, additional spaces are required only to serve the enlarged or expanded area, not the entire building or use. There is no requirement to address parking space deficits associated with existing, lawfully established buildings or uses.

### **Section 7.5.3 Off-Street Parking Requirements**

- A. Surfacing.** All off-street parking and loading areas shall be paved.
- B. Lot Location.** Parking lots shall be placed behind or to the side of buildings where practical. Off-street parking is not permitted in front of the primary building facade, except in the EC district, or where specified in an adopted street section, detailed as a public plaza, or as approved by the Zoning Administrator under special circumstances.



**C. Limitation on Uninterrupted Areas of Parking.** Uninterrupted areas of a parking lot shall be limited in size. Large parking lots shall be broken by buildings and/or landscape features. See Chapter 8.5 Parking Lot Landscaping for additional landscaping requirements.

**D. Dimensional Requirements.** All parking spaces, aisles between parking spaces, and driveways shall meet the minimum dimensional requirements set forth in this chapter.

1. 90 degree parking spaces within a parking lot must be a minimum of nine feet wide by 18 feet long.
2. Additional parking space types and requirements can be found in the Engineering Design and Constructions Standards Procedures Manual.
3. Driveways for all uses, except single-family residential, shall maintain a minimum of 20 feet for a one way drive and 26 feet for a two-way drive.

**E. Paving and Maintenance**

1. Lot paving shall consist of asphalt, concrete, brick pavers, pervious paving materials, or other paving materials approved by the Zoning Administrator and Town Engineer.
2. All parking, stacking, and loading facilities shall be permanently maintained in compliance with the Town approval and shall be free of litter and debris at all times.
3. 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.

**F. Parking Minimums.**

1. Applicant may request a 20% reduction in the parking minimum required in this Chapter. Request must be submitted for approval to the Zoning Administrator.
2. Developments in the NC District may reduce parking minimums by 50% to encourage a compact and walkable mixed use. Infill development in the MS and TC is not required to provide parking.
3. Up to 10% of parking requirements may be met by motorcycle and Low-Speed Vehicle (LSV) parking.

**D. Parking Ratios.** Except as otherwise expressly stated, off-street parking for motor vehicles must be provided in accordance with the following minimum ratios.

VEHICULAR PARKING RATIOS		
USE CATEGORY	SPECIFIC USE	REQUIREMENT
Residential	Single-Family Detached	2 spaces per unit, plus 1 space per room rented.
	Two-Family Dwelling	2 spaces for each unit, except that one-bedroom units require only 1 space.
	Townhouse (fee simple/ condominium)	2 spaces for each unit. Plus 1 visitor parking for every 4 parking spaces.
	Multifamily Dwelling including independent senior housing.	2 spaces per unit.
	Manufactured Home	2 spaces per unit
	Modular Home	2 spaces per unit, plus 1 space per room rented
Group Living	Family Homes for Persons with Disabilities (Small and Large)	1 space per 3 residents
	Homes for the handicapped, aged, or infirm including nursing homes	2 spaces for every 5 beds, except for uses exclusively serving children under 16, in which case 1 space for every 3 beds
	Child care homes	1 space for every two employees on maximum shift
	Halfway houses	1 space per 3 bedrooms and 1space per employee
Live/Work	Live/Work Units	2 spaces per dwelling unit, plus 1 space for each 2 non-resident employees, plus one space for each 500 square feet of the portion of the building used for non-residential purposes.
Community Service	Community Center	3.3 spaces per 1000 square feet of floor area
	Library, Museum, Art Gallery, Art Center	3.3 spaces per 1000 square feet of floor area
	Other	3.3 spaces per 1000 square feet of floor area
Day Care	Day Care Center	1 space per employee plus 4 spaces per 1000 square feet of floor area. Required parking may be reduced for day care centers with designated pick-up and drop-off area in an amount determined by the Zoning Administrator

<b>Educational Facilities</b>	Business Schools	1 space per 5 seats within classrooms or assembly spaces
	College/University	1 space per 5 seats within classrooms or assembly spaces
	Schools, Public/ Private	2 spaces per classroom or office in elementary schools; 5 spaces per classroom or office in high schools
	Trade/Vocational	1 space per 5 seats within classrooms or assembly spaces
<b>Government Facilities</b>	Other	3.3 spaces per 1000 square feet of floor area
<b>Health Care</b>	Continuing Care Facility	3 spaces per 5 beds except government sponsored facilities for low income households or public/ private facilities for elderly populations which require 1 space per 5 beds.
	Hospital	2 spaces per bed
	Medical Clinic	6.6 spaces per 1000 feet of floor area
	Other	5 spaces per 1000 square feet of floor area
<b>Institutions</b>	Child Care Institutions	1 space per 3 beds
	Nursing Care Institutions and Intermediate Care Institutions	3 spaces for every 5 beds
	Mental Health Facility	1 space for every two employees on maximum shift
<b>Parks and Open Space</b>	Cemetery	1 space per 50 internment plots
	Public Park	5 spaces per 1000 square feet within an enclosed building plus 1 space per 3 person capacity for facilities where visitors watch participant sports
	Other	1 space per 5 seats in any facility with viewing stands or seating areas (permanent or temporary).
<b>Religious Institution</b>		1 space for every 4 seats plus 5 spaces per 1000 square feet of non-assembly space
<b>Utilities</b>	Minor Utility	None
	Major Utility	1 space per employee plus 1 space per each fleet vehicle kept at the site.
	Telecommunication Facility	1 space for each service vehicle

<b>Entertainment</b>	Public Swimming Pool, Tennis Courts, Golf Course	5 spaces per 1000 square feet within an enclosed building plus 1 space per 3 person capacity for facilities like swimming pools where a maximum capacity has been established.
	Golf Course or Country Club, Private	5 spaces per 1000 square feet within an enclosed building plus 1 space per 3 person capacity for facilities like golf courses where a maximum capacity has been established.
	Gym, Spa, Indoor Tennis Court or Pool, Private	5 spaces per 1000 square feet within an enclosed building plus 1 space per 3 person capacity for facilities where visitors watch participant sports
	Horse Stables	1 space per horse at maximum capacity
	Indoor entertainment facility including bowling alleys, skating rinks, squash courts, billiards and pool halls	5 spaces per 1000 square feet within an enclosed building plus 1 space per 3 person capacity for facilities with seating for visitors to watch participant sports
	Outdoor Athletic Facility, Private	5 spaces per 1000 square feet within an enclosed building plus 1 space per 3 person capacity for facilities with seating for visitors to watch participant sports
	Adult Use/Sexually Oriented Business	5 spaces per 1000 square feet of gross floor area plus 1 space for every 4 seats in any assembly area
	Theater	1 space for every four seats
	Theater, Drive-In	1 space per speaker outlet
	Water Slide, Miniature Golf, Skateboard Parks	5 spaces per 1000 square feet within an enclosed building plus 1 space per 3 person capacity for facilities with seating for visitors to watch participant sports
	Other	1 space for every 200 square feet of gross floor area
<b>Office</b>	Medical Office	4 spaces for every 1000 square feet of gross floor area
	All Other Offices	3.5 spaces for every 1000 square feet of gross floor area
<b>Overnight Accommodations</b>	Bed and Breakfast	1 space per rented room plus parking for any permanent residents consistent with the other requirements of this table.
	Hotel	1 space per room plus 1 space for every 2 employees on the maximum shift

<b>Restaurants</b>	Drive-Through Restaurant	10 spaces per 1000 square feet of floor area including any outdoor area used for dining.
	Sit-Down Restaurant	6 spaces per 1000 square feet including any outdoor area used for dining.
<b>Retail Sales and Service</b>	Bar, Nightclub, Taverns	10 spaces per 1000 square feet of gross floor area plus 1 space per four seats located outdoors
	Convenience Store	5 spaces per 1000 square feet of gross floor area
	Fuel Sales	5 spaces per 1000 square feet of gross floor area of building devoted primarily to gas sales operation, plus 1 parking space per pumping station
	Shopping Center	4 spaces per 1000 square feet of floor area; 4.5 per 1000 square feet of floor area for shopping centers over 100,000 square feet
	Other and Undetermined (Retail, Service or Mixed-Used projects where tenancy is not determined)	4 spaces per 1000 square feet of floor area
<b>Animal Services</b>	Veterinarian/Kennel, Indoor	5 spaces per 1000 square feet of floor area
	Veterinarian/Kennel, Outdoor	5 spaces per 1000 square feet of the floor area of building plus 1 space per 10 cages for outdoor facilities.
	Other	5 spaces per 1000 square feet of floor area
<b>Self-Service Storage</b>		1 space per employee during the busiest shift plus 1 space per 5,000 square feet of area devoted to storage
<b>Vehicle Sales and Service</b>	Car Wash	1 space for every 3 employees on the maximum shift for a manual or conveyor type car wash and in the case of a self-serve car wash 2 parking spaces per bay
	Vehicle Repair	1 space per employee during the busiest shift plus 2 spaces per service bay
	Vehicle Sales or Rental, Indoor	5 spaces per 1000 square feet of floor area plus 1space per employee during the busiest shift.
	Vehicle Sales or Rental, Outdoor	5 spaces per 1000 square feet plus 1 space for each 5000 square feet of outdoor storage area
	Other	5 spaces per 1000 square feet of floor area

<b>Employment Center</b>	Light Industrial Service	2 spaces per 1000 square feet of floor area
	Flex Space and Other	1 space per 2,000 square feet of warehouse space plus 2 spaces per 1000 square feet of office floor area plus 1 space per 1,000 square feet of outdoor work areas. When a proposed building would accommodate multiple tenants the parking requirements will be calculated on the basis of the floor area for each tenant.
	Manufacturing and Production	1 space per employee during the busiest shift
	Warehouse and Freight Movement	1 space per employee on the busiest shift but not less than 1 parking space per 5,000 square feet of area devoted to warehousing or storage use (whether inside or outside)
<b>Wholesale Sales</b>		1 space for every 2 employees on maximum shift
<b>Agribusinesses/ Greenhouses</b>		1 space per 2 employees on maximum shift
<b>Farmers Markets</b>		1 space per 1,000 square feet of lot area used for product display or sales

- H. Area Measurements.** Unless otherwise expressly stated, all parking standards must be computed on the basis of gross floor area.
- I. Multiple Uses.** Unless otherwise expressly stated, lots containing more than one use must provide parking in an amount equal to the total of the requirements for all uses on the lot. See 7.5.7 Parking Alternatives, for additional alternatives to off street parking.
- J. Unlisted Uses.** Upon receiving a development application for a use not specifically listed in an off-street parking schedule, the Zoning Administrator is authorized to apply the off-street parking ratio specified for the listed use that is deemed most similar to the proposed use.
- K. Pedestrian Corridors.** Parking lots shall be designed to allow pedestrians to safely move from their vehicles to the buildings. On small lots, this may be achieved by providing a sidewalk at the perimeter of the lot. On larger lots, corridors within the parking area should channel pedestrians from the car to the perimeter of the lot or to the building(s). These corridors should be delineated by a paving material which differs from that of vehicular areas and planted to provide shade and an edge. Small posts or bollards may be used to define/protect the pedestrian corridors. The minimum width of the sidewalk or pedestrian corridor shall be five feet.

#### 7.5.4 Electric Vehicle Parking

- A. General.** All new non-residential and residential development is encouraged to provide a parking alternative for electric vehicles.



**B. Design Criteria.** The following requirements shall be applied to the location and design of all electric vehicle (EV) charging stations.

1. Provide EV parking spaces in non-prime locations where non-EV users are less likely to choose to park.
2. Design should be appropriate to the location and use. Stations should be readily identifiable to electric cars users.
3. EV parking spaces must meet standard size parking stall requirements.
4. Each charging station space shall be posted with signage indicating the space is for electric vehicle charging purposes only. Information identifying voltage and amperage levels or safety information must be posted.
5. Where Charging Station equipment is provided within an adjacent pedestrian circulation area, such as a sidewalk or accessible route to the building entrance, the charging equipment must be located so as to not interfere with accessibility requirements.
6. Charging station equipment shall be maintained in all respects, including the functioning of the charging equipment.

**7.5.5 Bicycle Parking Ratios**

A. Parking Ratios

BICYCLE PARKING RATIOS		
USE CATEGORY	SPECIFIC USE	REQUIREMENT
Public/Institutional Uses	Libraries, Museums, Public Parks, Hospitals, Post Office	1 bike parking space per 15 parking spaces
Single Family Attached/ Multi-Family/ Cluster Subdivisions (Residential)	Club houses, recreational buildings or facilities, and other amenity areas or facilities	1 bike parking space per 15 parking spaces
Assembly Uses	Churches, Public and Private Schools, Auditoriums, Stadiums	1 bike parking space per 15 parking spaces
Entertainment Uses	Skating Rinks, Golf Courses, Theaters, Health Clubs	1 bike parking space per 20 parking spaces
Retail and Business Services	Convenience stores, Shopping centers, Restaurants	1 bike parking space per 25 parking spaces

B. Bicycle Parking Design and Location

1. Bicycle racks must be of high-quality construction, in wave, bollard or inverted “U” type design, or other as approved by Zoning Administrator.
2. The size of the bicycle parking space shall be in accordance with generally accepted geometric design principles for the type of space and lot as provided 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.
3. Racks shall be secured to the ground on a hard surface such as concrete, asphalt, or unit pavers.
4. Bicycle parking shall be located no closer than three feet from any wall to provide adequate space for access and maneuvering.
5. Bicycle racks, once installed on sidewalks should provide for a clear unobstructed width of at least five feet for clear pedestrian access and should be installed at least three feet from the face of curb.
6. Racks should be placed no more than 50 feet from the building entrance or no further than the closest motor vehicle parking space.
7. Uses with several major entrances shall locate a portion of the required bicycle parking at each entrance.

**C. Residential Uses.** Bicycle parking is required for Single-Family Attached, Multi-Family or cluster subdivisions with common recreation areas.

**7.5.6 Accessible Parking Requirement**

All accessible parking shall comply with the North Carolina State Building Code.

**7.5.7 Stacking Spaces for Drive-Through Facilities**

- A. In addition to meeting the off-street parking requirements of this section, drive-through facilities shall comply with the minimum stacking space standards established by the Stacking Ratios table.
- B. The design and layout of required queuing lanes and stacking spaces must not interfere with circulation and traffic flow on the site and may not interfere with access to parking spaces.

C. Stacking Ratios

Type of Use	Minimum Stacking Spaces	Measured From
Bank, teller lane	4	Teller Window
Bank, ATM	3	Teller Machine
Restaurant, with drive through	6 plus 4 to pick-up window	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 the end of each island	
Unlisted	Determined by the Zoning Administrator	

**D. Unlisted Uses.** Requirement for uses not specifically listed may be determined by the Zoning Administrator based upon the requirement for comparable uses and upon the particular characteristics of the use. **7.5.7 Parking Alternatives**

E. Shared Parking:

- 1. General.** Sharing parking among different users can result in overall reductions in the amount of motor vehicle parking required. Shared parking is encouraged as a means of conserving scarce land resources, reducing stormwater runoff, reducing the heat island effect caused by large paved areas and improving community appearance.
- 2. Special Approval.** Shared parking agreements require review and approval by the Zoning Administrator.
- 3. Eligibility.** Shared parking may be approved for mixed-use projects and for multiple nonresidential uses that have different periods of parking demand. Required residential parking and accessible parking spaces (for people with disabilities) may not be shared. Any use applying for shared parking must be located within 1,000 feet walking distance of the parking lot as measured from the entrance of the use to the nearest parking space in the shared use lot.
- 4. Filed Agreement.** An agreement providing for shared use of parking must be executed by the parties involved and be filed with the Zoning Administrator and in a form approved by the Town Attorney. Shared parking facilities will continue in effect only as long as the agreement remains in force. If the agreement is no longer in force then the parking must be provided as otherwise required by this Chapter.

**F. Remote 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:

1. The land on which the parking facilities are provided is owned by the same person or persons as the principal use.
2. Such land is not separated from the principal use by a thoroughfare or collector street.
3. Such land is located in a zoning district within which the principal use would be allowed as a permitted or special use.
4. Such land shall be used for no other purpose than to provide parking for the principal use.
5. There is a pedestrian walkway or sidewalk connecting the parking area to the use it serves.
6. 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.
7. The restrictions of this subchapter shall not apply to those uses that share parking spaces pursuant to subsection above.

**7.5.8 Loading Spaces**

A. Whenever the normal operation of any use involves regular delivery or shipment to or from the subject use, off-street loading area must be provided in accordance with this section to accommodate the delivery or shipment operations in a safe and convenient manner.

B. Location and Setbacks

1. Loading spaces shall be located on the same parcel as the use they serve.
2. All loading and unloading operations shall be completed without obstructing with any public right-of-way or any parking space or drive aisle.
3. Loading areas may not be located within 50 feet of any abutting Residential property unless the loading area is screened on all sides. Width of screening shall be in accordance with buffer standards described in Chapter 8.

C. Design

1. Loading Spaces shall be a minimum of 10 feet in width and 30 feet in length, exclusive of drive aisles. Spaces must have a minimum vertical clearance of at least 14 feet.
2. Access to and from the loading space must be provided to and from a public street or alley.
3. Loading areas must be surfaced the same as parking lot.

Gross Floor Area (Sq Ft)	Minimum Loading Spaces Required
0 - 25,000	0
25,001 - 100,000	1
100,001 - 250,000	2
250,001 or more	3

D. Required Number of Loading Spaces

1. **Office, Lodging, and Hospital Uses.** These minimum requirements shall apply to office, lodging, and hospital uses. No loading space is required in the MS Zoning District.

Gross Floor Area (Sq Ft)	Minimum Loading Spaces Required
0 - 15,000	0
15,001 - 50,000	1
50,001 - 100,000	2
100,001 - 250,000	3
250,001 or more	4

2. **Industrial, Retail and Wholesale Operations, Distribution and Storage Uses.** The following requirements shall apply to industrial, retail and wholesale operations, distribution and storage uses. No loading space is required in the MS Zoning District.

**7.5.9 Modifications to Requirements**

The Zoning Administrator is authorized to waive or modify the requirements of this Chapter.





# chapter 8

## BUFFERS, LANDSCAPING AND LIGHTING

Section 8.1  
Purpose

Section 8.2  
Applicability

Section 8.3  
General Requirements

Section 8.4  
Street and Front, Side, and Rear  
Landscaping Yards

Section 8.5  
Parking Lot Landscaping

Section 8.6  
Residential Perimeter Tree Buffer

Section 8.7  
Buffering of Non-Residential  
Uses

Section 8.8  
Screening

Section 8.9  
Open Space

Section 8.10  
Tree Preservation

Section 8.11  
Heritage and Specimen Trees

Section 8.12  
Maintenance and Ownership

Section 8.13  
Forestry Activities

Section 8.14  
Tree Species List

Section 8.15  
Lighting

### **Section 8.1 Purpose**

The buffering, screening, landscaping, and tree preservation requirements of this chapter establish standards to preserve and enhance the natural environment and aesthetics of the Town; provide appropriate barriers and relief from traffic, noise, heat, glare, odor and the spread of dust; reduce the impacts of stormwater runoff and erosion; and encourage the preservation of native plant communities, interconnected natural open space, and ecosystems. Furthermore, the intent is to provide a visual screen between certain uses to minimize potential nuisances, reduce the visual impact of aspects of adjacent development, and provide an enhanced sense of privacy; and to establish procedures and standards for the administration and enforcement of these regulations.

### **Section 8.2 Applicability**

All zoning districts and uses are subject to the requirements of this chapter. All new development or substantially modified existing development shall provide landscaping, screening, buffering, and preserve trees in accordance with the standards of this chapter. Where existing vegetation is insufficient to meet the prescribed requirements or additional new landscape material is used, such new landscaping shall consist of vegetation from the Tree Species List.

All new development and substantially modified development shall be required to provide a Landscaping Plan in accordance with the standards of this chapter. The minimum requirements of this chapter shall be installed and shall be maintained in perpetuity for all developments approved or substantially modified after the adoption date of this Code.

Construction standards for some landscaping criteria, including planting and protection standards of trees and shrubs, are located in the *Waxhaw Engineering Design and Construction Standards Manual*.

Buffers described in this chapter refer to planting/landscape buffers. Stream/riparian buffers are addressed in Chapter 9.

### **Section 8.3 General Requirements**

**Landscape Architect or ISA Certified Arborist Required:** Landscape, Tree Preservation, and other Open Space Plans shall be certified by a landscape architect or ISA certified arborist licensed in the State of North Carolina. Prior to the installation of all planting materials, the landscape architect or ISA certified arborist shall:

- A. Inspect the quality of all planting stock upon arrival.
- B. Inspect the installation of all planting stock and provide inspection verification letters to staff.

Town staff may conduct periodic inspections of the planting material and the installation process of all planting stock.

All buffers, landscaped areas, and tree preservation areas shall be free of structures except for ordinary projections. Improvements such as driveways, sidewalks, and greenways are allowed in buffers, landscaped areas, and tree preservation areas. Certain accessory structures are permitted to be placed within required open space areas as provided for by this chapter.

Pedestrian, bicycle, and other alternative transportation and recreation facilities shown on plans adopted by the Town shall take precedent over the strict application of the provisions contained in this chapter.

The Zoning Administrator may waive or modify the requirements of this chapter where other buffers or open space satisfy the requirements of this chapter or based on extenuating circumstances such as underground utility locations, overhead utility line location, mechanical equipment, or where strict application of the provisions would be impractical or serve no useful purpose.

### **Section 8.4 Street and Front, Side and Rear Landscaping Yards**

Trees and other plantings shall be provided within the public right-of-way and within required front, side, and rear setbacks in accordance with the following standards:

- A. Within Right-of-Way: One medium or large maturing tree, depending upon the planting strip size, selected from the Tree Species List, shall be provided in a continuous regular pattern, between 40 to 65 feet on center within the public street right-of-way in the designated planting strip and landscaped median adjacent to all new development in all zoning districts, where existing trees do not satisfy this requirement.

- B. Front Yard Area in EC, CC, NC, TC Districts: One medium to large maturing tree, selected from the Tree Species List, shall be provided within 25 feet of the back of sidewalk in a continuous regular pattern, between 40 to 65 feet on center for developments that are setback at least 10 feet from the street right-of-way. Trees placed in the landscaped front yard should be spaced in a manner that is complementary to the placement of street trees provided within the public right-of-way. Other plantings such as shrubs may be used to enhance the aesthetics of the streetscape area within landscaped front yards to provide visual and physical separation between developments and the adjacent roadway.
- C. Front, Side, Rear Yard Areas in Major Subdivisions, Cluster Developments, and for Developments Located within the National Register Historic District in the R-1, R-3, and R-4 Residential Districts: One medium to large maturing tree shall be provided within the required front yard. Two small, medium, or large maturing trees shall be provided within the required side or rear yards; one of which shall be of the medium to large maturing variety. Four shrubs shall be provided for each required yard tree and may be located anywhere on the parcel.
- D. Street trees shall be located no closer than 40 feet from any controlled intersection to avoid visual constraints of vehicular and pedestrian traffic.
- E. Street trees shall be located no closer than 20 feet from any streetlight unless approved by the Zoning Administrator.
- F. For street sections that do not provide a designed planting strip or a landscaped front yard in the MS, TC, and NC zoning districts, one small to medium maturing tree shall be provided in a tree well located within the public sidewalk according to the following standards:
  1. The street trees shall be located in a continuous regular pattern, between 40 to 65 feet on center, along the public sidewalk.
  2. The street trees shall be selected from the Tree Species List.
  3. Sidewalks shall be of sufficient width to include a continuous, ADA-compliant pedestrian path of five feet that includes no part of the tree well.
- G. Built elements such as fences and walls may be used to enhance the character of the streetscape for developments that provide a landscape front yard. These elements shall conform to Chapter 6 - *Design Standards*.
- H. Streetscape plantings should remain consistent for a minimum of one block face utilizing the same or similar tree species and other plantings and built elements that are consistent with the aesthetics of the development and area of town.

- I. Properties located along the Corridor Overlay District (Waxhaw-Marvin Road and portions of NC 16) shall also meet landscaping requirements found in Section 4.3.1 of this Code.

### **Section 8.5 Parking Lot Landscaping**

Landscaping shall be included in off street parking areas to provide environmental and aesthetic benefits, including the reduction of urban heat island effects, stormwater runoff rates, and visual impact to surrounding land use; and an increase of natural habitat. Small to medium maturing trees shall be used and selected from the Tree Species List; in accordance with the following standards:

- A. All parking spaces shall be within 60 feet of a qualifying tree (as defined in Chapter 13), as measured from the tree trunk to the nearest portion of the parking space. Additionally, there shall be no more than 10 parking spaces in a row without a qualifying tree.”
- B. Trees and shrubs shall be placed within off street parking areas. Parking lot tree islands shall be located within the parking lot paved/curbed area. Perimeter parking lot tree islands that protrude into the edges or the corners of the lot may be used for qualifying trees if the protruding area is equal to at least two parking spaces.
- C. Within the parking lot boundary, landscape areas shall contain a minimum of 280 square feet of planting area per tree, or the area of two standard parking spaces per tree. Planting soil for each qualifying tree shall be amended per town specifications to a depth of 3 feet over the planting area minimum (or 840 cubic feet per tree).
- D. Landscaping medians shall contain a minimum of 280 square feet of planting area per tree, amended per town specifications to a depth of 3 feet over the planting area minimum, and be equal in size to two standard parking spaces (9'x18') for each tree with a minimum planting area width of 6 feet at each tree.
- E. Parking lot trees shall be located no closer than 20 feet to a pole light.
- F. All tree islands shall exclude pole lighting fixtures over 4 feet in height.
- G. Additionally, one tree and 10 shrubs shall be planted an average of every 50 feet, evenly distributed, or clustered in a manner that does not permit excessively wide gaps, along the perimeter of off street parking areas that do not abut a building or public street.

H. Designs for interior parking islands that incorporate Low Impact Development Standards (such as rain gardens) are encouraged. These designs shall feature means for the planted area to receive, temporarily hold, and treat stormwater runoff from adjacent impervious surfaces and include plantings specifically selected for tolerance and treatment of runoff pollutants. Such islands shall include means for excess stormwater to drain directly into storm pipes.

Parking garages shall be excused from the Parking Lot Landscaping requirements contained in this section but shall comply with the provisions of this chapter pertaining to street and front yard landscaping, buffering, and screening.

**Section 8.6 Residential Perimeter Tree Buffer**

Developments containing a total of 25 or more residential units in all phases in the R-1, R-3, R-4, and residential portions of NC districts shall provide an undisturbed 25 foot perimeter landscape buffer in accordance with the following standards:

- A. The undisturbed 25 foot landscape buffer shall be placed along the exterior perimeter of the entire development including those that front existing public streets.
- B. When the current vegetation does not meet or vegetation does not exist, the landscape buffer shall, at a minimum, consist of trees placed every 20 to 30 feet on center and 10 shrubs per tree evenly spaced or clustered throughout the buffer.
- C. Landscaped berms may be used along public street frontages to provide additional screening to the standards in this section. Berms shall be a minimum 6 feet in height.
- D. Existing vegetation may be used to fulfill the buffer requirements and existing trees are required to be preserved within the perimeter buffer area.
- E. The landscape buffer shall be held in common ownership outside of deeded lots unless a homeowners’ association does not exist for the development. In such cases, the buffer may be placed on individual deeded lots but shall be placed in a permanent conservation easement as described in Section 8.12.

**Section 8.7 Buffering of Non-Residential Uses**

Landscape buffers shall be provided between certain zoning districts in order to reduce the potential disturbances that arise from differing land uses and the activities that occur in adjoining zoning districts. All trees provided in required buffer areas shall be selected from the Tree Species List and all shrubs shall be aesthetically compatible with the tree species provided. Buffer areas shall remain undisturbed after they are installed and shall be maintained to retain their functionality and aesthetic appeal. Buildings or structures other than ordinary projections shall not be placed within required buffers. Buffer areas may be contained within required building setbacks to the extent possible. In instances where the required buffer width exceeds that of the required setback distance, the buffer requirement shall be satisfied by the minimum setback requirement.

Existing vegetation may be used to fulfill the buffer requirements and existing trees are encouraged to be preserved within buffer areas. Whenever possible, buffer areas should adjoin other open space in order to form contiguous, connected ecological corridors linking natural environments together. Buffer areas may be contained within required building setbacks to the extent possible. In instances where the required buffer width exceeds that of the required setback distance, the buffer requirement shall apply.

Buffers shall be provided in accordance with the following chart. Each buffer class is described below.

BUFFER TYPE BY ABUTTING DISTRICT								
DISTRICTS	R-1	R-3	R-4	NC	MS	TC	CC	EC
MS	*	*	*	*	*	*	*	*
NC	A	A	A	*	*	*	*	*
TC	B	B	A	*	*	*	*	*
CC	C	C	B	B	*	*	*	B
EC	D	D	D	D	*	B	B	*

\*Indicates no buffer required.

**Section 8.7.1 Class A Buffer**

The *Class A* buffer is the least restrictive buffer category and is intended for use between zoning districts that have only a minor possibility of incompatibility and slight disturbances. A *Class A* buffer shall, at a minimum, consist of the following:

- A. An opaque fence or wall that is a minimum of 6 feet in height along the entire length of the boundary between two applicable adjoining zoning districts; or
- B. A landscaped area a minimum of 10 feet in width consisting of densely planted trees a minimum of 6 feet in height at maturity and shrubs along the entire length of the boundary between two applicable adjoining zoning districts.
  - 1. Buffer trees shall be planted at a minimum interval of 25 feet plus or minus 5 feet linearly on center.
  - 2. Shrubs shall be provided at a minimum of 3 shrubs per tree evenly distributed or clustered within the buffer in a manner that does not permit excessively wide gaps.

**Section 8.7.2 Class B Buffer**

The *Class B* buffer is a medium intensity buffer category intended for use between zoning districts that may have moderate levels of incompatibility leading to disturbances to one or both abutting land uses. A *Class B* buffer shall, at a minimum, consist of the following:

- A. An opaque fence or wall a minimum of 6 feet in height and a 10 foot wide landscaped area or berm along the entire length of the boundary between two applicable adjoining zoning districts.



1. Buffer trees shall be planted at a minimum interval of 40 to 65 feet on center
  2. Shrubs shall be provided at a minimum of 5 shrubs per tree, evenly distributed or clustered within the buffer in a manner that does not permit excessively wide gaps; or
- B. A landscaped area a minimum of 20 feet in width consisting of densely planted trees a minimum of 6 feet in height at maturity and shrubs along the entire length of the boundary between two applicable adjoining zoning districts.

1. Buffer trees shall be planted at a minimum interval of 20 to 30 feet on center.
2. Shrubs shall be provided at a minimum of 7 shrubs per tree, evenly distributed or clustered within the buffer in a manner that does not permit excessively wide gaps.

**Section 8.7.3 Class C Buffer**

The *Class C* buffer is the second medium intensity buffer category and is intended for use between two adjacent zoning districts that may have moderate levels of incompatibility. A *Class C* buffer shall, at a minimum, consist of the following:

- A. An opaque fence or wall a minimum of 6 feet in height and a 30 foot landscaped area along the entire length of the boundary between two applicable adjoining zoning districts.

1. Buffer trees shall be planted at a minimum interval of 20 to 30 feet on center
2. Shrubs shall be provided at a rate of 9 shrubs per tree and evenly distributed or clustered within the buffer in a manner that does not permit excessively wide gaps; or

- B. A landscaped area or berm a minimum of 40 feet in width consisting of densely planted trees a minimum of 6 feet in height at maturity and shrubs along the entire length of the boundary between two applicable adjoining zoning districts.

1. Buffer trees shall be planted at a minimum interval of 15 to 25 feet on center.
2. Shrubs shall be provided at a rate of 11 per tree and evenly distributed or clustered along the length and width of the buffer in a manner that does not permit excessively wide gaps.

**Section 8.7.4 Class D Buffer**

The *Class D* buffer is the most intense buffer category and is intended for use between two adjacent zoning districts that are generally regarded as incompatible. A *Class D* buffer, at a minimum, consist of the following:

- A. An opaque fence or wall a minimum of 6 feet in height and a 40 foot landscaped area along the entire length of the boundary between two applicable adjoining zoning districts.

1. Buffer trees shall be planted at a minimum interval of 15 to 25 feet on center.
2. Shrubs shall be provided at a rate of 13 shrubs per tree and evenly distributed or clustered within the buffer in a manner that does not permit excessively wide gaps; or

- B. A landscaped area or berm a minimum of 50 feet in width consisting of densely planted trees a minimum of 6 feet in height at maturity and shrubs along the entire length of the boundary between two applicable adjoining zoning districts.

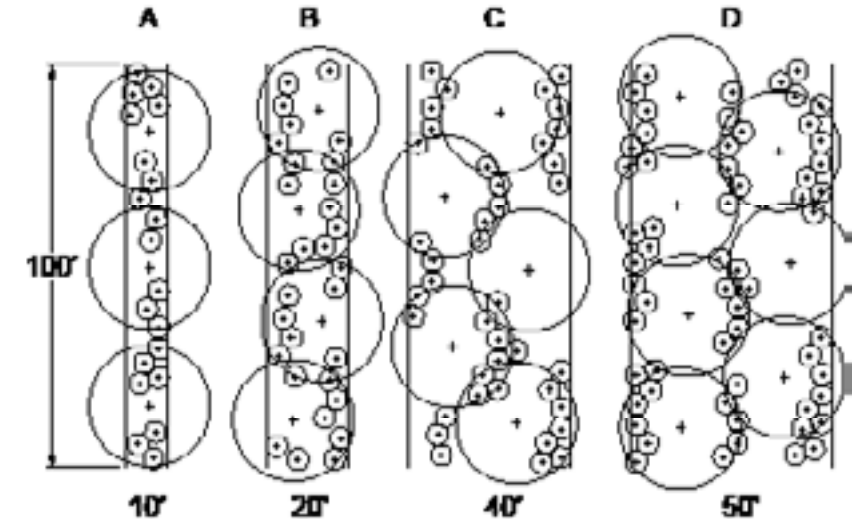
1. Buffer trees shall be planted at a minimum interval of 10 to 20 feet on center.
2. Shrubs shall be provided at a rate of 15 per tree and evenly distributed or clustered within the buffer in a manner that does not permit excessively wide gaps.

BUFFER MINIMUM REQUIREMENTS				
CLASS	A	B	C	D
WIDTH*	10' / 0	20' / 10'	40' / 30'	50' / 40'
TREES per 100 LF*	3 / 0	4 / 3	5 / 4	7 / 5
SHRUBS 100 LF*	20 / 0	30 / 20	40 / 30	60 / 40
INTENSITY	least	moderate		most

\* without fence or wall / with fence or wall

**Buffer Class Illustrations**

Sample planting arrangements are shown in a loose, informal style as an example. Formal planting arrangements are also permitted.



**Section 8.8 Screening**

To enhance the aesthetic appeal of the Town and reduce visual disturbances to adjoining public rights-of-way, public spaces, and neighboring properties, certain site elements shall be screened from public view and from adjoining private property. These elements include, but are not limited to, the following:

- A. Dumpsters and solid waste handling areas
- B. Service entrances and loading docks

- C. Unenclosed storage areas
- D. Mechanical equipment, utility structures, and security fencing
- E. Off-street parking areas
- F. Flood and security lighting

**Section 8.8.1 Screening Standards**

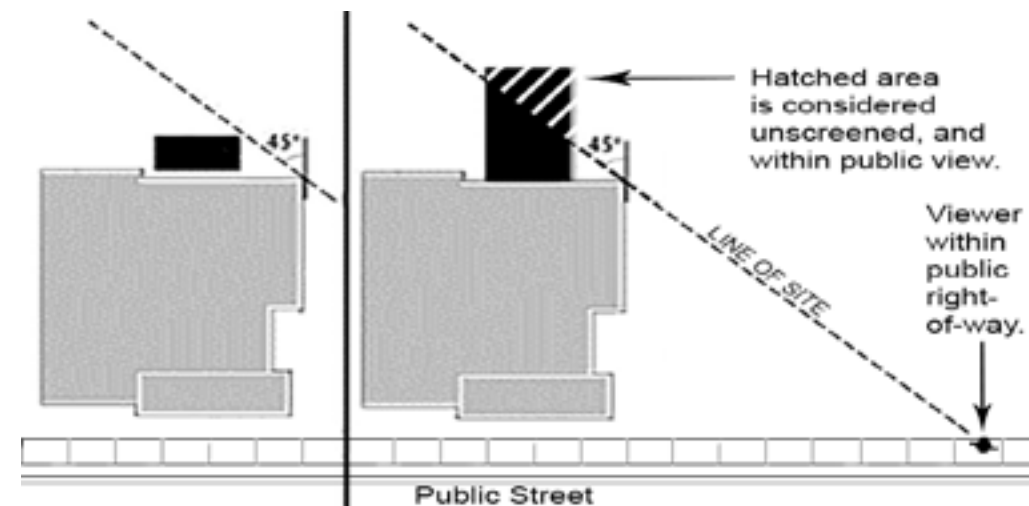
Screening provided for each of the above site elements shall be a minimum of five feet wide and in accordance with the following low or high screen requirements:

- A. Perimeter Parking Lot Landscaping.** A low screen requirement is intended to screen vehicles but permit visibility of pedestrians for safety. They shall apply to off street parking areas visible from public rights-of-way:
1. A minimum of one evergreen shrub shall be planted for every 4 feet of screening area length. Shrubs may be varied in placement if one shrub for every 4 feet is met.
  2. Shrub plantings shall be a minimum of 2 feet in height and a minimum of 2 feet in spread when planted and reach a height of at least 3 feet but not exceed 4 feet in height at maturity.
  3. One medium or large maturing tree shall be provided for every 30 linear feet of the screening area. Two small maturing trees may be substituted for one medium or large maturing tree.
  4. There shall be a minimum of 2 feet between the screening area and curb to accommodate vehicle bumper overhang.
  5. As an alternative to the shrub planting, a low pedestrian wall of four feet in height constructed of masonry may be installed. Pedestrian walls shall be designed to compliment tree placement.
  6. Such screens must be located outside of the public rights-of-way and shall not interfere with sight triangle.

- B. Equipment and Utility Screening.** A high screen requirement shall apply to all dumpsters, solid waste facilities, service entrances, loading docks, unenclosed storage areas, mechanical equipment, utility structures, and security fencing:
1. Items requiring high screen shall be obscured from public view and view from neighboring properties while still allowing for access to such devices as needed. To screen from public view, it shall follow:

- a. A minimum of one evergreen shrub shall be planted for every 4 feet of screening area length. Shrubs may be varied in placement if one shrub for every 4 feet is met.
- b. Shrub plantings shall be minimum of 3 feet when planted and reach a minimum height of 8 feet at maturity.
- c. An opaque fence or wall for equipment and utility screening is also required to supplement the shrub plantings. The opaque fence or wall shall be at a height sufficient to fully conceal the equipment and utility from public view.

- C. A device is considered out of view of the public street if it is within the 45-degree angle projected from the building edges (see diagram).



- D. Screening of additional site features not specifically mentioned in this subsection, waivers to required screening, and additional screening methods such as berms, increased buffer widths, landscaping and tree preservations areas, etc. shall be at the discretion of the Zoning Administrator.

**Section 8.9 Open Space**

Open space shall be provided in order to preserve natural habitats for plants and wildlife, provide recreation space, and reduce the adverse impacts of development on the Town. The types and rate of open space shall be provided in accordance with the following standards:

- A. Developments five acres or greater in the CC and EC districts, shall dedicate a minimum of 10 percent of the interior site area as publicly accessible recreation space.
- B. Developments two acres or greater in the MS, and TC districts shall dedicate a minimum of two percent of the interior site area as publicly accessible recreation space.
- C. Developments containing a total of 25 or more residential units in all phases in the R-1, R-3, and R-4 districts shall dedicate a minimum of 15 percent of the interior site area as publicly accessible recreation space.

- D. NC District developments shall include a minimum of 15% of the interior site area dedicated as publicly accessible recreation/public space. Projects in the NC District shall be designed around open space/public space and tree preservation areas as referenced in Section 6.5.2.C and D, and Section 6.6.10 Common Open Space.
- E. Developments can dedicate 20 percent or more area to open space to qualify for the Cluster Development requirements found in Section 5.8 of this Code.
- F. Publicly accessible recreation space may take the form of trails, parks, plazas, playgrounds, or community gardens. Such recreation space should be a focal point of the development and be centrally located so as to serve residents in the area of the development and the general public.
  - 1. The shape and dimensions of the land used for recreation space shall be deemed usable, with moderate topography and shall not be located in environmentally sensitive areas such as FEMA flood areas or wetlands or within utility rights-of-way or easements.
  - 2. Amenities shall be provided for active and passive recreation space such as seating, trash receptacles, water fountains, playgrounds, sports fields/courts, etc. in order to be deemed publicly accessible recreation space.
- F. All open space shall conform to the ownership and maintenance requirements of Section 8.12.
- G. Additional tree preservation shall be designated as open space to meet the minimum requirement. Tree preservation areas shall meet the standards of Section 8.10.
- H. Dedication of recreation areas and open space land.
  - 1. General provisions. In addition to the open space requirements of subsection C. and D. above all major subdivisions shall dedicate a portion of land to the Town or pay a fee in lieu thereof, in accordance with this section, for public park, greenway, recreation facilities, open space sites to serve the recreational needs of the residents in the area. The decision to either accept land or a fee in lieu of shall rest with the Town Board of Commissioners after Planning Board recommendation at the Preliminary Plat stage. All designated lands per this requirement shall be in coordination with any adopted plans.
  - 2. Amount of land to be dedicated. At least one thirty-fifth (or 1,245 square feet) of an acre shall be dedicated for each dwelling unit proposed on the major subdivision plat.
  - 3. Nature of land to be dedicated. All dedications of land shall meet the following criteria.

- a. **Unity.** The dedicated land shall form a single parcel of land, except where the zoning administrator determines that two or more parcels would be in the best interest of the public, given the type and distribution of open spaces needed to adequately serve the proposed development and residents within close proximity of the subdivision or provide connectivity to an existing or proposed greenway or public recreation facility.
- b. **Usability.** At least two-thirds of the dedicated land shall be suitable for active recreation (e.g., soccer, baseball or football fields, playgrounds and the like). Lands that lie outside of federal or state preservation restrictions but that are designated for preservation within the current Waxhaw Comprehensive Plan Open Space map, as well as Greenways which are constructed, may be credited against the requirements of this section provided that the greenways are part of the most recently adopted Master Plan, and dedicated to public use.
- c. **Shape.** The portion of dedicated land that is deemed suitable for active recreation shall be of a shape so as to be usable for the active recreational activities planned for the site. Lands outside of federal or state preservation restrictions that are designated for preservation or land dedicated only for greenways need not follow the requirements of this division.
- d. **Location.** The dedicated land shall be located so as to reasonably serve the recreation and open space needs of residents of the subdivision and residents within close proximity of the subdivision.
- e. **Access.** Public access to the dedicated land shall be provided either by adjoining public street frontage or by a dedicated public easement, at least ten feet wide, which connects the dedicated land to a public street or right-of-way. Where the dedicated land is located adjacent to a street, the developer or subdivider shall remain responsible for the installation of utilities, sidewalks and other improvements required along that street segment.
- f. **Topography.** The average slope of the portion of dedicated land deemed usable for active recreation shall not be excessive and shall be practicable for the proposed recreational use. In no case shall a slope on the active portion of dedicated land exceed 15%. Gradients adjacent to existing and proposed streets shall allow for reasonable access to the dedicated land.
- g. **Ownership and maintenance of dedicated land.** Park, recreation and open space land shall be in fee simple title to a homeowners' association to a local government or non-profit organization for ownership and maintenance.

I. Payments of fees in lieu of land dedication.

- 1. If a payment in lieu of land dedication is required the payment shall be used for the acquisition or development of recreation facilities, parks, greenways, or open space sites that would serve the needs of the residents of the subdivision and residents within close proximity of the subdivision.



The amount of the payment shall be determined as follows:

- a. One thirty-fifth of an acre times the tax value per acre times the proposed number of lots.  $((\text{the tax value per acre}) (\text{number of lots}))/35$
  - b. Example: proposed 86-unit development with a tax value of \$65,000/acre:  
Fee in lieu =  $(65,000 \times 86)/35$
2. Payment in lieu shall not be permitted for lands identified in the current Comprehensive Plan Open Space map as preservation lands, except at the discretion of the Zoning Administrator.

J. Procedures.

1. At the time of filing a preliminary plan, the subdivider shall designate thereon the area or areas to be dedicated pursuant to this section or provide the estimated amount owed for the payment in lieu of the dedication of land in a letter to that effect prior to final plat approval.
2. Where a dedication of land is required by the Board, the dedication shall be shown on the final plat when submitted, and the plat shall be accompanied by an executed general warranty deed conveying the dedicated land to the Town. Where the Board approves a payment-in-lieu of dedication, the payment shall have been made before the final plat is signed and recorded.

**Section 8.10 Tree Preservation**

Tree canopy shall be preserved in order to stabilize soil, control water pollution by preventing soil erosion and reducing flooding, reduce air pollution, mitigate the urban heat island effect, reduce noise pollution, provide natural habitat for wildlife, and contribute to the unique aesthetic value of the Town. The amount of tree canopy on a proposed development's site shall be calculated prior to commencement of land disturbing activities. Tree preservation shall be provided according to the following standards.

- A. Development sites in the R-1, R-3, and R-4 districts that are calculated to be covered by 40 percent or more tree canopy area prior to development shall preserve a minimum of 30 percent of their Interior Site Area in contiguous tree preservation areas.
- B. Development sites in the CC, and EC districts that are calculated to be covered by 40 percent or more tree canopy area prior to development shall preserve a minimum of 20 percent of their Interior Site Area in contiguous tree preservation areas.
- C. Development sites in the R-1, R-3, R-4, CC, and EC districts that are calculated to be covered in less than 40 percent of tree canopy area prior to development shall preserve a minimum of 15 percent of their Interior Site Area in contiguous tree preservation areas.

- D. Development sites in the NC District shall preserve a minimum of 15% of their interior site area in contiguous tree preservation areas. Tree preservation areas may be counted as (or be in addition to) the open space requirements. The majority of open space as required in Section 8.9.D shall be tree save as deemed appropriate by the Zoning Administrator.
- E. The baseline canopy measurements on a proposed development site shall be provided by the property owner or applicant and submitted as part of a landscape plan. The percent canopy cover may be calculated using the latest available aerial photographs and verified, if necessary, by ground measurement. The method of canopy calculation must be approved by the Union County Urban Forester.
- F. If the tree save requirement does not meet the required percentage of the total site area, additional trees must be planted. Trees planted shall be a minimum of two inches in caliper and shall be 75% medium to large maturing.
- G. Where circumstances prevent locating the required tree plantings or preservation standards on site, the developer may mitigate protected tree canopy removal by planting new trees on the site whose canopy equals that of the canopy to be removed.
- H. Areas that are designated as existing rights-of-way, easements or other utility facilities and existing ponds, lakes, or streams shall be subtracted from the total property area before the tree preservation requirements are calculated.
- I. If root disturbance or construction activities occur within the drip line of any tree designated as protected, only the area that is not affected by construction activities shall be included in the calculated tree preservation areas.
- J. Tree preservation areas shall be no less than 2,500 square feet in area, no less than 10 feet in width, and contain not less than one tree. Where existing trees are insufficient to meet this standard, new trees shall be planted in order to meet this minimum requirement.
- K. Tree preservation areas shall not be located on any deeded lot.
- L. Portions of development sites that are designated as tree preservation areas shall be protected during construction and shall remain undisturbed in perpetuity. The property owner or applicant 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. These tree protection zones shall be clearly labeled on development plans and subject to inspection by Town officials.
- M. Where removal of existing trees is approved within tree preservation areas, new trees shall be installed in the general vicinity of the trees removed. The replacement trees shall be selected from the Tree Species List and shall cover the same or greater canopy area at time of maturity.

1. A payment in lieu of tree replacement may be allowed, subject to approval by the Zoning Administrator in cases where site area is insufficient or it is otherwise impractical to replant trees on site.
2. The payment shall be based on the total replacement cost of the trees. The applicant is responsible for providing price quotes and such quotes shall be certified by a North Carolina registered forester, registered Landscape Architect, or an ISA certified arborist.

### **Section 8.11 Heritage Trees**

Trees that are 36" or larger as measured by their diameter at breast height (DBH) shall be considered heritage trees due to their extraordinary size, aesthetic and historic value to the Town. These trees shall be preserved according to the following standards:

- A. Heritage trees shall be preserved on all publicly owned or maintained property, and all privately owned land wherever feasible.
- B. Heritage trees shall be shown as a part of the landscape plan requirement. Identification of specific locations of all heritage trees shall be provided.
- C. For every heritage tree preserved in new developments, credit shall be applied toward the reduction of required Open Space at a rate of 5,000 square feet per tree on developments less than 10 acres, or 1% of required Open Space per tree on developments greater than 10 acres. Reduction of other development standards may be considered by the Zoning Administrator.
- D. The Zoning Administrator may waive or modify setback and other site dimensional and development standards in order to accommodate the preservation of Heritage trees.

### **Section 8.12 Maintenance and Ownership**

Buffers and Open Space may be held in common ownership, in a permanent conservation easement, dedicated to the Town of Waxhaw, or to a regional conservation organization according to the following standards:

- A. Buffers and Open Space shall be held in common ownership outside of deeded lots by a homeowners association (HOA) or other property management association.
- B. Buffers and Open Space may be placed in permanent conservation easements as an alternative to common ownership.
- C. Buffers and Open Space may be dedicated to the Town of Waxhaw if they are found, by the Waxhaw Board of Commissioners, to have qualities that are valuable to the Town as a whole and in the public interest.

It shall be the responsibility of the property owner to maintain buffers, open space, street and yard landscaping, screening, etc. in good condition. All site elements described in this chapter shall be maintained in perpetuity.

- D. Any planted material that becomes damaged or diseased or dies shall be replaced by the owner within 60 days of the discovery of such condition. If the Zoning Administrator determines there are seasonal conditions that will not permit the timely replacement of the vegetation (e.g. too hot or too cold for successful replanting), the Zoning Administrator may modify the requirement until a time certain when the replanting would be successful.

### **Section 8.13 Forestry Activities**

Forestry activities are regulated by NC GS 160D-921.

### **Section 8.14 Tree Species List**

A list of approved trees for planting is provided to increase the likelihood of survival and reduce maintenance requirements. All trees used should be generally adapted to the normal climatic and environmental conditions of the Waxhaw area. The list is not intended as a comprehensive survey, but as a guide to plant selection for landscape plans.

All trees classified as Large or Medium maturing size shall require a minimum planting strip width of seven feet unless otherwise noted. Small maturing street trees shall require a minimum of four feet in width, unless otherwise noted or approved by the Zoning Administrator.

Typical growth rate for each plant is provided in the Tree Species List in a simplified format of Slow (S), Medium (M) and Fast (F).

Trees are classified as native to Union County (N), native to NC (NC) or Exotic (E).

## LARGE MATURING - DECIDUOUS - 50 FEET OR TALLER

Common Name	Botanical Name	Height (ft)	Width (ft)	Comments	Growth rate	Native/ Exotic
Baldcypress	<i>Taxodium distichum</i>	70	25	Unique, stately tree, tolerates wet areas, may produce "knees" in wet soils.	M	NC
Beech, American	<i>Fagus grandifolia</i>	70	50	Shallow rooted. Needs space and good soils, stately tree, holds some leaves through winter.	S to M	N
Birch, River	<i>Betula nigra</i>	50	35	Chose drought resistant variety, prone to insect problems, avoid mass plantings. Shallow rooted.	M to F	N
Dawn Redwood	<i>Metasequoia glyptostroboides</i>	70	30	Underused tree, upright form, good screening.	F	E
Elm, Lacebark	<i>Ulmus parvifolia</i>	50	40	Upright and spreading, good disease resistance, interesting bark, cultivars.	M to F	E
Ginkgo	<i>Ginkgo biloba</i>	65	30	Tough tree, irregular form, best as specimen tree. Plant only males (rancid fruit).	S	E
Hackberry, Common	<i>Celtis occidentalis</i>	60	50	Large root system, underused tree.	M to F	NC
Hackberry, Sugarberry	<i>Celtis laevigata</i>	70	60	Large root system, more disease resistant.	M to F	N
Hickory, Bitternut	<i>Carya cordiformis</i>	60	40	Large nut, difficult to transplant, great tree.	F to M	NC
Hickory, Mockernut	<i>Carya tomentosa</i>	60	40	Large nut, difficult to transplant, great tree.	M	N
Hickory, Pignut	<i>Carya glabra</i>	60	35	Large nut, difficult to transplant, great tree.	M	N
Hickory, Shagbark	<i>Carya ovata</i>	60	40	Large nut, difficult to transplant, great tree.	S to M	N
Hornbeam, European	<i>Carpinus betulus</i>	50	35	Fine tree for urban uses, numerous cultivars for size and shape.	M to S	E
Kentucky Coffee-tree	<i>Gymnocladus dioicus</i>	60	40	Interesting spring color, tough, underused tree, may present litter problem.	M	NC
Magnolia, Cucumbertree	<i>Magnolia acuminata</i>	60	40	Needs space, beautiful natural area tree, profuse blooms. Shallow rooted	M to F	NC
Maple, Red	<i>Acer rubrum</i>	50	40	Shallow rooted. Cultivars for shape, disease resistance and fall color.	M to F	N
Maple, Sugar	<i>Acer saccharum</i>	60	30	Shallow rooted. Prefers partial shade. "Legacy" or 'Summer Proof' for heat, find disease resistant cultivars.	S to M	N

## LARGE MATURING - DECIDUOUS - 50 FEET OR TALLER

Common Name	Botanical Name	Height (ft)	Width (ft)	Comments	Growth rate	Native/ Exotic
Oak Scarlet	<i>Quercus coccinea</i>	70	50	Tough and adaptable, good fall color.	S to M	N
Oak, Black	<i>Quercus velutina</i>	60	45	Tough, good form.	S	N
Oak, English	<i>Quercus robur</i>	60	50	Numerous cultivars for shape and size.	M	E
Oak, Live	<i>Quercus virginiana</i>	40	50	Short, needs wide spaces, stately tree.	M to S	NC
Oak, Nuttall	<i>Quercus nuttallii</i>	50	50	Very adaptable, colorful most of the year, some litter in fall.	M	E
Oak, Overcup	<i>Quercus lyrata</i>	50	40	More confined canopy, oval form.	M	N
Oak, Pin	<i>Quercus palustris</i>	60	40	Compact crown, great fall color, avoid high pH. Shallow rooted.	M to F	E
Oak, Post	<i>Quercus stellata</i>	45	40	Smaller crown, tough tree, unusual form, not widely available.	S	N
Oak, Shumard	<i>Quercus shumardii</i>	50	40	Pyramida-spreading at maturity, tough, good fall color.	M	N
Oak, Southern Red	<i>Quercus falcata</i>	65	50	Large shade tree, good structure, some litter in fall.	M	N
Oak, Swamp White	<i>Quercus bicolor</i>	50	40	Tough tree, white underside leaf interest, tolerates wet and dry soils, likes acidic soils.	M	NC
Oak, White	<i>Quercus alba</i>	65	60	Monarch tree, needs space, great form, some litter in fall.	M to S	N
Oak, Willow	<i>Quercus phellos</i>	65	60	Needs space, overused urban tree, prone to trunk rot.	M	N
Poplar Tulip; Yellow Poplar	<i>Liriodendron tulipifera</i>	70	40	Need space and good soil, weaker wood, plant at least 40' from structures or parking. Shallow rooted.	F	N
Sycamore; Planetree	<i>Platanus occidentalis</i>	80	50	Beautiful exfoliating bark, litter issues (fruit and leaves), may not tolerate dry sites with poor soils. Shallow rooted.	F	N
Tupeo; Blackgum	<i>Nyssa sylvatica</i>	50	30	Great fall color, shows some color all year, tough urban tree, UNDERUSED. 'Wildfire' cultivar works well in our area.	M	N
Zelkova, Japanese	<i>Zelkova serrata</i>	50	40	Tough urban tree, upright habits, many cultivars.	M to F	E



## LARGE MATURING - EVERGREEN - 50 FEET OR TALLER

Common Name	Botanical Name	Height (ft)	Width (ft)	Comments	Growth rate	Native/ Exotic
Cedar, Atlas	<i>Cedrus atlantica</i>	50	30	Pyramidal in youth, spreading later, beautiful tree, cultivars.	M to S	E
Cedar, Deodar	<i>Cedrus deodara</i>	50	40	Graceful tree, needs space, numerous cultivars for color and size.	M to S	E
Cypress, Leyland	<i>Xcupressocyparis leylandii</i>	50	20	OVERUSED, prone to disease and pest, not long lived in most cases, choose varieties carefully, no mass plantings.	F	E
Hemlock, Carolina	<i>Tsuga caroliniana</i>	55	40	Shallow rooted. Needs improved soils, not very drought tolerant.	S	NC
Hinoki Falsecypress	<i>Chamaecyparis obtusa</i>	50	20	Beautiful tree, red bark, cultivars for size.	M	E
Incensecedar, California	<i>Calocedrus decurrens</i>	45	10	Tolerant of heat, great screen or specimen tree. Minimum 4' planting strips allowable.	S to M	E
Japanese Cedar	<i>Cryptomeria japonica</i>	50	20	Possible replacement for Leyland cypress, few disease problems. 'Yoshino' cultivar does not bronze in winter.	F	E
Magnolia, Southern	<i>Magnolia grandiflora</i>	60	40	Shallow rooted. Needs space, great screen, numerous cultivars.	S to M	NC
Norway Spruce	<i>Picea abies</i>	50	25	Locate selectively, may not tolerate heat or full sun without irrigation, needs root space.	M to F	E
Pine, Loblolly	<i>Pinus taeda</i>	70	40	Long-needle pine, may break during ice storms.	M	N
Pine, Longleaf	<i>Pinus palustris</i>	80	35	Long lustrous needles, strong wood, grows best in sandy soils.	S	NC
Pine, Shortleaf	<i>Pinus echinata</i>	60	30	Darker coloration, shorter needles than loblolly.	S to M	N
Sawara Falsecypress	<i>Chamaecyparis pisifera</i>	50	20	Upright, loose, cultivars.	M	E

## MEDIUM MATURING TREES - DECIDUOUS - HEIGHT 30FT - 50FT

Common Name	Botanical Name	Height (ft)	Width (ft)	Comments	Growth rate	Native/ Exotic
Carolina Silverbell	<i>Halesia tetraptera</i>	30	25	Beautiful flower, wonderful small tree, low branching, tolerates shade.	M	NC
Cherry, Japanese	<i>Prunus serrulata</i>	40	40	Shallow rooted. Many varieties, prone to disease, use sparingly.	M	E
Cherry, 'Kwanzan'	<i>Prunus serrulata 'Kwanzan'</i>	20	20	Superior heat tolerance to Yoshino Cherry.	M	E
Cherry, Yoshino	<i>Prunus x yedoensis</i>	35	40	Does not tolerate heat well in southern NC., prone to disease, use cautiously.	F	E
Dogwood, Flowering	<i>Cornus florida</i>	35	25	Low stress tolerance, not suited for full sun, needs good soils, many cultivars for color and disease resistance	S	N
Dogwood, Kousa	<i>Cornus kousa</i>	30	20	Not as showy as Flowering Dogwood (flowers after leaf) but more tolerant of urban stress and heat. Numerous cultivars.	S	E
Honeylocust, Thornless	<i>Gleditsia triacanthos</i>	40	30	Delicate compound leaf, some problems with disease and insects, many cultivars for size and shape, requires good soils.	F	E
Hophornbeam, American	<i>Ostrya virginiana</i>	35	20	Beautiful bark, interesting structure, tough.	S	N
Hornbeam, American	<i>Carpinus caroliniana</i>	25	25	Tough tree, looks like beech, muscular trunk	S	N
Hornbeam, European	<i>Carpinus betulus</i>	50	35	Fine tree for urban uses, numerous cultivars for smaller size and shape.	M to S	E
Lacebark Elm	<i>Ulmus parvifolia</i>	40	30	Tough urban tree, tolerates stress, some cultivars.	F	E
Maple, Hedge	<i>Acer campestre</i>	30	25	Good fall color, more compact size.	S	E
Maple, Red	<i>Acer rubrum (various cultivars)</i>	40	30	Shallow rooted. Choose cultivars for size, shape, resistance and fall color	M to F	N
Maple, 'Sunset'	<i>Acer truncatum x platanoides</i>	30	25	Shallow rooted. Several cultivars, stress tolerant	M	E
Maple, Trident	<i>Acer buergerianum</i>	35	30	Tough, small tree, good for urban sites, fall color.	S to M	E
Oak, English	<i>Quercus robur</i>	60	50	Numerous cultivars for shape and size.	M	E

## MEDIUM MATURING TREES - DECIDUOUS - HEIGHT 30FT - 50FT

Common Name	Botanical Name	Height (ft)	Width (ft)	Comments	Growth rate	Native/ Exotic
Oak, Post	<i>Quercus stellata</i>	45	40	Smaller crown, tough tree, unusual form, not widely available.	S	N
Red Horsechestnut	<i>Aesculus x carnea</i>	50	40	Profuse flowers, some litter with nuts, tough, excellent border tree.	M	E
Redbud, Eastern	<i>Cercis canadensis</i>	30	30	Great flower show, numerous varieties and cultivars for size, flower and color.	M to F	N
Sourwood	<i>Oxydendrum arboreum</i>	30	20	All season color, some insect pests.	S	N
Turkish Filbert	<i>Carylus colurna</i>	40	20	Excellent urban tree, formal habit, heat tolerant.	F	E

## MEDIUM MATURING TREES - EVERGREEN - HEIGHT 30FT - 50FT

Common Name	Botanical Name	Height (ft)	Width (ft)	Comments	Growth rate	Native/ Exotic
American Holly	<i>Ilex opaca</i>	45	20	Various cultivars.	M	N
Arborvitae, Eastern	<i>Thuja occidentalis</i>	40	15	More disease and insect problems than <i>T. plicata</i> . Shallow rooted. .	M to F	NC
Arborvitae, Giant	<i>Thuja plicata</i>	50	20	Great conifer for screens, bagworms, various cultivars for size and color.	M	E
Atlantic Whitecedar	<i>Chamaecyparis thyoides</i>	40	20	Beautiful tree, may be hard to find, numerous cultivars for color and size.	M to F	NC
Cedar, Eastern Red	<i>Juniperus virginiana</i>	40	20	Tough, compact, columnar, substitute for Leyland Cypress, many cultivars.	M to S	N
Cypress, Arizona	<i>Cupressus arizonica</i>	40	20	Great Tree, tough, replacement for Leyland Cypress, many cultivars.	M	E
Fosteri Holly	<i>Ilex attenuata</i>	30	15	Many cultivars for size.	M	E
Hemlock, Carolina	<i>Tsuga caroliniana</i>	50	40	Needs improved soils, low drought tolerance.	S	NC
Japanese Cedar	<i>Cryptomeria japonica</i>	50	20	Substitute for Leyland cypress, few disease problems. 'Yoshino' cultivar does not bronze in winter.	F	E
Magnolia, Southern	<i>Magnolia grandiflora</i>	60	40	Needs space, great screen, numerous cultivars for size and bloom.	S to M	NC
Magnolia, Sweetbay	<i>Magnolia virginiana</i>	35	20	Beautiful semi-evergreen Magnolia, tolerates wet soils, cultivars.	M to F	NC
Southern Red Cedar	<i>Juniperus silicola</i>	30	15	Like Eastern Redcedar, smaller, tougher.	S	NC

## SMALL MATURING TREES - DECIDUOUS - HEIGHT 10FT - 30FT

Common Name	Botanical Name	Height (ft)	Width (ft)	Comments	Growth rate	Native/ Exotic
Cherry, apricot, plum, etc.	<i>Prunus spp.</i>	varies	varies	Wide variety in flower color, size and shape; short lived due to disease and insect problems, use sparingly. Select for height and space requirements.	S to M	varies
Cherry, Japanese 'Kwanzan'	<i>Prunus serrulata 'Kwanzan'</i>	20	20	Excellent spring color and interesting bark. More heat tolerant the 'Yoshino' cultivar.	M	E
Crabapple, Flowering	<i>Malus spp.</i>	20	20	Short lived, profuse flowers, select disease and insect resistant cultivars, use sparingly. Fruit may be nuisance.	M	NC
Crape myrtle, (Crepe myrtle) common	<i>Lagerstroemia indica</i>	20	10	Overplanted, overpruned, tough, beautiful small blooms and exfoliating bark, endless cultivars for size and flower color.	M to F	E
Crape myrtle, Japanese	<i>Lagerstroemia fauriei</i>	25	12	Cultivars: Fantasy, Kiowa, Townhouse.	M to F	E
Crape myrtle, 'Natchez'	<i>Lagerstroemia (indica x fauriei) 'Natchez'</i>	30	35	Cinnamon bark. cross between <i>N. indica</i> and <i>N. fauriei</i>	M to F	E
Dogwood, Cornelian cherry	<i>Cornus mas</i>	20	25	Showy, tougher than <i>C. florida</i> , many cultivars for color and flower size.	M	E
Dogwood, Flowering	<i>Cornus florida</i>	20	30	White flowers in spring, red fruit and burgandy leaves. Best against evergreen background. Many cultivars for specific height, width, color and form.	S to M	N
Dogwood, Kousa	<i>Cornus kousa</i>	30	20	Resistant to anthracnose. Prolific blooms (after leaf) last longer than <i>C. florida</i> . Many cultivars.	S	E
Fringetree, American; Old Man's Beard	<i>Chionanthus virginicus</i>	20	20	Beautiful small tree, shrubby look, drought tolerant fragrant flowers.	S to M	N
Fringetree, Chinese	<i>Chionanthus retusus</i>	15	20	Spreading shape with abundant white blooms. Drought tolerant. Prune to tree form.	S	E
Hawthorn	<i>Crataegus spp.</i>	20	20	Sharp thorns, red berries, late spring bloom.		varies
Hawthorn, Cockspur	<i>Crataegus crusgalli</i>	25	25	Dense shade. White flowers in May. Red berries. Sharp thorns.	S to M	N

## SMALL MATURING TREES - DECIDUOUS - HEIGHT 10FT - 30FT

Common Name	Botanical Name	Height (ft)	Width (ft)	Comments	Growth rate	Native/ Exotic
Hawthorn, Washington	<i>Crataegus phaenogyrum</i>	25	25	Heat tolerant, deciduous, fall color, native, wildlife, thorns, disease prone.	F	N
Hophornbeam, Ironwood	<i>Ostrya virginiana</i>	25	25	Good street tree. Sculptural trunk, blue-grey and smooth with muscular structure. Very dense wood.	S	N
Hornbeam, American; Musclewood	<i>Carpinus caroliniana</i>	25	25	Tough tree, looks like Beech, muscular trunk. Good street tree.	S	N
Magnolia, Saucer	<i>Magnolia x soulangiana</i>	20	20	Select cultivar for height requirements. Prune to tree form.	M	E
Maple, Purpleblow "Norwegian Sunset"	<i>Acer truncatum x platanoides</i>	25	25	Several cultivars, stress & heat tolerant.	M	E
Maple, Amur	<i>Acer ginnala</i>	20	20	White fragrant flowers in spring. Easy to transplant. Shallow rooted. Dense shade, prune to tree form.	S	E
Maple, Chalk	<i>Acer leucoderme</i>	30	25	Native. Chalky white bark on upper trunk. Similar to sugar maple; pest free; heat tolerant.	S	N
Maple, Hedge	<i>Acer campestre</i>	30	30	Good fall color, more compact size, good street tree.	S	E
Maple, Japanese	<i>Acer palmatum</i>	20	20	<i>Dissectum</i> cultivar is not a tree.	S	E
Maple, Trident	<i>Acer buergerianum</i>	30	25	Good late fall color, tolerant of urban conditions.	S to M	E
Pistache, Chinese (Chinese pistachio)	<i>Pistacia chinensis</i>	30	30	Very tough, fall color, compound leaf, tolerates pruning.	M to F	E
Redbud, Eastern	<i>Cercis canadensis</i>	25	20	Showy flower, some disease problems, tough tree, many cultivars for color and size.	M	N
Serviceberry, Downy	<i>Amelanchier arborea</i>	12	12	Low stress tolerance, showy flower, requires little pruning, some disease problems, many cultivars for flower and habit.	S	N
Serviceberry, Shadbush	<i>Amelanchier canadensis</i>	15	18	Prefers well drained soils but tolerates wide moisture range. Attracts birds. White flowers. Purple-black fruit.	M	N
Silverbell, Carolina	<i>Halesia tetraptera</i>	30	30	Beautiful flower, wonderful small tree, low branching, tolerates shade.	M	N

## SMALL MATURING TREES - DECIDUOUS - HEIGHT 10FT - 30FT

Common Name	Botanical Name	Height (ft)	Width (ft)	Comments	Growth rate	Native/ Exotic
Silverbell, Florida	<i>Halesia carolina</i>	20	30	More drought tolerant than other silverbells; cold hardy in NC.	M	N
Snowbell, Japanese;	<i>Styrax japonica</i>	25	25	Not heat tolerant, clusters of large white flowers in May-June.	M	E
Sourwood	<i>Oxydendrum arboreum</i>	25	12	Fragrant showy white flowers used by bees and butterflies. Brilliant red to yellow fall color. Flower racemes into winter. Sensitive to root disturbance.	S	N
Witch hazel	<i>Hamamelis virginiana</i>	20	25	Tough, great in borders or near buildings, interesting form, <i>H. japonica</i> and <i>x intermedia</i> easier to locate.	S to M	N

## SMALL MATURING TREES - EVERGREEN - HEIGHT 10FT - 30FT

Common Name	Botanical Name	Height (ft)	Width (ft)	Comments	Growth rate	Native/ Exotic
Carolina Cherry Laurel	<i>Prunus caroliniana</i>	30	20	Tough, beautiful, needs space, some cultivars. Poison wilted leaves, twigs seeds. Recommended where no overhead or visibility problems occur.	F	NC
Devilwood, Wild Olive,	<i>Osmanthus americanus</i>	20	12	Fragrant small, white flowers followed by dark blue drupes. Can be heavily pruned or hedged.	M	NC
Holly	<i>Ilex spp.</i>	varies	varies	<i>I. cornuta, glabra, opaca, verticillata, decidua, cassine, vomitoria</i> , endless varieties, explore native hollies. Select for height and space restrictions.	M to F	N
Magnolia	<i>Magnolia spp.</i>	30	20	Many cultivars for smaller size such as "Little Gem", "Wada's Memory", "Hasse".	M	NC
Magnolia, Little Gem	<i>M. Grandiflora 'Little Gem'</i>	20	10	Dwarf cultivar of Southern Magnolia.	M	E
Mountain Laurel	<i>Kalmia latifolia</i>	12	5	Low stress tolerance, beautiful border plant, requires improved soil, cultivars for size and flower color, underused. All parts poisonous if ingested. Prune to tree form.	S	N
Waxmyrtle, Southern	<i>Myrica cerifera</i>	20	10	Screening plant. Tolerates drought, heat and stress. some cultivars available. Can be pruned to tree form. Recommended where no overhead or visibility problems occur.	F	NC



## Section 8.15 Lighting

It is the purpose and intent of this Exterior Lighting Section to accomplish the following:

- A. Encourage the use of lighting design practices and systems that will minimize direct illumination and light pollution
- B. Conserve energy and resources while maintaining nighttime safety, security and productivity
- C. To establish clear and comprehensive outdoor lighting standards with an emphasis on reducing glare and light trespass by requiring in most circumstances full cut-off light fixtures.
- D. To allow for outdoor lighting that is appropriate for the task and to establish light fixture height, wattage, distribution and illumination limits that will help prevent light trespass to adjacent properties.

### Section 8.15.1 Exemptions

The following lighting is exempt from the requirements of this Chapter:

- A. Emergency lighting: Lighting required for public safety in the reasonable determination of public safety officials with authority.
- B. Decorative lighting: Low-wattage fixtures used for decoration, such as for the holidays, special events, and annual events, which follow architectural features on buildings.
- C. Individual residential lighting that is not reviewed as part of a plan.
- D. DOT lighting: Department of Transportation highway safety and signage luminaries, which must comply with federal standards.
- E. Municipal lighting installed for the purpose of illuminating streets, sidewalks, and multi-modal pathways.

### Section 8.15.2 Lighting Plan Required

A lighting plan is required for site plan approval. Any changes to the lighting plan must be approved by Zoning Administrator through a site and/or subdivision plan revision. The lighting plan shall be in accordance with IESNA standards for uniformity and show all maximum/minimum and average/minimum light levels.

The Zoning Administrator can waive this requirement for projects of one acre or less if lighting standards and locations are specified on site plan.

## Section 8.15.3 Lighting Standards

- A. Street Lighting. All public streets, sidewalks, and other common areas or facilities 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.
  1. Streetlights shall be located according to the current Town of Waxhaw *Engineering Design and Construction Standards Procedures Manual - Street Lighting Policy*.
  2. Streetlights shall be of a type and rating as specified in the current Town of Waxhaw *Engineering Design and Construction Standards Procedures Manual - Street Lighting Policy*.
- B. Maximum mounted fixture height (grade to top of fixture) for all ground mounted or building mounted lighting fixtures, except those used for sporting facilities, shall be as follows:
  1. Non-residential and mixed-use property – 32 feet
  2. Residential property (single or multi-family) – 20 feet
  3. Pedestrian pathways or sidewalks separate from road rights-of-way – 16 feet
- C. All lighting fixtures rated 150 watts (incandescent lamp or appropriate lumen equivalent) or less may be used without restriction to light distribution (non-cutoff classification) except when the luminaire creates direct glare perceptible to persons on a public right of way, or into the window openings of a residential dwelling unit. Care should be taken to minimize light pollution across property lines. Internal louvers or “glare shields” should be provided where the emitted light becomes a hindrance. House side shields may also be effective in reducing light trespass.
- D. All lighting fixtures rated between 175 watts and 400 watts (incandescent lamp or appropriate lumen equivalent) shall be rated as a “full cutoff” type when placed in the aiming position for which they are designed.



- E. All lighting fixtures rated above 400 watts (incandescent lamp or appropriate lumen equivalent) shall be listed as a full cutoff distribution only, and shall not emit any light above the horizontal plane of the fixture when placed in the aiming position for which they are designed. With exception of sporting facilities, the light source should not be visible from adjacent properties or the public street right-of-way.
- F. All building wall mounted lighting fixtures, or wall packs, shall be full cutoff type.
- G. All lighting fixtures illuminating building facades, steeples, trees, billboards, signs, flags, etc. (vertical surfaces lighted from the bottom up) shall not exceed 150 watts (incandescent lamp or appropriate lumen equivalent), with the exception of Department of Transportation highway signage luminaries, which must comply with federal DOT standards. Lighting fixtures shall be selected, located, aimed and shielded so that direct illumination is focused exclusively on the item being illuminated, and away from adjacent properties and the public street right-of-way. Only US, State, or local Government flags may be lit with uplight.
- H. The layout of outdoor lighting fixtures shall be designed so that the poles do not interfere with other elements of the approved site plan such as trees, landscaping or parking. In general, poles shall be kept at least 20 feet away from the trunk of any large maturing tree and at least 10 feet away from any small maturing tree.
- I. All floodlights shall include top and side shielding, and be aimed at least 45 degrees below the horizontal.
- J. To eliminate unneeded lighting, exterior lighting systems are encouraged to include automatic timers, dimmers, sensors, or similar controls that will turn off lights during daylight hours and when the site is not occupied or open for business.
- K. All fixtures and lamps shall be maintained in good working order, and replacement lamps and fixtures shall match approved plans. Landscaping shall be maintained in a manner that does not obstruct security lighting while not damaging or removing required landscape materials.
- L. The use of LED or neon to outline individual windows, roof lines or buildings is permitted. For non-residential uses, light colors shall be limited to white or clear except during Town-recognized holidays or special events.
- M. Lighting shall not flash, pulsate, move or scroll.

#### **Section 8.15.4 Lighting Standards for Specific Uses**

- A. Gas and Service Station Canopies - All lighting fixtures mounted on the underside of canopies must be full-cutoff classified, being either completely recessed/flush in the canopy, or having solid sides on a surface mounted fixture (canopy edges do not qualify as shielding). The light source shall be metal halide, ceramic metal halide or LED. Lighting levels under the canopy shall be no greater than 30 foot candles. Areas outside the pump island canopy shall be illuminated as to provide proper safety to customers, but shall be limited and not exceed 20 foot candles.
- B. Motor Vehicle Dealership Standards - All lighting within a dealership display area shall be automatically reduced in light level by 25% after 11:00 PM or within one hour after close of daily business, whichever is earlier, and shall not return to full intensity before 8:00 AM. Outdoor areas where nighttime motor vehicle sales activity takes place and where accurate color perception of the vehicles by customers is required are allowed specific lighting level provisions. The display areas for new and used vehicles available for sale which are accessible to the general public during business operating hours shall not exceed 50 foot candles. Other areas of the dealership property, such as inventory storage or repair vehicle storage, which are not intended for vehicle display, shall be designed to not exceed 20 foot candles, although some portions within the site may slightly exceed this limit due to close proximity to a display area.
- C. Architectural Accent Lighting - Lighting fixtures used to accent architectural features, materials, colors, style of buildings, landscaping or art shall be located, aimed and shielded so that light is directed only on those features. Such fixtures shall be aimed or shielded to minimize light spill from the source in conformance with the luminaire standards. Accent lighting shall not generate excessive light levels, cause glare, or direct light beyond the façade onto neighboring properties, streets or night sky.
- D. Outdoor Sporting Events and Performances - The mounting height of outdoor sports field and outdoor performance area lighting fixtures shall not exceed 80 feet from finished grade. 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. Other on-site improvements, such as parking lots and concession or restroom facilities, should not rely on lighting from the playing fields or performance area, but shall have separate lighting designed not to exceed 20 foot candles initial lighting levels when combined with any spill light from the fields, and not create any areas of public access and use which are void of a minimum of 0.5 foot candles maintained while the facility is open to the public.

The 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 play which has been weather delayed, or when a tournament or production is scheduled in advance with a final game or program to occur beyond 11:00 PM. The facility's property owner and management/production authority for the tournament or event are jointly responsible for providing notice of potential time extension to the Town Manager and adjacent property owners/occupants.

Lighting for playing fields or performance areas shall only be turned on when activity is scheduled and occurring. When scheduled activities are completed prior to 11:00 PM, the field or performance area lights shall be turned off (when egress lighting is separate) or reduced in light level by at least 50% within one hour after conclusion of play or other activity. When there are no scheduled activities at a sports field or performance area, then the lighting of them shall not be turned on. The security and egress illumination lighting systems may remain turned on for any amount of time deemed necessary to remove people safely.

Light levels for sports field illumination shall comply with, but not exceed IESNA standards. Where new sporting facility lighting is installed adjacent to an existing residential property, the intent shall be made for all installations to limit property line light levels to a maximum horizontal level of 3 foot candles initial, and a maximum vertical level of 1.5 foot candles at the property line of any developed residential parcel. When not installed adjacent to a residential property, light levels at the property line shall not exceed a maximum horizontal level of 4 foot candles initial and a maximum vertical level of 2 foot candles at the property line of any developed parcel or right-of-way. All possible means of shielding must be applied if this level has not been met. Owner must prove the intent has been made to meet these goals and Zoning Administrator shall make the determination on compliance.

Additional landscape screening may be necessary at select locations in order to reduce spill light on adjacent property. The lighting plan shall include a notation that the owner shall be responsible for providing additional landscaping or other visual screening along the property line which are in excess of intended limits. This additional screening shall be approved as an amended landscape plan prior to installation.



## ENVIRONMENTAL REGULATIONS

Section 9.1  
Post-Construction Stormwater

Section 9.2  
Sedimentation and Erosion  
Control

Section 9.3  
Flood Damage Prevention

### **Section 9.1 Post-construction Stormwater**

#### **Section 9.1.1 Purpose**

The purpose of the regulations in this Post Construction Ordinance (PCO) is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post construction stormwater runoff and non-point source pollution associated with new development and redevelopment. It has been determined that proper management of construction-related and post construction stormwater runoff will minimize damage to public and private property and infrastructure, safeguard the public health safety and general welfare, and protect water and aquatic resources.

#### **Section 9.1.2 Permitting Authority**

The Department of Environmental Quality for the State of North Carolina (Department) maintains permitting authority for post construction stormwater permitting in the Town of Waxhaw. Although Waxhaw is in Union County, which is a Phase II tipped county, the State has not assigned jurisdiction to the local entity as of January 2020. Permit applications are to be submitted to the Department of Water Quality. The Town of Waxhaw is in the Department of Environmental Quality Mooresville Region. Applications shall be prepared per current North Carolina administrative code found under the Stormwater rules 15A NCAC 02H.

#### **Section 9.1.3 Drainage Plan Approval Requirements**

A. No development or use of land which involved or would create more than 20,000 square feet of impervious ground cover, except for land development or used for agricultural purposes, shall be permitted without the submission and approval of a drainage plan. The drainage plan shall include water quality and detention requirements in accordance with the Town of Waxhaw Stormwater Design Manual. No certificate of zoning compliance, certificate of occupancy, or building permit for such development shall be issued until the drainage plan is approved by the Town Engineer.

- B. Impervious ground cover in existence prior to October 1, 1978 of these regulations shall not be used in measuring the 20,000 square feet identified in Subsection (1) above.
- C. Development plans shall be prepared per this PCO and all applicable State, County and Local regulations.

#### **Section 9.1.5 Standards for Plan Approval**

The following standards shall be met for approval of a stormwater drainage plan:

- A. The Town Engineer shall review the drainage plan for compliance with the standards contained in the Town of Waxhaw Stormwater Design Manual, the current edition of the Engineering Design and Construction Standards Manual, and any other relevant and appropriate standard established by the Town Engineer.
- B. The Town Engineer will not approve a drainage plan with increased impervious ground cover, unless the drainage plan identifies measures to control and limit runoffs to peak levels no greater than would occur from the site if left in its natural, undeveloped condition.

#### **Section 9.1.6 Stormwater Design Manual**

**A. Reference to the Stormwater Design Manual.** The Town Engineer/Stormwater Administrator shall use the policy, criteria, and information, including technical specifications and standards, included in the Town of Waxhaw *Stormwater Design Manual* as the basis for decisions about the design, implementation and performance of structural and non-structural stormwater BMPs. References to the *Design Manual* in Chapter 9 of this Land Development Code shall indicate the current adopted version of the Town of Waxhaw *Stormwater Design Manual*. The *Design Manual* includes a list of acceptable stormwater treatment practices, including the specific design criteria for each stormwater practice. Stormwater treatment practices that are designed and constructed in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards of the PCO and the Phase II laws. Failure to construct stormwater treatment practices in accordance with these criteria may subject the violator to a civil penalty.

**B. Relationship of design manual to other laws and regulations.** If the specifications or guidelines of the *Design Manual* are more restrictive or apply a higher standard than other laws or regulations, that fact shall not prevent application of the specifications or guidelines in the *Design Manual*.

**C. Changes to standards and specifications.** Standards, specifications, guidelines, policies, criteria, or other information in the *Design Manual* in effect at the time of acceptance of a complete application shall control and shall be utilized in reviewing the application and in implementing the PCO with regard to the application.

**D. Amendments to the Design Manual.** The *Design Manual* may be updated and expanded from time to time, based on advancements in technology and engineering, improved knowledge of local conditions, or local monitoring or maintenance

experience. Prior to amending or updating the *Design Manual*, proposed changes shall be generally publicized and made available for review, and an opportunity for comment by interested persons shall be provided. The current *Design Manual* is available on the Town of Waxhaw website.

**E. Calculations.** For calculations to be used in stormwater design, refer to the following chapters in the *Design Manual*:

1. Chapter 3 - Hydrology
2. Chapter 4 - Open Channel Hydraulics
3. Chapter 5 - Storm Drainage Systems
4. Chapter 6 - Design of Culverts
5. Chapter 7 - Storage and Detention
6. Chapter 8 - Energy Dissipation

#### **Section 9.1.7 Relationship to Other Laws**

**A. Conflict of laws.** The PCO is not intended to modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of the PCO are in addition to the requirements of any other ordinance, rule, regulation or other provision of law, and where any provision of the PCO imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human or environmental health, safety, and welfare, shall control.

**B. Private Agreements.** The PCO is not intended to revoke or repeal any easement, covenant, or other private agreement. However, where the regulations of the PCO are more restrictive or impose higher standards or requirements than such easement, covenant, or other private agreement, then the requirements of the PCO shall govern. Nothing in the PCO shall modify or repeal any private covenant or deed restriction, but such covenant or restriction shall not legitimize any failure to comply with the PCO. In no case shall the Town be obligated to enforce the provisions of any easements, covenants, or agreements between private parties.

#### **Section 9.1.8 Administration and Procedures**

- A. An approved stormwater permit from the North Carolina Department of Environmental Quality shall be submitted prior to the approval of the drainage plan from the Town.
- B. The stormwater permit number shall be provided on the Final Plat and the approved operations and maintenance plan shall be submitted for Final Plat approval.

#### **Section 9.1.9 Standards**

All development and redevelopment to which the PCO applies shall comply with the standards of this section.

All built-upon area for development and redevelopment subject to the requirements of this PCO shall be at a minimum thirty feet landward of all perennial and intermittent surface waters. This built-upon area setback can be located within the stream buffer area defined by this PCO, but any disturbances within the built-upon area setback must also comply with the regulated floodways. A surface water shall be deemed present if the feature is approximately shown on the Union County GIS Mapping system. However if surface water is present but not identified on the Union County system, the Division of Water Resources (DWR) should be contacted to determine the presence and location of waters of the State, including streams. The U.S. Army Corps of Engineers should be contacted to determine waters of the U.S. An exception to this requirement shall be granted if one or more of the following is satisfied and documented:

- A. When a landowner or other affected party believes that the maps have inaccurately depicted surface waters, he or she shall consult the Army Corps of Engineers. The Army Corps of Engineers shall make on-site determinations. Surface waters that appear on the maps shall not be subject to this standard if this on-site determination shows that they fall into one of the following categories:
  1. Ditches and man-made conveyances other than modified natural streams unless constructed for navigation or boat access;
  2. Man-made ponds and lakes located outside natural drainage ways;
  3. Ephemeral (stormwater) streams.
- B. An unnecessary hardship would result from the strict application of this requirement.
- C. Based on a determination by the Army Corps of Engineers, a lack of practical alternatives exists for accomplishing the basic purpose of the project in a manner that would avoid or result in less adverse impact to surface waters considering the potential for a reduction in size, configuration, or density and all alternative designs.

#### **Section 9.1.10 Standards for Stormwater Control Measures**

- A. Evaluation according to contents of the Design Manual. All stormwater control measures and stormwater treatment practices (also referred to as Best Management Practices, or BMPs) required under the PCO shall be evaluated by the Town Engineer/Stormwater Administrator according to the policies, criteria, and information, including technical specifications, standards and the specific design criteria for each stormwater best management practice contained in the Design Manual. The Town Engineer/Stormwater Administrator shall determine whether these measures will be adequate to meet the requirements of the PCO.

- B. Determination of Adequacy; Presumptions and Alternative. Stormwater treatment practices that are designed, constructed, and maintained in accordance with the criteria and specifications in the *Design Manual* will be presumed to meet the minimum water quality and quantity performance standards of the PCO. Whenever an applicant proposes to utilize a practice or practices not designed and constructed in accordance with the criteria and specifications in the Design Manual, the applicant shall have the burden of demonstrating that the practice(s) will satisfy the minimum water quality and quantity performance standards of the PCO before it can be approved for use. The Town Engineer/Stormwater Administrator may require the applicant to provide such documentation, calculations, and examples as necessary to determine whether such an affirmative showing is made.
- C. A Digital Record Submittal of the as-built plans shall be provided to the Town of Waxhaw. The plans shall include the location of storm drainage pipes, inlets, outlets and the location of all BMPs as well as Tree Save Area and must be delivered to the Town Engineer or their designee in the digital format specified in the *Design Manual*.

**Section 9.1.11 Maintenance**

- A. It shall be the responsibility of the property owner or Homeowner's Association to provide for maintenance (as specified in the *Design Manual*) of structural BMPs that are installed pursuant to the PCO. Maintenance responsibility shall be clearly identified on the construction documents and final plat.
- B. All BMPs shall include adequate and perpetual access and sufficient area, by easement or otherwise, for inspection, maintenance, and repair or reconstruction.
- C. The owner of a structural BMP installed pursuant to the PCO and as identified on the final plat shall maintain and operate the BMP so as to preserve and continue its function in controlling stormwater quality and quantity at the degree or amount of function for which the structural BMP was designed.
- D. For trees damaged or removed due to natural disasters, the owner shall be required to replace the trees within a time-frame specified by the Stormwater Administrator. For trees damaged or removed due to other reasons, the owner shall be required to replace the trees within a time-frame specified by the Stormwater Administrator with the following exception, the trees shall be replaced at twice the specified density. In addition, the owner may be subject to fines.
- E. An annual maintenance inspection and report is required by the permit. The person responsible for maintenance of any BMP installed pursuant to the Post-construction Stormwater (PCS) shall submit to the Stormwater Administrator an inspection report from a qualified professional performing services only in their area of competence. An original inspection report shall be provided to the Town of Waxhaw beginning one year from the date of as-built certification and each year thereafter on or before the anniversary date of the as-built certification.

- F. At the time that as-built plans are provided to the Stormwater Administrator and prior to final approval of a project for compliance with the PCS, but in all cases prior to placing the BMPs in service, the applicant or owner of the site must execute an operation and maintenance agreement that shall be binding on all current and subsequent owners of the site, portions of the site, and lots or parcels served by the structural BMP. This maintenance agreement shall be recorded to the Register of Deeds. Failure to execute an operation and maintenance agreement within the time frame specified by the Town Engineer/ Stormwater Administrator may result in assessment of penalties. Until the transference of all property, sites, or lots served by the structural BMP, the original owner or applicant shall have primary responsibility for carrying out the provisions of the maintenance agreement. At the discretion of the Town Engineer/ Stormwater Administrator, certificates of occupancy may be withheld pending receipt of an operation and maintenance agreement. The operation and maintenance agreement shall require the owner or owners to maintain, repair and, if necessary, reconstruct the structural BMP, and shall state the terms, conditions, and schedule of maintenance for the structural BMP. In addition, it shall grant to the Town a right of entry in the event that the Town Engineer/Stormwater Administrator has reason to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the structural BMP. However, in no case shall the right of entry, of itself, confer an obligation on the Town to assume responsibility for the structural BMP. The operation and maintenance agreement must be approved by the Town Engineer/Stormwater Administrator prior to plan approval, and it shall be referenced on the final plat.
- G. For all structural BMPs required pursuant to the PCO that are to be or are owned and maintained by a homeowners' association, property owners' association, or similar entity, the required operation and maintenance agreement shall include the provisions described in the Design Manual.
- H. Inspections and inspection programs by the Town may be conducted or established on any reasonable basis, including but not limited to routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in BMPs; and evaluating the condition of BMPs. If the owner or occupant of any property refuses to permit such inspection, the Town Engineer/Stormwater Administrator shall proceed to obtain an administrative search warrant pursuant to G.S. 15-27.2 or its successor. No person shall obstruct, hamper or interfere with the Town Engineer/Stormwater Administrator while carrying out his or her official duties.
- I. The owner of each structural BMP shall keep records of inspections, maintenance, and repairs for at least five years from the date of creation of the record and shall submit the same upon reasonable request to the Town Engineer/Stormwater Administrator.
- J. Every structural BMP installed pursuant to the PCO shall be made accessible for adequate inspection, maintenance, reconstruction and repair by a maintenance easement. The easement shall conform to standards listed in the Design Manual, and be recorded and its terms shall specify who may make use of the easement and for what purposes.



K. This ordinance prohibits the direct discharge of runoff to the roadway or storm sewer system from private property that is not explicitly identified in the approved construction documents. Examples of such discharge are but would not be limited to extending roof drains to the right of way or direct discharge of pool water to the storm drain.

## **Section 9.2 Sedimentation and Erosion Control**

### Section 9.2.1 Preamble and Title

**A. Preamble.** The sedimentation of streams, lakes and other waters of this State constitute a major pollution problem. Sedimentation occurs from the erosion or depositing of soil and other materials into the waters, principally from construction sites and road maintenance. The continued development of this Town will result in an intensification of pollution through sedimentation unless timely and appropriate action is taken. Control of erosion and sedimentation is deemed vital to the public interest and necessary to the public health and welfare, and expenditures of funds for erosion and sedimentation control programs shall be deemed for a public purpose. It is the purpose of this Ordinance to provide for the creation, administration, and enforcement of a program and for the adoption of minimal mandatory standards which will permit development of this Town to continue with the least detrimental effects from pollution by sedimentation.

**B. Title.** This ordinance may be cited as the Waxhaw Soil Erosion and Sedimentation Control Ordinance.

### **Section 9.2.2 Purpose**

This ordinance is adopted for the purposes of:

- A. Regulating certain land-disturbing activity to control accelerated erosion and sedimentation in order to prevent the pollution of water and other damage to lakes, watercourses, and other public and private property by sedimentation; and
- B. Establishing procedures through which these purposes can be fulfilled.

### **Section 9.2.3 Definitions**

The words and phrases used in this Ordinance shall have the meaning assigned in this Section provided, unless the context clearly indicates otherwise. These definitions are derived from the North Carolina Sedimentation Control regulations, 15A NCAC § 4A.0105 and the Sedimentation Pollution Control Act of 1973, NCGS § 113A-52.:

**Accelerated Erosion** - any increase over the rate of natural erosion as a result of land-disturbing activity.

**Act** - the North Carolina Sedimentation Pollution Control Act of 1973 and all rules and orders adopted pursuant to it.

**Adequate Erosion Control Measure, Structure, or Device** - one which controls the soil material within the land area under responsible control of the person conducting the land-disturbing activity.

**Affiliate** – a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control of another person.

**Approving Authority** – the Division or other State or a local government agency that has been delegated erosion and sedimentation plan review responsibilities in accordance with the provisions of the Act.

**Being Conducted** - a land-disturbing activity has been initiated and not deemed complete by the Approving Authority.

**Borrow - fill material** that is required for on-site construction that is obtained from other locations.

**Buffer Zone** - the strip of land adjacent to a lake or natural watercourse.

**Coastal Counties** - the following counties: Beaufort, Bertie, Brunswick, Camden, Carteret, Chowan, Craven, Currituck, Dare, Gates, Hertford, Hyde, New Hanover, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Tyrrell and Washington.

**Commission** - the North Carolina Sedimentation Control Commission.

**Completion of Construction or Development** - when no further land-disturbing activity is required on a phase of a project except that which is necessary for establishing a permanent ground cover.

**Department** - the North Carolina Department of Environmental Quality.

**Development Services Department** – the Town of Waxhaw Development Services Department.

**Director** - the Director of the Division of Energy Mineral and Land Resources of the Department of Environmental Quality.

**Discharge Point or Point of Discharge** - that point where runoff leaves a tract of land where a land-disturbing activity has occurred or enters a lake or natural watercourse.

**District** - the Union County Soil and Water Conservation District created pursuant to Chapter 139, North Carolina General Statutes.

**Energy Dissipater** - a structure or a shaped channel section with mechanical armoring placed at the outlet of pipes or conduits to receive and break down the energy from high velocity flow.

Erosion - the wearing away of land surfaces by the action of wind, water, gravity, or any combination thereof.

Ground Cover - any natural vegetative growth or other material which renders the soil surface stable against accelerated erosion.

High Quality Waters - those classified as such in 15A NCAC 02B .0224, which is herein incorporated by reference including subsequent amendments and additions.

High Quality Water (HQW) Zones – for the Coastal Counties, areas within 575 feet of High Quality Waters; and for the remainder of the state, areas within one mile and draining to HQW's.

Lake or Natural Watercourse – any stream, river, brook, swamp, sound, bay, creek, run, branch, canal, waterway, estuary, and any reservoir, lake or pond.

Land-disturbing Activity - any use of the land by any person in residential, industrial, educational, institutional, or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation.

Local Government - any county, incorporated village, town or city, or any combination of counties, incorporated villages, towns, and cities, acting through a joint program pursuant to the provisions of the Act.

Natural Erosion - the wearing away of the earth's surface by water, wind, or other natural agents under natural environmental conditions undisturbed by man.

NCSCC – the North Carolina Sedimentation Control Commission.

Parent – an affiliate that directly, or indirectly through one or more intermediaries, controls another person.

Person - any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, or other legal entity.

Person Conducting the Land-Disturbing Activity - any person who may be held responsible for violation unless expressly provided otherwise by this Ordinance, the Act, or any order adopted pursuant to this Ordinance or the Act.

Person Who Violates or Violator, as used in G.S. 113A-64 – any landowner or other person who has financial or operational control over the land-disturbing activity; or who has directly or indirectly allowed the activity, and who has failed to comply with any provision of the Act, the rules of this Chapter or any order or local ordinance adopted pursuant to the Act as it imposes a duty upon that person.

Plan - an erosion and sedimentation control plan.

Sediment - solid particulate matter, both mineral and organic, that has been or is being transported by water, air, gravity, or ice from its site of origin.

Sedimentation - the process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land-disturbing activity or into a lake or natural watercourse.

Siltation - sediment resulting from accelerated erosion which is settleable or removable by properly designed, constructed, and maintained control measures; and which has been transported from its point of origin within the site of a land-disturbing activity; and which has been deposited, or is in suspension in water.

Storm Drainage Facilities - the system of inlets, conduits, channels, ditches and appurtenances which serve to collect and convey storm water through and from a given drainage area.

Stormwater Runoff - the runoff of water resulting from precipitation in any form.

Subsidiary – an affiliate that is directly, or indirectly through one or more intermediaries, controlled by another person.

Ten-Year Storm - a rainfall of an intensity that, based on historical data, is predicted by a method acceptable to the Approving Authority to be equaled or exceeded, on the average, once in ten years, and of a duration that will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.

Town – The Town of Waxhaw

Town of Waxhaw Erosion Control Specialist/ Erosion Control Specialist – includes the Town of Waxhaw Development Services Director, who is principally responsible for the administration of this Section, or his duly authorized designee. This term shall also include any persons, agents or other representatives of the town as authorized by the Development Services Director.

Tract - all contiguous land and bodies of water being disturbed or to be disturbed as a unit, regardless of ownership.

Twenty-five Year Storm - a rainfall of an intensity that, based on historical data, is predicted by a method acceptable to the Approving Authority to be equaled or exceeded, on the average, once in 25 years, and of a duration that will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.

Two-Year storm – the surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in 2 years, and of a duration which will produce the maximum peak rate of runoff, from the Watershed of interest under average antecedent wetness conditions.

Uncovered - the removal of ground cover from, on, or above the soil surface.

Undertaken - the initiating of any activity, or phase of activity, which results or will result in a change in the ground cover or topography of a tract of land.

Velocity - the speed of flow through a cross section perpendicular to the direction of the main channel at the peak flow of the storm of interest but not exceeding bank full flows.

Waste - surplus materials resulting from on-site land-disturbing activities and being disposed of at other locations.

Watershed - the region drained by or contributing water to a stream, lake or other body of water.

### **Section 9.2.4 Scope and Exclusions**

**A. Geographical Scope of Regulated Land-Disturbing Activity.** This ordinance shall apply to land-disturbing activity within the territorial jurisdiction of the Town of Waxhaw, NC.

**B. Exclusions from Regulated Land-Disturbing Activity.** Notwithstanding the general applicability of this ordinance to all land-disturbing activity, this ordinance shall not apply to the following types of land-disturbing activity:

1. Activities, including the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture undertaken on agricultural land for the production of plants and animals useful to man, including, but not limited to:
  - a. forage and sod crops, grain and feed crops, tobacco, cotton, and peanuts
  - b. dairy animals and dairy products
  - c. poultry and poultry products
  - d. livestock, including beef cattle, llamas, sheep, swine, horses, ponies, mules, and goats
  - e. bees and apiary products
  - f. fur producing animals
  - g. mulch, ornamental plants, and other horticultural products. For purposes of this section, "mulch" means substances composed primarily of plant remains or mixtures of such substances.

2. An Activity undertaken on forestland for the production and harvesting of timber and timber products and conducted in accordance with standards defined by the Forest Practice Guidelines Related to Water Quality (Best Management Practices), as adopted by the North Carolina Department of Agriculture and Consumer Services. If land-disturbing activity undertaken on forestland for the production and harvesting of timber and timber products is not conducted in accordance with standards defined by the Forest Practice Guidelines Related to Water Quality, the provisions of this ordinance shall apply to such activity and any related land-disturbing activity on the tract.
3. An activity for which a permit is required under the Mining Act of 1971, Article 7 of Chapter 74 of the General Statutes.
4. A land-disturbing activity over which the State has exclusive regulatory jurisdiction as provided in G.S. 113A-56(a).
5. An activity which is essential to protect human life during an emergency.
6. Activities undertaken to restore the wetland functions of converted wetlands to provide compensatory mitigation to offset impacts permitted under Section 404 of the Clean Water Act.
7. Activities undertaken pursuant to Natural Resources Conservation Service standards to restore the wetlands functions of converted wetlands as defined in Title 7 Code of Federal Regulations § 12.2

**C. Plan Approval Requirement for Land-Disturbing Activity.** No Person shall initiate any land-disturbing activity which uncovers more than twelve thousand (12,000) square feet of land for commercial, industrial, or subdivision development without having a plan approved by the Town of Waxhaw Erosion Control Specialist. Land-disturbing activities resulting from single-family residential development on an individual lot which disturbs one (1) acre of land or less are excluded from plan submittal and approval, provided that erosion control devices are installed in accordance with the details for residential lot development found in the Town of Waxhaw Engineering, Standards and Procedures Manual. Single-family residential development exceeding one (1) acre of land disturbed will be required to submit for plan approval. Plan to include overall project and individual lot erosion and sedimentation controls. Land-disturbing activities resulting from single-family residential development on multiple contiguous lots which disturb a total of one (1) acre of land or less may conduct such activity with a single approved plan encompassing all the lots or with separate approved ESC Installation and Maintenance Agreements for each lot.

**D. ESC Installation and Maintenance Agreement Required.** No person shall initiate any Land-Disturbing Activity for the purpose of new single-family residential development on an individual lot to a maximum of one (1) acre, without having an ESC Installation and Maintenance Agreement approved by the Town of Waxhaw Erosion Control Specialist.



- E. Protection of Property.** Persons conducting land-disturbing activity shall take all reasonable measures to protect all public and private property from damage caused by such activity.
- F. More Restrictive Rules Shall Apply.** Whenever conflicts exist between federal, state, or local laws, ordinance, or rules, the more restrictive provision shall apply.
- G. Plan Approval Exceptions.** Notwithstanding the general requirement to obtain a Plan approval prior to undertaking land-disturbing activity, a Plan approval shall not be required for land-disturbing activity that does not exceed 12000 square feet in surface area. In determining the area, lands under one or diverse ownership being developed as a unit will be aggregated.

**Section 9.2.5 Mandatory Standards for Land-Disturbing Activity**

No land-disturbing activity subject to the control of this ordinance shall be undertaken except in accordance with the following mandatory standards:

**A. Buffer zone**

- 1. Standard Buffer.** No land-disturbing activity during periods of construction or improvement to land shall be permitted in proximity to a lake or natural watercourse unless a buffer zone is provided along the margin of the watercourse of sufficient width to confine visible siltation within the twenty-five percent (25%) of the buffer zone nearest the land-disturbing activity.
  - a. Projects On, Over or Under Water.** This subdivision shall not apply to a land-disturbing activity in connection with the construction of facilities to be located on, over, or under a lake or natural watercourse.
  - b. Buffer Measurement.** Unless otherwise provided, the width of a buffer zone is measured horizontally from the edge of the water to the nearest edge of the disturbed area, with the 25 percent of the strip nearer the land-disturbing activity containing natural or artificial means of confining visible siltation.
- 2. Trout Buffer.** Waters that have been classified as trout waters by the Environmental Management Commission shall have an undisturbed buffer zone 25 feet wide or of sufficient width to confine visible siltation within the twenty-five percent (25%) of the buffer zone nearest the land-disturbing activity, whichever is greater. Provided, however, that the Commission may approve plans which include land-disturbing activity along trout waters when the duration of said disturbance would be temporary and the extent of said disturbance would be minimal.
  - a. Projects On, Over or Under Water.** This subdivision shall not apply to a land-disturbing activity in connection with the construction of facilities to be located on, over, or under a lake or natural watercourse.

- b. Trout Buffer Measurement.** The 25-foot minimum width for an undisturbed buffer zone adjacent to designated trout waters shall be measured horizontally from the top of the bank to the nearest edge of the disturbed area.
- c. Limit on Land Disturbance.** Where a temporary and minimal disturbance has been permitted as an exception to the trout buffer, land-disturbing activities in the buffer zone adjacent to designated trout waters shall be limited to a maximum of ten percent (10%) of the total length of the buffer zone within the tract to be disturbed such that there is not more than 100 linear feet of disturbance in each 1000 linear feet of buffer zone. Larger areas may be disturbed with the written approval of the Director.
- d. Limit on Temperature Fluctuations.** No land-disturbing activity shall be undertaken within a buffer zone adjacent to designated trout waters that will cause adverse temperature fluctuations in the trout waters, as set forth in 15 NCAC 2B.0211 "Fresh surface Water Classification and Standards."

- B. Graded Slopes and Fills.** The angle for graded slopes and fills shall be no greater than the angle that can be retained by vegetative cover or other adequate erosion control devices or structures. In any event, slopes left exposed will, within 21 calendar days of completion of any phase of grading, be planted or otherwise provided with temporary or permanent ground cover, devices, or structures sufficient to restrain erosion. The angle for graded slopes and fills must be demonstrated to be stable. Stable is the condition where the soil remains in its original configuration, with or without mechanical constraints.
- C. Fill Material.** Materials being used as fill shall be consistent with those described in 15A NCAC 13B .0562 unless the site is permitted by the Department's Division of Waste Management to operate as a landfill. Not all materials described in Section .0562 may be suitable to meet geotechnical considerations of the fill activity and should be evaluated accordingly.
- D. Ground Cover.** Whenever land-disturbing activity that will disturb more than 12000 square feet is undertaken on a tract, the person conducting the land-disturbing activity shall install erosion and sedimentation control devices and practices that are sufficient to retain the sediment generated by the land disturbing activity within the boundaries of the tract during construction upon and development of said tract, and shall plant or otherwise provide a permanent ground cover sufficient to restrain erosion after completion of construction or development. Except as provided in Section 8(c)(4), provisions for a permanent ground cover sufficient to restrain erosion must be accomplished within 90 calendar days following completion of construction or development.
- E. Prior Plan Approval.** No person shall initiate any land-disturbing activity that will disturb more than 12000 square feet on a tract unless, thirty (30) or more days prior to initiating the activity, a Plan for the activity is filed with and approved by the Town of Waxhaw. An erosion and sedimentation control plan may be filed less than 30 days prior to initiation of a land-disturbing activity if the plan is submitted under an

approved express permit program. The land-disturbing activity may be initiated and conducted in accordance with the plan once the plan has been approved.

The Town of Waxhaw shall forward to the Director of the Division of Water Resources a copy of each Plan for a land-disturbing activity that involves the utilization of ditches for the purpose of de-watering or lowering the water table of the tract.

- F. The land-disturbing activity shall be conducted in accordance with the approved erosion and sedimentation control plan.

### **Section 9.2.6 Erosion and Sedimentation Control Plans**

- A. Plan Submission.** A Plan shall be prepared for all land-disturbing activities subject to this ordinance whenever the proposed activity will disturb more than 12000 square feet on a tract. The Plan shall be filed with the Town of Waxhaw; a copy shall be simultaneously submitted to the Soil and Water Conservation District at least 30 days prior to the commencement of the proposed activity.
- B. Financial Responsibility and Ownership.** Plans may be disapproved unless accompanied by an authorized statement of financial responsibility and documentation of property ownership. This statement shall be signed by the person financially responsible for the land-disturbing activity or his attorney in fact. The statement shall include the mailing and street addresses of the principal place of business of (1) the person financially responsible, (2) the owner of the land, and (3) any registered agents. If the person financially responsible is not a resident of North Carolina, a North Carolina agent must be designated in the statement for the purpose of receiving notice of compliance or non-compliance with the Plan, the Act, this ordinance, or rules or orders adopted or issued pursuant to this ordinance. Except as provided in subsections (c) or (k) of this section, if the applicant is not the owner of the land to be disturbed, the draft erosion and sedimentation control plan must include the owner's written consent for the applicant to submit a draft erosion and sedimentation control plan and to conduct the anticipated land-disturbing activity.
- C. If the applicant is not the owner of the land to be disturbed and the anticipated land-disturbing activity involves the construction of utility lines for the provision of water, sewer, gas, telecommunications, or electrical service, the draft erosion and sedimentation control plan may be submitted without the written consent of the owner of the land, so long as the owner of the land has been provided prior notice of the project.
- D. Environmental Policy Act Document.** Any Plan submitted for a land-disturbing activity for which an environmental document is required by the North Carolina Environment Policy Act (G.S. 113A-1, et seq.) shall be deemed incomplete until a complete environmental document is available for review. The Town of Waxhaw shall promptly notify the person submitting the Plan that the 30-day time limit for review of the Plan pursuant to this ordinance shall not begin until a complete environmental document is available for review.

- E. Content.** The Plan required by this section shall contain architectural or engineering drawings, maps, assumptions, calculations, and narrative statements as needed to adequately describe the proposed development of the tract and the measures planned to comply with the requirements of this ordinance. Plan content may vary to meet the needs of specific site requirements. Detailed guidelines for Plan preparation may be obtained from the Town of Waxhaw on request.

- F. Soil and Water Conservation District Comments.** The District shall review the Plan and submit any comments and recommendations to the Town of Waxhaw within 20 days after the District received the Plan, or within any shorter period of time as may be agreed upon by the District and the Town of Waxhaw. Failure of the District to submit its comments and recommendations within 20 days or within any agreed-upon shorter period of time shall not delay final action on the Plan.

- G. Timeline for Decisions on Plans.** The Town of Waxhaw will review each complete Plan submitted to them and within 30 days of receipt thereof will notify the person submitting the Plan that it has been approved, approved with modifications, or disapproved. Failure to approve, approve with modifications, or disapprove a complete Plan within 30 days of receipt shall be deemed approval. The Town of Waxhaw will review each revised Plan submitted to them and within 15 days of receipt thereof will notify the person submitting the Plan that it has been approved, approved with modifications, or disapproved. Failure to approve, approve with modifications, or disapprove a revised Plan within 15 days of receipt shall be deemed approval.

- H. Approval.** The Town of Waxhaw shall only approve a Plan upon determining that it complies with all applicable State and local regulations for erosion and sedimentation control. Approval assumes the applicant's compliance with the federal and state water quality laws, regulations and rules. The Town of Waxhaw shall condition approval of Plans upon the applicant's compliance with federal and state water quality laws, regulations and rules. The Town of Waxhaw may establish an expiration date, not to exceed three (3) years, for Plans approved under this ordinance whereby no land-disturbing activity has been undertaken.

- I. Disapproval for Content.** The Town of Waxhaw may disapprove a Plan or draft Plan based on its content. A disapproval based upon a Plan's content must specifically state in writing the reasons for disapproval.

- J. Other Disapprovals.** The Town of Waxhaw shall disapprove an erosion and sedimentation control plan if implementation of the plan would result in a violation of rules adopted by the Environmental Management Commission to protect riparian buffers along surface waters. The Town of Waxhaw may disapprove an erosion and sedimentation control plan or disapprove a transfer of a plan under subsection (k) of this section upon finding that an applicant or a parent, subsidiary, or other affiliate of the applicant:

1. Is conducting or has conducted land-disturbing activity without an approved plan, or has received notice of violation of a plan previously approved by the Commission or a local government pursuant to this Article and has not complied with the notice within the time specified in the notice.
2. Has failed to pay a civil penalty assessed pursuant to this Article or a local ordinance adopted pursuant to this Article by the time the payment is due.
3. Has been convicted of a misdemeanor pursuant to G.S. 113A-64(b) or any criminal provision of a local ordinance adopted pursuant to this Article.
4. Has failed to substantially comply with State rules or local ordinances and regulations adopted pursuant to this Article.

In the event that an erosion and sedimentation control plan or a transfer of a plan is disapproved by the Town of Waxhaw pursuant to subsection (j) of this section, the local government shall so notify the Director of the Division of Energy, Mineral, and Land Resources within 10 days of the disapproval. The Town of Waxhaw shall advise the applicant or the proposed transferee and the Director in writing as to the specific reasons that the plan was disapproved. Notwithstanding the provisions of Section 16(a), the applicant may appeal the local government's disapproval of the plan directly to the Commission.

For purposes of this subsection, an applicant's record or the proposed transferee's record may be considered for only the two years prior to the application date.

**K. Transfer of Plans.** The Town of Waxhaw administering an erosion and sedimentation control program may transfer an erosion and sedimentation control plan approved pursuant to this section without the consent of the plan holder to a successor-owner of the property on which the permitted activity is occurring or will occur as provided in this subsection.

1. The Town of Waxhaw may transfer a plan if all of the following conditions are met:
  - a. The successor-owner of the property submits to the local government a written request for the transfer of the plan and an authorized statement of financial responsibility and documentation of property ownership.
  - b. The Town of Waxhaw finds all of the following:
    - i. The plan holder is one of the following:
      01. A natural person who is deceased.
      02. A partnership, limited liability corporation, corporation, or any other business association that has been dissolved.

03. A person who has been lawfully and finally divested of title to the property on which the permitted activity is occurring or will occur.

04. A person who has sold the property on which the permitted activity is occurring or will occur.

- ii. The successor-owner holds title to the property on which the permitted activity is occurring or will occur.
- iii. The successor-owner is the sole claimant of the right to engage in the permitted activity.
- iv. There will be no substantial change in the permitted activity.

2. The plan holder shall comply with all terms and conditions of the plan until such time as the plan is transferred.
3. The successor-owner shall comply with all terms and conditions of the plan once the plan has been transferred.
4. Notwithstanding changes to law made after the original issuance of the plan, the Town of Waxhaw may not impose new or different terms and conditions in the plan without the prior express consent of the successor-owner. Nothing in this subsection shall prevent the Town of Waxhaw from requiring a revised plan pursuant to G.S. 113A-54.1(b).

**L. Notice of Activity Initiation.** No person may initiate a land-disturbing activity before notifying the agency that issued the Plan approval of the date that land-disturbing activity will begin.

**M. Preconstruction Conference.** When deemed necessary by the Approving Authority, a preconstruction conference may be required and noted on the approved plan.

**N. Display of Plan Approval.** A Plan approval issued under this Article shall be prominently displayed until all construction is complete, all temporary measures have been removed, all permanent sedimentation and erosion control measures are installed, and the site has been stabilized. A copy of the approved plan shall be kept on file at the job site.

**O. Required Revisions.** After approving a Plan, if the Town of Waxhaw, either upon review of such Plan or on inspection of the job site, determines that a significant risk of accelerated erosion or off-site sedimentation exists, the Town of Waxhaw shall require a revised Plan. Pending the preparation of the revised Plan, work shall cease or shall continue under conditions outlined by the appropriate authority. If following commencement of a land-disturbing activity pursuant to an approved Plan, the Town of Waxhaw determines that the Plan is inadequate to meet the requirements of this ordinance, the Town of Waxhaw may require any revision of the Plan that is necessary to comply with this ordinance.



**P. Amendment to a Plan.** Applications for amendment of a Plan in written and/or graphic form may be made at any time under the same conditions as the original application. Until such time as said amendment is approved by the Town of Waxhaw, the land-disturbing activity shall not proceed except in accordance with the Plan as originally approved.

**Q. Failure to File a Plan.** Any person engaged in land-disturbing activity who fails to file a Plan in accordance with this ordinance, or who conducts a land-disturbing activity except in accordance with provisions of an approved Plan shall be deemed in violation of this ordinance.

**R. Self-Inspections.** The landowner, the financially responsible party, or the landowner's or the financially responsible party's agent shall perform an inspection of the area covered by the plan after each phase of the plan has been completed and after establishment of temporary ground cover in accordance with G.S. 113A-57(2). In addition, weekly and rain-event self-inspections are required by federal regulations that are implemented through the NPDES Construction General Permit No. NCG010000. The person who performs the inspection shall maintain and make available a record of the inspection at the site of the land-disturbing activity. The record shall set out any significant deviation from the approved erosion control plan, identify any measures that may be required to correct the deviation, and document the completion of those measures. The record shall be maintained until permanent ground cover has been established as required by the approved erosion and sedimentation control plan. The inspections required by this subsection shall be in addition to inspections required by G.S. 113A-61.1.

Where inspections are required by Section 6(r) of this Ordinance or G.S. 113A-54.1(e), the following apply:

1. The inspection shall be performed during or after each of the following phases of the plan;
  - a. initial installation of erosion and sediment control measures;
  - b. clearing and grubbing of existing ground cover;
  - c. completion of any grading that requires ground cover;
  - d. completion of all land-disturbing activity, construction, or development, including permanent ground cover establishment and removal of all temporary measures; and
  - e. transfer of ownership or control of the tract of land where the erosion and sedimentation control plan has been approved and work has begun. The new owner or person in control shall conduct and document inspections until the project is permanently stabilized as set forth in Sub-Item (iii) of this Item.

- f. On any tract on which five (5) or more acres are disturbed, the person conducting land-disturbing activity will be responsible for self-inspection of erosion and sedimentation control facilities at least once every seven (7) days or within 24 hours of a storm event of greater than 0.5 inches of rain per 24-hour period.

2. Documentation of self-inspections performed under Item (1) of this Rule shall include:
  - a. Visual verification of ground stabilization and other erosion control measures and practices as called for in the approved plan;
  - b. Verification by measurement of settling basins, temporary construction entrances, energy dissipators, and traps.
  - c. The name, address, organization affiliation, telephone number, and signature of the person conducting the inspection and the date of the inspection shall be included, whether on a copy of the approved erosion and sedimentation control plan or an inspection report. A template for an example of an inspection and monitoring report is provided on the DEMLR website at: <https://deq.nc.gov/about/divisions/energy-mineral-land-resources/erosion-sediment-control/forms>. Any relevant licenses and certifications may also be included. Any documentation of inspections that occur on a copy of the approved erosion and sedimentation control plan shall occur on a single copy of the plan and that plan shall be made available on the site.
  - d. A record of any significant deviation from any erosion or sedimentation control measure from that on the approved plan. For the purpose of this Rule, a "significant deviation" means an omission, alternation, or relocation of an erosion or sedimentation control measure that prevents it from performing as intended. The record shall include measures required to correct the significant deviation, along with documentation of when those measures were taken. Deviations from the approved plan may also be recommended to enhance the intended performance of the sedimentation and erosion control measures.

Except as may be required under federal law, rule or regulation, no periodic self-inspection or rain gauge installation is required on individual residential lots where less than one acre is being disturbed on each lot.

### **Section 9.2.7 Basic Control Objectives**

An erosion and sedimentation control Plan may be disapproved if the Plan fails to address the following control objectives:

- A. Identify Critical Areas - On-site areas which are subject to severe erosion, and off-site areas which are especially vulnerable to damage from erosion and/or sedimentation, are to be identified and receive special attention.

- B. Limit Time of Exposure - All land-disturbing activities are to be planned and conducted to limit exposure to the shortest time specified in G.S. 113A-57, the rules of this Chapter, or as directed by the Approving Authority.
- C. Limit Exposed Areas - All land-disturbing activity is to be planned and conducted to minimize the size of the area to be exposed at any one time.
- D. Control Surface Water - Surface water runoff originating upgrate of exposed areas should be controlled to reduce erosion and sediment loss during the period of exposure.
- E. Control Sedimentation - All land-disturbing activity is to be planned and conducted to prevent off-site sedimentation damage.
- F. Manage Stormwater Runoff - Plans shall be designed so that any increase in velocity of stormwater runoff resulting from a land-disturbing activity will not result in accelerated erosion of the receiving stormwater conveyance or at the point of discharge. Plans shall include measures to prevent accelerated erosion within the project boundary and at the point of discharge.

**Section 9.2.8 Design and Performance Standards**

- A. Except as provided in Section 8(b)(2) and Section 8(c)(1) of this ordinance, erosion and sedimentation control measures, structures, and devices shall be planned, designed, and constructed to provide protection from the calculated maximum peak rate of runoff from the ten-year storm. Runoff rates shall be calculated using the procedures in the latest edition of the United States Department of Agriculture (USDA), Natural Resources Conservation Service's "National Engineering Field Handbook", or other acceptable calculation procedures.
- B. HQW Zones. In High Quality Water (HQW) zones the following design standards shall apply:
  - 1. **Limit on Uncovered Area.** Uncovered areas in HQW zones shall be limited at any time to a maximum total area of twenty acres within the boundaries of the tract. Only the portion of the land-disturbing activity within a HQW zone shall be governed by this section. Larger areas may be uncovered within the boundaries of the tract with the written approval of the Director upon providing engineering justification with a construction sequence that considers phasing, limiting exposure, weekly submitted self-inspection reports, and a more conservative design than the Twenty-five Year Storm.
  - 2. **Maximum Peak Rate of Runoff Protection.** Erosion and sedimentation control measures, structures, and devices within HQW zones shall be planned, designed and constructed to provide protection from the runoff of the twenty-five year storm which produces the maximum peak rate of runoff as calculated according to procedures in the latest edition of the United States Department of Agriculture Natural Resources Conservation Service's "National Engineering

Field Handbook" or according to procedures adopted by any other agency of this state or the United States or any generally recognized organization or association.

- 3. **Sediment Basin Design.** Sediment basins within HQW zones shall be designed and constructed according to the following criteria:
  - a. use a surface withdrawal mechanism, except when the basin drainage area is less than 1.0 acre;
  - b. have a minimum of 1800 cubic feet of storage area per acre of disturbed area;
  - c. have a minimum surface area of 325 square feet per cfs of the Twenty-five Year Storm (Q25) peak flow;
  - d. have a minimum dewatering time of 48 hours;
  - e. incorporate 3 baffles, unless the basin is less than 20 feet in length, in which case 2 baffles shall be sufficient.

Upon a written request of the applicant, the Director may allow alternative design and control measures in lieu of meeting the conditions required in subparagraphs (3)(ii) through (3)(v) of this sub-section if the applicant demonstrates that meeting all of those conditions will result in design or operational hardships and that the alternative measures will provide an equal or more effective level of erosion and sediment control on the site. Alternative measures may include quicker application of ground cover, use of sediment flocculants, and use of enhanced ground cover practices.

- 4. **Grade.** Newly constructed open channels in HQW zones shall be designed and constructed with side slopes no steeper than two horizontal to one vertical if a vegetative cover is used for stabilization unless soil conditions permit a steeper slope or where the slopes are stabilized by using mechanical devices, structural devices or other forms of ditch liners proven as being effective in restraining accelerated erosion. In any event, the angle for side slopes shall be sufficient to restrain accelerated erosion.

**Section 9.2.9 Storm Water Outlet Protection**

- A. **Intent.** Stream banks and channels downstream from any land disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land disturbing activity.
- B. **Performance standard.** Persons shall conduct land-disturbing activity so that the post construction velocity of the 10-year storm runoff in the receiving watercourse to the discharge point does not exceed the greater of:

1. the velocity established by the Maximum Permissible Velocities Table set out within this subsection; or
2. the velocity of the ten-year storm runoff in the receiving watercourse prior to development.

If condition (1) or (2) of this Paragraph cannot be met, then the receiving watercourse to and including the discharge point shall be designed and constructed to withstand the expected velocity anywhere the velocity exceeds the “prior to development” velocity by 10%.

**Maximum Permissible Velocities Table**

The following is a table for maximum permissible velocity for storm water discharges in feet per second (F.P.S.) and meters per second (M.P.S.):

MATERIAL	FEET/SECOND	METERS/SECOND
Fine sand (non-colloidal)	2.5	0.8
Sandy loam (non-colloidal)	2.5	0.8
Silt loam (non-colloidal)	3.0	0.9
Ordinary firm loam	3.5	1.1
Fine gravel	5.0	1.5
Stiff clay (very colloidal)	5.0	1.5
Graded, loam to cobbles (non-colloidal)	5.0	1.5
Graded, silt to cobbles (colloidal)	5.5	1.7
Alluvial silts (non-colloidal)	3.5	1.1
Alluvial silts (colloidal)	5.0	1.5
Coarse gravel (non-colloidal)	6.0	1.8
Cobbles and shingles	5.5	1.7
Shales and hard pans	6.0	1.8

Source - Adapted from recommendations by Special Committee on Irrigation Research, American Society of Civil Engineers, 1926, for channels with straight alignment. For sinuous channels, multiply allowable velocity by 0.95 for slightly sinuous, by 0.9 for moderately sinuous channels, and by 0.8 for highly sinuous channels.

**C. Acceptable Management Measures.** Measures applied alone or in combination to satisfy the intent of this section are acceptable if there are no objectionable secondary consequences. The (city)(town)(county) recognizes that the management of storm water runoff to minimize or control downstream channel and bank erosion is a developing technology. Innovative techniques and ideas will be considered and

may be used when shown to have the potential to produce successful results. Some alternatives, while not exhaustive, are to:

1. Avoid increases in surface runoff volume and velocity by including measures to promote infiltration to compensate for increased runoff from areas rendered impervious;
2. Avoid increases in storm water discharge velocities by using vegetated or roughened swales and waterways in place of closed drains and high velocity paved sections;
3. Provide energy dissipators at outlets of storm drainage facilities to reduce flow velocities to the point of discharge;
4. Protect watercourses subject to accelerated erosion by improving cross sections and/or providing erosion-resistant lining; and
5. Upgrade or replace the receiving device structure, or watercourse such that it will receive and conduct the flow to a point where it is no longer subject to degradation from the increased rate of flow or increased velocity.

**D. Exceptions.** This rule shall not apply where it can be demonstrated to the (city), (town), (county) that storm water discharge velocities will not create an erosion problem in the receiving watercourse.

**Section 9.2.10 Borrow and Waste Areas**

If the same person conducts the land-disturbing activity and any related borrow or waste activity, the related borrow or waste activity shall constitute part of the land-disturbing activity, unless the borrow or waste activity is regulated under the Mining Act of 1971, G.S. 74, Article 7, or is a landfill regulated by the Division of Waste Management. If the land-disturbing activity and any related borrow or waste activity are not conducted by the same person, they shall be considered by the Approving Authority as separate land-disturbing activities.

**Section 9.2.11 Access and Haul Roads**

Temporary access and haul roads, other than public roads, constructed or used in connection with any land-disturbing activity shall be considered a part of such activity.

**Section 9.2.12 Operations in Lakes or Natural Watercourses**

Land disturbing activity in connection with construction in, on, over, or under a lake or natural watercourse shall minimize the extent and duration of disruption of the stream channel. Where relocation of a stream forms an essential part of the proposed activity, the relocation shall minimize changes in the stream flow characteristics.



### **Section 9.2.13 Responsibility for Maintenance**

During the development of a site, the person conducting the land-disturbing activity shall install and maintain all temporary and permanent erosion and sedimentation control measures as required by the approved plan or any provision of this Ordinance, the Act, or any order adopted pursuant to this ordinance or the Act. After site development, the landowner or person in possession or control of the land shall install and/or maintain all necessary permanent erosion and sediment control measures, except those measures installed within a road or street right-of-way or easement accepted for maintenance by a governmental agency.

### **Section 9.2.14 Additional Measures**

Whenever the Town of Waxhaw, determines that accelerated erosion and sedimentation continues despite the installation of protective practices, they shall direct the person conducting the land-disturbing activity to take additional protective action necessary to achieve compliance with the conditions specified in the Act or its rules.

### **Section 9.2.15 Fees**

The Town of Waxhaw, may establish a fee schedule for the review and approval of Plans.

### **Section 9.2.16 Plan Appeals**

The appeal of an approval, approval with modifications or disapproval of a plan made by the Town of Waxhaw Erosion Control Specialist with regard to this Ordinance shall be governed by the following provisions:

- A. The order of approval, disapproval, or modification of any proposed Plan made by the Town of Waxhaw Erosion Control Specialist shall entitle the Person challenging such decision to a public hearing before the Town of Waxhaw Board of Adjustment if such Person submits written demand for a hearing and completes the necessary forms and pays the required appeals fee within fifteen (15) days following the date the decision was filed in the Town of Waxhaw Development Services Department office or mailed to the applicant, whichever date is later. Such written request and completed forms shall be submitted to the Clerk of the Board of Adjustment or his designee. Forms shall be available at the Town of Waxhaw Town Hall, or as directed by the Town of Waxhaw Erosion Control Specialist. A fee for such public hearing shall be in accordance with a fee schedule adopted by the Town of Waxhaw Board of Commissioners. No request shall be considered complete unless accompanied by such fee.
- B. Notice of the Board of Adjustment public hearing shall be sent by first class mail to the applicant at least ten (10) days prior to the public hearing and to any person who has submitted written request to receive such notice at least ten (10) days prior to the date of the public hearing. The hearing shall be held no later than thirty (30) days after the date of receipt of said written request.

- C. A hearing shall be conducted by the Board of Adjustment. A concurring vote per the Board of Adjustment's officially adopted by-laws will be necessary to reverse any order, requirement, decision, or determination of any official charged with the enforcement of this Ordinance, or to decide in favor of an appellant any matter upon which is required to pass or to grant variance from the provisions of this Ordinance. The Town shall keep minutes of the proceedings, showing the votes of each member upon each question and the attendance of each member at such hearings. The final disposition of the Town shall be based on findings of fact.
- D. A party dissatisfied with the decision of the Board of Adjustment following the public hearing shall appeal such decision to the NCSCC pursuant to Title 15, Chapter 4B, Section .0018(d) of the North Carolina Administrative Code and as provided by NC GS 133A-61(c).
- E. In the event that a Plan is disapproved pursuant to Section 6(j) of this ordinance, the applicant may appeal the Town of Waxhaw's disapproval of the Plan directly to the Commission.

### **Section 9.2.17 Inspections and Investigations**

- A. **Inspection.** Agents, officials, or other qualified persons authorized by the Town of Waxhaw, will periodically inspect land-disturbing activities to ensure compliance with the Act, this ordinance, or rules or orders adopted or issued pursuant to this ordinance, and to determine whether the measures required in the Plan are effective in controlling erosion and sedimentation resulting from land-disturbing activity. Notice of the right to inspect shall be included in the certificate of approval of each Plan.
- B. **Willful Resistance, Delay or Obstruction.** No person shall willfully resist, delay, or obstruct an authorized representative, employee, or agent of the Town of Waxhaw, while that person is inspecting or attempting to inspect a land-disturbing activity under this section.
- C. **Notice of Violation.** If the Town of Waxhaw determines that a person engaged in land-disturbing activity has failed to comply with the Act, this ordinance, or rules, or orders adopted or issued pursuant to this ordinance, a notice of violation shall be served upon that person. The notice may be served by any means authorized under GS 1A-1, Rule 4. The notice shall specify a date by which the person must comply with the Act, or this ordinance, or rules, or orders adopted pursuant to this ordinance, and inform the person of the actions that need to be taken to comply with the Act, this ordinance, or rules or orders adopted pursuant to this ordinance. Any person who fails to comply within the time specified is subject to additional civil and criminal penalties for a continuing violation as provided in G.S. 113A-64 and this ordinance. If the person engaged in the land-disturbing activity has not received a previous notice of violation under this section, the Town of Waxhaw shall offer assistance in developing corrective measures. Assistance may be provided by referral to a technical assistance program on behalf of the Approving Authority, referral to a cooperative extension program, or by the provision of written materials such as Department guidance documents. The notice of violation may be served in

the manner prescribed for service of process by G.S. 1A-1, Rule 4, and shall include information on how to obtain assistance in developing corrective measures.

- D. Investigation.** The Town of Waxhaw, shall have the power to conduct such investigation as it may reasonably deem necessary to carry out its duties as prescribed in this ordinance, and who presents appropriate credentials for this purpose to enter at reasonable times, any property, public or private, for the purpose of investigating and inspecting the sites of any land-disturbing activity.
- E. Statements and Reports.** The Town of Waxhaw, shall also have the power to require written statements, or filing of reports under oath, with respect to pertinent questions relating to land-disturbing activity.

### **Section 9.2.18 Penalties**

#### **A. Civil Penalties**

- 1. Civil Penalty for a Violation.** Any person who violates any of the provisions of this ordinance, or rule or order adopted or issued pursuant to this ordinance, or who initiates or continues a land-disturbing activity for which a Plan is required except in accordance with the terms, conditions, and provisions of an approved Plan, is subject to a civil penalty. The maximum civil penalty amount that the Town of Waxhaw may assess per violation is five thousand dollars (\$5,000.00). A civil penalty may be assessed from the date of the violation. Each day of a continuing violation shall constitute a separate violation. When the person has not been assessed any civil penalty under this subsection for any previous violation, and that person abated continuing environmental damage resulting from the violation within 180 days from the date of the notice of violation, the maximum cumulative total civil penalty assessed under this subsection for all violations associated with the land-disturbing activity for which the erosion and sedimentation control plan is required is twenty-five thousand dollars (\$25,000).
- 2. Civil Penalty Assessment Factors.** The governing body of the Town of Waxhaw shall determine the amount of the civil penalty based upon the following factors:
- the degree and extent of harm caused by the violation,
  - the cost of rectifying the damage,
  - the amount of money the violator saved by noncompliance,
  - whether the violation was committed willfully, and
  - the prior record of the violator in complying or failing to comply with this ordinance.

- 3. Notice of Civil Penalty Assessment.** The governing body of the Town of Waxhaw shall provide notice of the civil penalty amount and basis for assessment to the person assessed. The notice of assessment shall be served by any means authorized under G.S. 1A-1, Rule 4. A notice of assessment by the Town of Waxhaw shall direct the violator to either pay the assessment, contest the assessment within 30 days by filing a petition for hearing with the Town of Waxhaw (as directed by procedures within the local ordinances or regulations adopted to establish and enforce the erosion and sedimentation control program), or file a request with the Sedimentation Control Commission for remission of the assessment within 60 days of receipt of the notice of assessment. A remission request must be accompanied by a waiver of the right to a contested case hearing pursuant to Chapter 150B of the North Carolina General Statutes and a stipulation of the facts on which the assessment was based.
- 4. Final Decision.** The final decision on contested assessments shall be made by the governing body of the Town of Waxhaw in accordance with (the local ordinances or regulations adopted to establish and enforce the erosion and sedimentation control program.)
- 5. Appeal of Final Decision.** Appeal of the final decision of the governing body of the Town of Waxhaw shall be to the Superior Court of the county where the violation occurred. Such appeals must be made within 30 days of the final decision of the governing body of the Town of Waxhaw.
- 6. Remission of Civil Penalties.** A request for remission of a civil penalty imposed under G.S. 113A-64 may be filed with the Town of Waxhaw within 30 days of receipt of the notice of assessment. A remission request must be accompanied by a waiver of the right to a contested case hearing pursuant to Chapter 150B of the General Statutes and a stipulation of the facts on which the assessment was based. The following factors shall be considered in determining whether a civil penalty remission request will be approved:
- Whether one or more of the civil penalty assessment factors in G.S. 113A-64(a)(3) were wrongly applied to the detriment of the petitioner.
  - Whether the petitioner promptly abated continuing environmental damage resulting from the violation.
  - Whether the violation was inadvertent or a result of an accident.
  - Whether the petitioner had been assessed civil penalties for any previous violations.
  - Whether payment of the civil penalty will prevent payment for necessary remedial actions or would otherwise create a significant financial hardship.
  - The assessed property tax valuation of the petitioner's property upon which the violation occurred, excluding the value of any structures located on the property.

**7. Collection.** If payment is not received within 30 days after it is due, the Town of Waxhaw may institute a civil action to recover the amount of the assessment. The civil action may be brought in the Superior Court of the county where the violation occurred, or the violator's residence or principal place of business is located. Such civil actions must be filed within three (3) years of the date the assessment was due. An assessment that is not contested and a remission that is not requested is due when the violator is served with a notice of assessment. An assessment that is contested or a remission that is requested is due at the conclusion of the administrative and judicial review of the assessment.

**8. Credit of Civil Penalties.** The clear proceeds of civil penalties collected by the Town of Waxhaw under this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. Penalties collected by the Town of Waxhaw may be diminished only by the actual costs of collection. The collection cost percentage to be used shall be established and approved by the North Carolina Office of State Budget and Management on an annual basis, based upon the computation of actual collection costs by the Town of Waxhaw for the prior fiscal year.

**B. Criminal Penalties.** Any person who knowingly or willfully violates any provision of this ordinance, or rule or order adopted or issued by the Commission or a local government, or who knowingly or willfully initiates or continues a land-disturbing activity for which a Plan is required except in accordance with the terms, conditions, and provisions of an approved Plan, shall be guilty of a Class 2 misdemeanor which may include a fine not to exceed \$5,000 as provided in G.S. § 113A-64.

**C. Stop work orders.**

1. The erosion control specialist may issue a stop work order if he finds that a land disturbing activity is being conducted in violation of this section or of any rule adopted or order issued pursuant to this section, that the violation is knowing and willful, and that either:
  - a. Off-site sedimentation has eliminated or severely degraded a use in a lake or natural watercourse or that such degradation is imminent.
  - b. Off-site sedimentation has caused severe damage to adjacent land or that such damage is imminent.
  - c. The land disturbing activity is being conducted without an approved plan.
2. The stop work order shall be in writing and shall state what work is to be stopped and what measures are required to abate the violation. The order shall include a statement of the findings made by the town pursuant to subsection (a) of this section, and shall list the conditions under which work that has been stopped by the order may be resumed. The delivery of equipment and materials which does not contribute to the violation may continue while the stop work order is in effect. A copy of this section shall be attached to the order.

3. The stop work order shall be served by the county sheriff or by some other person duly authorized by law to serve process as provided by G.S. 1A-1, Rule 4, and shall be served on the person at the site of the land disturbing activity who is in operational control of the land disturbing activity. The sheriff or other person duly authorized by law to serve process shall post a copy of the stop work order in a conspicuous place at the site of the land disturbing activity. The town shall also deliver a copy of the stop work order to any person that the town has reason to believe may be responsible for the violation.
4. The directives of a stop work order become effective upon service of the order. Thereafter, any person notified of the stop work order who violates any of the directives set out in the order may be assessed a civil penalty as provided in subsection (a) of this section. A stop work order issued pursuant to this section may be issued for a period not to exceed five days.
5. The erosion control specialist shall designate an employee (which may be the erosion control specialist) to monitor compliance with the stop work order. The name of the employee so designated shall be included in the stop work order. The employee so designated, or the erosion control specialist, shall rescind the stop work order if all the violations for which the stop work order are issued are corrected, no other violations have occurred, and all measures necessary to abate the violations have been taken. The erosion control specialist shall rescind a stop work order that is issued in error.
6. The issuance of a stop work order shall be a final agency decision subject to judicial review in the same manner as an order in a contested case pursuant to G.S. ch. 150B, art. 4. The petition for judicial review shall be filed in the superior court of the county in which the land disturbing activity is being conducted.
7. As used in this section, days are computed as provided in G.S. 1A-1, Rule 6.
8. The attorney for the town shall file a cause of action to abate the violations which resulted in the issuance of a stop work order within two business days of the service of the stop work order. The cause of action shall include a motion for an ex parte temporary restraining order to abate the violation and to effect necessary remedial measures. The resident superior court judge, or any judge assigned to hear the motion for the temporary restraining order, shall hear and determine the motion within two days of the filing of the complaint. The clerk of superior court shall accept complaints filed pursuant to this section without the payment of filing fees. Filing fees shall be paid to the clerk of superior court within 30 days of the filing of the complaint.

**Section 9.2.19 Injunctive Relief**

**A. Violation of Local Program.** Whenever the governing body has reasonable cause to believe that any person is violating or threatening to violate any ordinance, rule, regulation or order adopted or issued by the Town of Waxhaw, or any term, condition, or provision of an approved Plan, it may, either before or after the institution of any other action or proceeding authorized by this ordinance, institute a civil action in



the name of the Town of Waxhaw, for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the superior court of the county in which the violation is occurring or is threatened.

**B. Abatement of Violation.** Upon determination by a court that an alleged violation is occurring or is threatened, the court shall enter any order or judgment that is necessary to abate the violation, to ensure that restoration is performed, or to prevent the threatened violation. The institution of an action for injunctive relief under this section shall not relieve any party to the proceedings from any civil or criminal penalty prescribed for violations of this ordinance.

### **Section 9.2.20 Restoration After Non-Compliance**

The Town of Waxhaw, may require a person who engaged in a land-disturbing activity and failed to retain sediment generated by the activity, as required by G.S. 113A-57 (3), to restore the waters and land affected by the failure so as to minimize the detrimental effects of the resulting pollution by sedimentation. This authority is in addition to any other civil or criminal penalty or injunctive relief authorized under this ordinance.

### **Section 9.2.21 Severability**

If any section or section or sections of this ordinance is/are held to be invalid or unenforceable, all other sections shall nevertheless continue in full force and effect.

### **Section 9.3 Flood Damage Prevention**

#### **Section 9.3.1 Statutory Authorization, Findings of Fact, Purposes and Objectives**

**Statutory Authorization.** 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:

#### **A. 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.

**B. 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.

**C. 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. Minimize damage to private and public property due to flooding;
7. Make flood insurance available to the community through the National Flood Insurance Program;
8. Maintain the natural and beneficial functions of floodplains;
9. Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
10. Ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

### Section 9.3.2 General Provisions

- 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.
- B. Basis for Establishing the Special Flood Hazard Areas.** The Special Flood Hazard Areas are those identified under the Cooperating Technical State agreement between the State of North Carolina and the Federal Emergency Management Agency (FEMA) in its Flood Insurance Study (FIS) dated October 16, 2008 for Union County and associated Digital Flood Insurance rate Map (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 chapter Subsequent Letter of Map Revisions (LOMRs) and Physical Map Revisions (PMRs) shall be adopted within three months.
- 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.
- 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.
- 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.
- F. Interpretation.** In the interpretation and application of this ordinance, all provisions shall be:
1. Considered as minimum requirements;
  2. Liberally construed in favor of the Town of Waxhaw; and
  3. Deemed neither to limit nor repeal any other powers granted under state law.
- G. Warning and Disclaimer of Liability.** The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. 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.

- 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 Chapter 3 of this Code, as amended.

### Section 9.3.3 Administration

- 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.

- 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 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;
    - iv. The boundary of the floodway(s) or non-encroachment area(s) (NEAs);
    - v. The Base Flood Elevation (BFE);
    - 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 NAVD 1988 of the proposed reference level (including basement) of all structures;
  - ii. Elevation in relation to mean sea level NAVD 1988 to which any non-residential structure in Zone AE, A or AO will be floodproofed; and
  - iii. Elevation in relation to mean sea level NAVD 1988 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. 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 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 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 or Temporary Structures, when applicable, to ensure that the provisions of this Code 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 complete description of all the development to be permitted under the floodplain development permit (e.g. house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.).
- b. The Special Flood Hazard Area determination for the proposed development.
- 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, A99.
- h. Limitations on use of enclosed areas below the lowest floor (if applicable), i.e., parking, building access and limited storage only.
- i. A statement, that all materials below BFE/RFPE must be flood resistant materials.

### **3. Certification Requirements.**

- a. Elevation Certificates
  - i. An Elevation Certificate (FEMA Form 81-31) (FEMA Form 086-0-33) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to mean sea level NAVD 1988. 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) (FEMA Form 086-0-33) is required after the reference level is established. Within seven 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 NAVD 1988. Any work done within the seven 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 Finished Construction Elevation Certificate (FEMA Form 81-31) (FEMA Form 086-0-33) is required after construction is completed and prior to Certificate of 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. The Finished Construction Elevation Certificate certifier shall provide at least two photographs showing the front and rear of the building taken within 90 days from the date of certification. The photographs must be taken with views confirming the building description and diagram number provided in Section A. To the extent possible, these photographs should show the entire building including foundation. If the building has split-level or multi-level areas, provide at least two additional photographs showing side views of the building. In addition, when applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least 3" x 3". Digital photographs are acceptable.

b. Floodproofing Certificate

- i. If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form 81-65) (FEMA Form 086-0-34), 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 NAVD 1988. 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 Occupancy.

- ii. A final Finished Construction Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a Certificate of Occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to Certificate of Occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to deny a Certificate of Occupancy.

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.

- c. 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.
- d. 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
  - ii. Temporary Structures
  - iii. Accessory Structures

**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.

C. Duties and Responsibilities of the Floodplain Administrator.

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 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.
7. Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed.

8. Obtain actual elevation (in relation to mean sea level) of all public utilities.
9. When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect.
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 data have not been provided to 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, in order to administer the provisions of this ordinance.
12. When Base Flood Elevation data are provided but no floodway or non-encroachment area data have been provided to 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, 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.
20. Review, provide input, and make recommendations for variance requests.
21. Maintain a current map repository to include, but not limited to, historical and effective FIS Report, historical and effective FIRM and other official flood maps and studies adopted in accordance with the provisions 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).

#### D. Corrective Procedures.

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 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 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.
    - a. Appeal: Any owner who has received an order to take corrective action may appeal the order to the Board of Adjustment. In the absence of an appeal, the order of the Floodplain Administrator shall be final.
    - b. 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 chapter 3-or- the owner shall be guilty of a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58 and shall be punished at the discretion of the court.

#### E. Variance Procedures.

1. The Board of Adjustment as established by the Town of Waxhaw shall hear and decide requests for variances from the requirements of this Code.
2. Any person aggrieved by the decision of the 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 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 Code, 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 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.
  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 are subject to the requirements in Chapter 3 in addition to the following:
      - 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 30 calendar days prior to granting the variance.

### Section 9.3.4 PROVISIONS FOR FLOOD HAZARD REDUCTION

#### 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 in accordance with the FEMA Technical Bulletin 2, Flood Damage-Resistant Materials Requirements.
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.
  - a. Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.
  - b. Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the Code and requirements for the original structure.
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.
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.
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.

#### B. Specific Standards

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data have been provided, the following provisions are required:

1. **Residential Construction.** The freeboard shall be two feet. New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation.

**2. Non-Residential Construction.** The freeboard shall be one foot. 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 the Regulatory Flood Protection Elevation. 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. 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, 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.
- 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 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 36 inches in height, an engineering certification is required.
- c. 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 not be temperature-controlled or conditioned;
- c. Shall be constructed entirely of flood resistant materials at least to the Regulatory Flood Protection Elevation; and
- d. 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;
- e. 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 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 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, with modifications, rehabilitations, improvements to the existing structure or the common wall is structurally modified more than installing a doorway, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- b. Additions to pre-FIRM or post-FIRM structures that are a substantial improvement with no modifications/rehabilitations/improvements 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. Additions or improvements to post-FIRM structures when the addition or improvements, in combination with any interior modifications to the existing structure, are:
- i. Not a substantial improvement, the addition or improvements only must comply with the standards for new construction.
  - ii. A substantial improvement, the existing structure, and the addition or improvements must comply with the standards for new construction.
- d. Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a one year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the one year period begins on the date of the first improvement or repair of that building or structure after the effective date of this ordinance. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:
- i. Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions.
  - ii. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

**6. Recreational Vehicles.** Recreational vehicles shall either:

- a. Temporary Placement
  - i. Be on site for fewer than 180 consecutive days; or
  - ii. 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.)
- b. 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 months, renewable up to one 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;
- f. All service facilities such as electrical shall be installed; and
- g. Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Regulatory Flood Protection Elevation.
- h. An accessory structure with a footprint less than 150 square feet or a minimal investment of \$3,000 or less that satisfies the criteria outlined above does not require the elevation or floodproofing. Elevation or floodproofing certifications are required for all other accessory structures.

**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 Regulatory Flood Protection 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 this Code 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. Designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.
- d. **Tank inlets and vents.** Tank inlets, fill openings, outlets and vents shall be:
  - i. At or above the Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
  - 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 Non Encroachment Areas (NEAs) that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences.
- 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.
- 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.

**C. Standards for Floodplains Without Established Base Flood Elevations**

Within the Special Flood Hazard Areas designated as Approximate Zone A where no Base Flood Elevation data have been provided by FEMA, the following provisions shall apply:

1. No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty 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 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.
  - b. When floodway or non-encroachment data is 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.

- c. All subdivision, manufactured home park and other development proposals shall provide Base Flood Elevation data if development is greater than five acres or has more than 50 lots/manufactured home sites. Such BFE data shall be adopted by reference in accordance with the provisions of and utilized in implementing this ordinance.
- d. When Base Flood Elevation data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation.

D. Standards for Riverine Floodplains with Base Flood Elevations but Without Established Floodways or Non-Encroachment Areas

Along rivers and streams where Base Flood Elevation 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 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 foot at any point within the community.

E. Floodways and Non-Encroachment Areas

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions shall apply to all development within such areas:

- 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 increase (0.00 feet) 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 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. 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 no fill is added to the floodway or non-encroachment area and 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. Anchoring and elevation standards are satisfied.



# 10 chapter

## SIGNS

Section 10.1  
Purpose and Intent

Section 10.2  
Applicability

Section 10.3  
Definitions

Section 10.4  
Content Neutrality

Section 10.5  
Computation of Sign Measure-  
ment

Section 10.6  
Exempt Signs

Section 10.7  
Prohibited Signs

Section 10.8  
Historic Building Signage

Section 10.9  
Obsolete or Abandoned Signs

Section 10.10  
Nonconforming Signs

Section 10.11  
Master Signage Plan Required

Section 10.12  
Sign Permit Required

Section 10.13  
Permanent Signs

Section 10.14  
Temporary Signage

Section 10.15  
Sign Illumination

Section 10.16  
Administration

Section 10.17  
Maintenance

### Section 10.1 Purpose and Intent

The purpose of this chapter is intended to:

- A. Establish standards for the erection, alteration and maintenance of signs that are appropriate to various zoning districts;
- B. Allow for adequate and effective signs for communicating identification and other messages, while preventing signs from dominating the visual appearance of the area in which they are located;
- C. Protect and enhance the view of properties from public rights-of-way;
- D. Avoid distracting, confusing or misleading a driver or obstructing necessary vision for traffic safety;
- E. Avoid interference with protected free speech and commerce;
- F. Ensure that permitted signs do not become a hazard or nuisance;
- G. Ensure and advance the positive visual impact and image of the Town.

### Section 10.2 Applicability

The regulations of this chapter shall apply to the placement, construction, erection, alteration, replacement, maintenance, use, type, quantity, location, material, size, and height of all exterior signs within the planning jurisdiction of the Town of Waxhaw and any sign not expressly permitted by these regulations shall be prohibited.

### Section 10.3 Definitions

Refer to definitions in Chapter 13 of this Code.

### Section 10.4 Content Neutrality

The regulations in this chapter are intended to be content-neutral and apply equally to commercial and non-commercial speech. Signs containing noncommercial speech are permitted anywhere that advertising or business signs are permitted, subject to the same regulations applicable to such signs.

### Section 10.5 Computation of Sign Measurement

#### A. Computation of Sign Area

1. 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.
2. 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.
3. Frames or structural members not bearing informational or representational matter shall not be included in computation of the area of a sign face.

#### COMPUTATION OF SIGN AREA



**Sign Area:** Sign area is calculated as the area of smallest polygon that will encompass the limits of the display, including any material or color used to differentiate the sign from its backdrop.

**Multi-sided Signs:** When commercial copy is included in both sides of a two-sided back-to-back sign, only one side is required to be counted in the total area calculation. Otherwise, all sides of a multi-sided sign shall be counted in a multi-area calculation.

#### B. Computation of Height

For the purposes of interpreting the height requirements of this chapter, height shall be measured from the average grade of ground directly below a sign, canopy, wall, or other feature as specified.

### **Section 10.6 Exempt Signs**

The following signs are exempt from the requirements of this ordinance; however, in some instances building permits may be required, such as an electrical permit for wiring.

- A. Warning and security signs, including signs placed by a public utility for the safety, welfare, or convenience of the public, including, but not limited to signs identifying fire department connections or high voltage, public telephone, or underground cables and/or gas pipe lines;
- B. Government signs and signs for non-profit organizations sponsored by governments including insignia, statutorily required legal notices, informational, directional, wayfinding, and traffic safety signs;
- C. Signs on athletic fields, scoreboards and internally-oriented signs on athletic fields;
- D. Vending machine, ATM, gasoline pump or other similar signs. Incidental 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 the machine;
- E. Portable/A-frame signs. Pedestrian-scaled non-permanent signs which are used to display menus, daily specials, sale announcements and similar messages, provided they contain no more than 8 square feet per side and 4 feet in height with 1 per tenant;
- F. Official government flags that do not exceed 60 square feet in area, and displayed on flagpoles not exceeding 60 feet in height. Flagpoles may be ground, roof or wall-mounted.
- G. Holiday, sports, and good-will decorations with message if not illuminated.
- H. Signs for “temporary uses” as defined in Chapter 4 of this Code. Signage is permitted for the maximum time allowed for the temporary business at a specific location;
- I. Directional/identification signs. Such signs displayed strictly for the address, direction, safety, or convenience of the public, including signs which identify restrooms, parking areas, entrances or exits, warning, danger, and no trespassing signs.

### **Section 10.7 Prohibited Signs**

The following signs, sign construction, and displays are prohibited in all zoning districts:

- A. Signs which constitute a hazard to public health or safety;
- B. Roof signs or signs that extend above the parapet of a building;

- C. Animated/flashing signs;
- D. Off-premises billboard signs, including outdoor advertising signs, except those placed by governmental agencies for public purposes;
- E. Any sign placed on any utility pole, street sign post, hydrant, bridge, tree, or public street paving;
- F. Signage in or affixed to a motor vehicle, boat, or trailer that is parked within right-of-way, and in the same location for a period of 30 days or longer;
- G. Electronic message boards in MS, NC, R-1, R-3, and R-4 zoning districts;
- H. Signs which obstruct ingress or egress from any fire escape, door, window, or other entrance or exit;
- I. Signs, other than governmental signs, which contain lights, rotating disks, words and other devices not erected by a public authority, which may be erroneously construed as government signs, or emergency warning signs;
- J. Pennants, streamers, balloons, feather flags, ribbons, inflatable signs, pinwheels and spinners;
- K. Any sign or flag the Zoning Administrator deems to be significantly worn, torn, dilapidated, damaged, tattered, or otherwise in disrepair;
- L. Signs displaying obscene or indecent matter;
- M. Signs erected or displayed on or over public street rights-of-way, other than those erected by governmental agencies or for which appropriate encroachment agreements have been executed pursuant to this Code. Signs specifically protected by the provisions of NCGS 136-32 are not prohibited, provided the requirements of NCGS 136-32 are met.

### **Section 10.8 Historic Building and MS District Signage**

- A. Applicability: Wall signs on historic buildings and on all structures within the MS District, with the exception of signs approved by conditional zoning.
- B. Location: Wall signs on historic buildings shall be placed on the fascia or horizontal band between the storefront and the second floor, often referred to as the signboard. No wall sign shall extend beyond such space. If there is no signboard, the wall sign shall be placed below the typical second floor window area.
- C. Design: The design and coloration of such signs and their fixtures shall be compatible with the character of the building as determined by the Zoning Administrator.

### **Section 10.9 Obsolete or Abandoned Signs**

- A. Nonconforming signs or signs serving a vacant building or site that has not been in use for 180 days or more shall be deemed to be an abandoned sign and shall be removed.
- B. Signage supporting structures and frames used to support nonconforming signs may remain in place.
- C. The obsolete or abandoned sign may be removed by the Zoning Administrator within 60 days of notice to the owner at the owner's expense.

### **Section 10.10 Nonconforming Signs**

Nonconforming signs shall be governed by the provisions of Chapter 11 of this Code.

#### **10.11 Master Signage Plan Required**

A master signage plan shall be submitted to the Town for developments containing one principal structure with over 10,000 square feet or any multi-tenant development or multi-building complex.

Within a development, the coordination of styles and colors will be used to ensure continuity. The same type of materials must be used for all attached/freestanding signage on any single or multi-tenant structure. All types of attached/freestanding signs, as long as they produce a unifying theme and meet all area and height requirements, will be considered by staff except for those expressly prohibited by this Ordinance. A master signage plan will be required to include and follow these guidelines:

- A. Maximum square footage of wall signs shall be 10% of a single wall area. There is no limit on the number of wall signs, as long as the maximum square footage allowed is not exceeded;
- B. Only permitted freestanding sign to be used shall be a monument sign;
- C. Detailed designs of all proposed signs including size, height, copy, materials, and colors of such signs;
- D. Proposed number and location of signs;
- E. Sign illumination plans;
- F. Provisions for shared usage of freestanding sign(s);
- G. A master signage plan will be part of any non-residential construction document/civil plan submittal required for development and shall be processed simultaneously with such plan(s);

- H. A master signage plan will be approved prior to the issuance of sign permit(s);
- I. A master signage plan may be amended by filing a new plan, which complies with all the requirements of this Code provided that the new plan is accompanied with the necessary processing fees;
- J. After approval of a master signage plan, no sign will be erected, affixed, placed, painted or otherwise established except in conformance with such plan and such plan may be enforced in the same way as any other provisions of this code.

All requirements of this chapter must be met unless otherwise stated in this section.

#### **Section 10.12 Sign Permit Required**

Unless exempted by Section 10.6, all signs shall require a sign permit in accordance with this code, prior to construction, installation, or display. Whether the sign is new, part of new construction, or an existing sign, the following information will be required as part of the permit application:

- A. A detailed description of any new sign for which a permit is required, including, but not limited to: a detailed drawing of the sign showing size, height, and site location relative to property lines and street right-of-way.
- B. Existing signs must meet these requirements if, for any reason, the sign is to be changed or altered. Normal copy changes and routine maintenance matters, without changes in construction, size, height, or lighting, are exceptions to this requirement.
- C. Some signs may require building and electrical permits as determined by the Building Inspections Department.



Section 10.13 Permanent Signs

10.13.1 Attached Sign Illustrations:



Wall Sign



Window / Door Sign



Awning / Canopy Sign



Theatre Marquee Sign

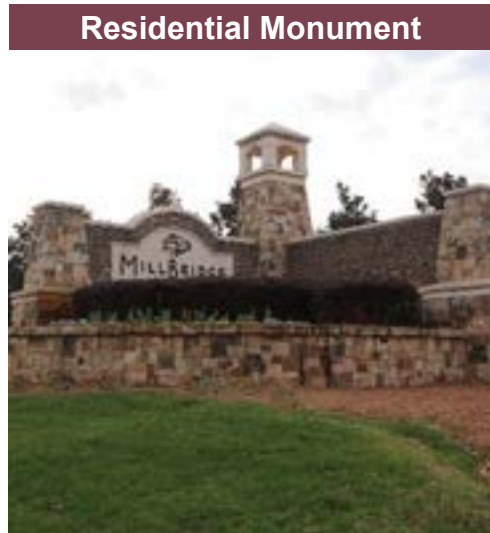


Blade/Projecting Sign

10.13.2 Attached Sign Standards:

Sign Type	Permitted Location	Sign Copy Area	Maximum Height	Maximum Number	Additional Standards	Illumination
A. Wall Signs	Main Street (MS), Town Center (TC)	10% of wall area per elevation.	No sign shall extend above the roofline.	Single-Tenant Buildings less than 10,000 sq ft: 1 sign per building elevation; maximum 3 total per building.  Single-Tenant Buildings over 10,000 sq ft and multi-tenant buildings: see Master Sign Plan requirements in this Chapter.	May not exceed maximum calculated square footage on any wall (cannot move allotment from one wall to another).  12 inch maximum protrusion.	External
	Neighborhood Center (NC), Corridor Commercial (CC)					Internal
	Employment Center (EC)					
B. Window / Door Signs	All businesses, except home occupations	50% of a single window and 30% of the gross glass area on any side of the first floor of a building.	n/a	n/a	n/a	Signs shall not be illuminated except for neon lettering on window signs.
C. Awning / Canopy Signs	Main Street (MS), Town Center (TC), Neighborhood Center (NC), Corridor Commercial (CC), Employment Center (EC).	50% of the awning area.	May encroach over sidewalk area to within 4 feet of curb and shall have 8 feet clearance.	1 per public entrance.	First floor awnings only.  All businesses, except home occupations, on first floor awnings only.	Signs shall not be illuminated.
D. Theatre Marquee Signs	Theatres only	200 sq ft.	May not exceed the maximum height for the zoning district.	1 per theatre.	Must be perpendicular to the façade of the building or at a 45 degree angle from the corner of the building.	
F. Blade/Projecting Signs	Main Street (MS), Neighborhood Center (NC), Town Center (TC), Corridor Commercial (CC)	12 sq ft.	Must be below the roof, soffit, or parapet.	1 per tenant.	May encroach over sidewalk area by 4 feet of curb with 8 feet clearance	Signs shall not be illuminated.

10.13.3 Freestanding Sign Illustrations:



10.13.4 Freestanding Sign Standards

Sign Type	Permitted Location	Maximum Area	Maximum Height	Maximum Number	Additional Standards	Illumination
<b>A. Residential Monument Signs</b>	R-1, R-3, R-4, NC & EC Residential Districts	32 sq ft.	6 ft.	2 signs per major entrance.	5 feet minimum front setback and 10 feet minimum side setback.  No sign shall be located in any required buffer yard or within 20 feet of any right-of way intersection.  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 zoning.	External  Internal
<b>B. Non-Residential Monument Signs</b>	Neighborhood Center (NC), Town Center (TC), Corridor Commercial (CC), Employment Center (EC)	50 sq ft. Multi-tenant developments can do 150% of requirement.	8 ft. Multi-tenant developments can do 150% of requirement.	1 per street frontage providing access to the site.  For multi-tenant developments, please see Master Sign Plan requirements in this chapter.	5 ft minimum front setback and 10 ft minimum side setback.  No sign shall be located in any required buffer yard or within 20 ft of any right-of way intersection.  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.	External  Internal
<b>C. Post &amp; Arm Signs</b>	All Districts	6 sq ft.	5 ft.	1 per lot.	5 ft minimum front setback and 10 ft minimum side setback.  No sign shall be located in any required buffer yard or within 20 ft of any right-of way intersection.  No proposed ground-mounted sign shall be placed within 50 feet of an existing ground-mount	External



**10.13.4 Freestanding Sign Standards (continued)**

Sign Type	Permitted Location	Maximum Area	Maximum Height	Maximum Number	Additional Standards	Illumination
<b>D. Pylon Signs</b>	R-1, R-3, R-4, Neighborhood Center (NC)	12 sq ft.	6 ft.	1 per street frontage	2 structural supports required (single pole pylon signs are prohibited). Supports shall be located at the outermost extremities of the sign face.  No additional signs or advertising may be attached to the support structure. No exposed support piping is allowed.	External
	Town Center (TC), Corridor Commercial (CC)					
	Employment Center (EC)					
<b>E. Drive-thru Menu Boards</b>	Neighborhood Center (NC)	32 sq ft.	6 ft.	1 Per Drive-Thru Line	Menu boards may be located to the rear of the building with no screening requirements. If located on a public frontage or side yard, landscaped screening is required.	Internal
	Corridor Commercial (CC)					
	Employment Center (EC)					

**Section 10.14 Temporary Signage**

**A. Temporary Signage for R-1, R-3, R-4 Zoning Districts**

Each lot shall be subject to the following standards:

1. Surface Area: Such signs shall not exceed 6 square feet in area
2. Maximum Number: 2 per street frontage
3. Location: Shall not be located within a street right-of-way or sight distance triangle
4. Maximum Duration: No maximum duration
5. Temporary signs shall not be illuminated
6. Temporary signage serving on a lot shall not be required to obtain a temporary administrative permit

**B. Temporary Signage for New Developments greater than 10 acres in R-1, R-3, R-4 Zoning Districts**

Each new development shall be subject to the following standards:

1. Surface Area: Such signs shall not exceed 32 square feet in area and 10 feet in height
2. Maximum Number: 1 per street frontage
3. Location: Shall not be located within a street right-of-way or sight distance triangle
4. Maximum Duration: Such signs shall only be allowed during the time such construction or development is actually in progress in accordance with a valid building permit, or when lot is for sale.
5. Temporary signage serving on new developments greater than 10 acres will require a temporary sign permit.

**C. Temporary Signage for Neighborhood Center (NC), Main Street (MS), Town Center (TC), Corridor Commercial (CC), and Employment Center (EC) Zoning Districts**

Each lot shall be allowed up to one temporary sign per street frontage, subject to the following standards:

1. Surface Area: Such signs shall not exceed 32 square feet in area
2. Maximum Number: 2 per street frontage
3. Location: Shall not be located within a street right-of-way or sight distance triangle
4. Maximum Duration: Such signs may remain in place on a lot for up to 45 days. This period may be renewed by the Zoning Administrator up to a maximum of three times per calendar year for additional 30 day periods.
5. Permitted materials: Such signs may take the form of a banner, pylon sign, or similar configuration.

**D. Temporary Signage for New Developments in Neighborhood Center (NC), Main Street (MS), Town Center (TC), Corridor Commercial (CC), and Employment Center (EC)**

Each new development shall be subject to the following standards:



1. Surface Area: Such signs may be no greater than 32 square feet in area and 6 feet in height.
2. Maximum Number: 1 per street frontage
3. Location: Shall not be located within a street right-of-way or sight distance triangle
4. Maximum Duration: Such signs shall only be allowed during the time such construction or development is actually in progress in accordance with a valid building permit, or when lot is for sale.
5. Temporary signage serving on new developments greater than 10 acres will require a temporary sign permit.

E. Temporary signs shall not be illuminated

F. Temporary signage that exceeds 6 square feet in size shall require a temporary sign permit.

#### **Section 10.15 Sign Illumination**

Illuminated signs, where otherwise permitted by this code, shall conform to the following:

- A. External Illumination.** An externally illuminated sign has its lighting element or source installed outside the sign, directed toward the sign face, letters, or sign message. External illumination must be confined to and directed solely at the surface of the sign and shielded to prevent beams, glare, or rays of light from being directed onto any portion of the right-of-way or any adjoining property.
- B. Internal Illumination.** An internally illuminated sign has its lighting element or lighting source contained inside a sign cabinet, letter module, or sign body. Typical lighting elements used for internal illumination include fluorescent lighting, neon tubing, and light-emitting diodes (LEDs). The only allowable types of internally illuminated signs are channel letters with translucent faces, reverse lit channel letters, or push-through acrylic sign panels. LED and Neon illumination shall be permitted on a limited basis as deemed by the Zoning Administrator, see Section 10.15.C. For reverse lit channel letters, lights must be white. All exposed raceways must be painted to match the finish of the wall behind the sign. Black raceway is suitable on brick walls.
- C. Light-Emitting Diode and Neon signs.** This section applies to LED and neon signs, or similar lighting technology in a manner that constitutes a sign. The use of LED or neon will be considered on a limited basis as determined by the Zoning Administrator and subject to the issuance of a sign permit. The use of neon or LED signs shall be evaluated against the following criteria:

1. The use of LED or neon signs shall be permitted only in MS, TC, CC, and EC districts. Further, the use of LED or neon signs shall be prohibited if located and visible within 150 feet of any residentially zoned property.
2. Signage shall be compatible with other signs displayed for the business and building, through the use of similar colors and design styles.
3. The use of colors that are complementary to the building design is encouraged. Brighter colors of the spectrum should be avoided, or utilized on a limited basis. The colors white and clear are preferred.
4. Signage shall be designed to enhance a stylistic architectural theme, or create a unique quality or character that distinguishes a business in a manner that is compatible with the overall community character.
5. LED or neon lettering styles should be consistent with the style of any other sign lettering associated with the business.
6. The use of LED or neon shall be static in intensity and color.

#### **Internal Illumination Type**

**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.

**Reverse Lit 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. This type of illumination is prohibited in all zoning districts.



**D. Digital Display.** Digital displays are limited to light emitting diode (LED) or liquid crystal display (LCD) boards and shall meet the following restrictions:

1. Shall not contain a message that flashes, pulsates, moves or scrolls. Each message must transition instantly.
2. The minimum time between display changes shall be three seconds for on-site commercial signs.
3. The brightness of the display shall be limited to 464.5 foot-candles during the day and 23.5 foot-candles during nighttime hours.
4. Digital displays shall not exceed 50% of existing freestanding sign area.
5. In case of malfunction, digital displays are required to contain a default design to freeze the sign message in one position.

Neon Tubing. Neon illumination shall be installed on the interior of doors and windows and shall comply with the window door sign regulation per this Chapter.

All wiring to freestanding signs or to lighting equipment erected must be underground.

Additional illumination shall meet the Lighting requirements of Chapter 8 of this Code, Signs and other sources of illumination adjacent to public streets are subject to the provisions of the North Carolina General Statutes 136-32.2.

#### **Section 10.16 Administration**

- A. Except for signs expressly exempt from permit requirements no sign may be constructed, erected, moved, enlarged, illuminated, or substantially altered except in accordance with an administrative permit.
- B. Any person proposing to erect any sign requiring an administrative permit must submit a permit application to the administrator. Application for such permit must be accompanied by detailed plans, including scaled drawings of the proposed sign, a detailed site plan and other information deemed necessary by the administrator to determine compliance with applicable regulations.
- C. If the work associated with a permit has not been completed within six months of the date of the issuance of the permit, such permit will lapse and become null and void.

#### **Section 10.17 Maintenance**

All signs, including exempt signs, shall be maintained in a satisfactory state of repair. This shall include, without limitation, correction of peeling or faded paint, repair or replacement of damaged panels, trimming of vegetation that obscures the sign(s), replacement of defective lighting of illuminated signs, secure attachment to the building for attached signs, and stable vertical alignment of freestanding signs.

The Town may respond to any violation of these maintenance standards according to Section 3.8 of this ordinance.

# 11 chapter

## NON-CONFORMING SITUATIONS

Section 11.1  
General

Section 11.2  
Non-Conforming Lots

Section 11.3  
Non-Conforming Uses

Section 11.4  
Non-Conforming Structures,  
Except Signs

Section 11.5  
Non-Conforming Signs

Section 11.6  
Non-Conforming Accessory Uses  
and Structures

Section 11.7  
Non-Conforming Manufactured  
Home Parks

Section 11.8  
Non-Conforming Features

Section 11.9  
Temporary  
Non-Conformances

Section 11.10  
Changes of Tenancy  
or Ownership

### Section 11.1 General

- A. Nonconformities as defined in this chapter are declared to be incompatible with permitted uses in the districts established by this code. It is the intent of this Code to allow nonconformities to continue until they are removed, but not to encourage their survival.
- B. Any parcel of land, use of land, easement, building or structure lawfully existing on the date of any text amendment in this code, or on the date of a zoning map amendment that does not conform to the use or dimensional requirements of the zoning district in which it is located may be continued and maintained in accordance with the provisions of this chapter and other applicable provisions of this Code.
- C. A nonconformity shall not be changed to any other nonconformity unless the Board of Adjustment finds that the new proposed nonconformity is more in character with the uses and development patterns in the zoning district in which it is located. In approving such a request, the Board of Adjustment may require appropriate conditions and safeguards in accordance with the purpose of this Code.
- D. A nonconformity shall only be extended, enlarged, or intensified in conformity with this chapter.

### Section 11.2 Non-Conforming Lots

**Vacant lots in general.** Vacant lots for which plats or deeds have been recorded in the office of the Register of Deeds for Union County, which fail to comply with the minimum area or other dimensional requirements of the zoning districts in which they are located may be used for any of the uses permitted in the zoning district in which it is located, provided that:

- A. Where the lot area is not more than 25 percent below the minimum specified in this code, and other dimensional requirements are otherwise complied with, the Zoning Administrator is authorized to issue a certificate of zoning compliance.
- B. Where the lot area is more than 25 percent below the minimum specified in this ordinance, or other dimensional requirements cannot be met, the Board of Adjustment may, in its discretion, approve as a variance such dimensions as shall conform as closely as possible to the required dimensions.

**Recombination of nonconforming vacant lots.** If two or more adjoining lots with continuous frontage are in a single ownership at any time after the adoption or amendment of this code and such lots individually are too small to meet the dimensional requirements of the district in which they are located, such groups of lots shall be considered as a single lot or several lots of minimum permitted size and the lot or lots in one ownership shall be subject to the requirements of this Code.

**Nonconforming occupied lots.** Nonconforming lots occupied by buildings or structures that fail to comply with the dimensional requirements for the district in which they are located may continue to be used, provided the specific nonconformity is not increased. The minimum dimensional requirements of this Code shall not be construed as prohibiting the conversion of an existing building which does not meet the minimum yard requirements to another permitted use, so long as no further encroachment is made into the existing yards.

**Nonconforming single-family lots.** In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Code, a single-family dwelling and customary accessory buildings may be erected on any single lot of record after the effective date of this Code provided that all applicable setback requirements of the zoning district are met.

### Section 11.3 Non-Conforming Uses

A legal nonconforming use is a use existing legally at the time of the passage of this Code, or the time of annexation into the Town's jurisdiction, which does not by reason of use conform to the regulations of the district in which it is located. A use established after the passage of this Code which does not conform to regulations of the district in which it is located shall be considered an illegal nonconforming use and is a violation of this code. Legal nonconforming uses of land or structures may continue only in accordance with all the following provisions.

- A. A nonconforming use or characteristic of use shall not be expanded except in conformity with this chapter, provided however, that any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Code, but no such use shall be extended to occupy any land outside such building. Expansion shall include an intensification of use, a physical expansion that results in increased capacity or activity associated with the use, an extension of the hours of operation or number of days of activity and any similar change in activity or location. A nonconforming use of land outside a building shall not be extended, enlarged, or intensified on additional land after the effective date of this Code.
- B. A nonconforming use shall not be moved from one location on a site to another location on the same site unless the lot owner can demonstrate to the satisfaction of the Zoning Administrator that the relocation of the use will not increase the impacts of such use on the public, will not adversely affect adjacent lots, and will not have the effect of making the nonconformity more permanent.



- C. A nonconforming use shall not be changed to any other use unless the new use conforms to the standards of the zoning district in which it is located. Once a nonconforming use is changed to a conforming use, a nonconforming use shall not be re-established.
- D. A nonconforming use or characteristic of use shall not be reestablished after vacancy, abandonment, or discontinuance for any period of six consecutive months.
- E. No structural changes shall be made in any structure integral to, and occupied by, a nonconforming use except as follows:
  - 1. Structural changes ordered by an authorized official in order to ensure the safety of the structure shall be permitted.
  - 2. Maintenance and repairs to keep a structure in sound condition shall be permitted.
  - 3. Structural changes necessary to convert the nonconforming use to a conforming use shall be permitted.
  - 4. An existing nonconforming residential structure may be enlarged or altered provided that no additional dwelling units result. Any such enlargement or alterations shall be in compliance with all dimensional requirements of the district and/or use.
  - 5. The structure and its accompanying use may be moved to another location on the lot so long as the structure meets all applicable requirements of the district.
  - 6. Any nonconforming use may be extended throughout any parts of a structure that were manifestly arranged or designed for the use at the time of adoption or amendment of this code, but no such use shall be extended to occupy any land outside such structure.
- 7. Presumption of Discontinuance.** A nonconforming use shall be presumed discontinued when:
  - a. The owner has indicated, in writing or by a public statement, intent to abandon the use;
  - b. A conforming use has replaced the prior nonconforming use;
  - c. The structure containing the nonconforming use has been removed;
  - d. The owner has physically changed the structure or its permanent equipment in such a way as to clearly indicate a change resulting in something other than the nonconforming use;
  - e. The property and/or structure has been vacant for 6 months as determined by the Zoning Administrator; or\

- f. The use has been completely inactive for 6 months as determined by the Zoning Administrator.

**8. Overcoming the Presumption of Abandonment.** A nonconforming use contained in a structure, based solely on the length of time the use of a structure has remained vacant or inactive, may be rebutted and overcome upon a showing, to the satisfaction of the Zoning Administrator, that during such period the owner of the land has:

- a. Been maintaining the land and structure in accordance with the North Carolina State Building Code; and
- b. Either:
  - i. Been actively and continuously marketing the land or structure for sale or lease or has been making necessary improvements in order to continue the use.
  - ii. Been operating a seasonal business on the land and/or in the structure for a similar period of time each year since the use lawfully came into existence.

**Section 11.4 Non-Conforming Structures, Except Signs.**

A legal nonconforming structure is a structure, including a building, existing legally at the time of the passage of this Code, or the time of annexation into the Town's jurisdiction, which does not by reason of design or dimensions conform to the regulations of the district in which it is situated. A structure established after the passage of this Code which does not conform to regulations of the district in which it is situated shall be considered an illegal nonconforming structure and is a violation of this Code. Legal nonconforming structures, excluding signs, may continue only in accordance with all the following provisions.

- A. On any building devoted in whole or in part to any nonconforming use, work may be done on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing provided that the content of the building as it existed at the time of passage or amendment of this Code shall not be increased. Nothing in this Code shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.
- B. Structural changes necessary to convert the nonconforming use to a conforming use shall be permitted.
- C. A nonconforming structure shall not be moved to another location unless it thereafter conforms to the standards of the zoning district in which it is located.

- D. A nonconforming structure shall not be rebuilt, altered, or repaired except in conformity with this Code after sustaining damage or necessitating repair exceeding 60 percent of the replacement cost of the structure at the time of damage or wear, provided that any permitted reconstruction shall begin within six months from the time of damage or notice of wear and shall be completed within 12 months after the issuance of a building permit.
- E. A nonconforming structure shall not be demolished and rebuilt as a nonconforming structure.

**Section 11.5 Non-Conforming Signs**

A legal nonconforming sign is a sign existing legally at the time of the passage of this Code, or the time of annexation into the Town’s jurisdiction, which does not by reason of location, type, design or dimensions conform to the regulations of the district in which it is located. A sign erected or created after the passage of this Code which does not conform to the regulations of the district in which it is situated shall be considered an illegal nonconforming sign and is a violation of this Code.

Nothing in this Code shall prevent the normal maintenance of an existing non-conforming sign. However, a non-conforming sign shall not be:

- A. Changed to another type or shape of non-conforming 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 60% of the appraised replacement cost of the sign in its entirety.

**Section 11.6 Non-Conforming Accessory Uses and Structures**

No nonconforming accessory use or accessory structure shall continue after the principal use or structure is terminated by abandonment, discontinuance, damage, or destruction unless such accessory use or accessory structure thereafter is made to conform to the standards for the zoning district in which it is located.

**Section 11.7 Non-Conforming Manufactured Home Parks**

Nonconforming manufactured home parks may not be expanded or increased in size. This requirement shall include adding spaces to the park.

**Section 11.8 Nonconforming Features**

A legal nonconforming feature is a physical characteristic existing legally at the time of the passage of this Code, or the time of annexation into the Town’s jurisdiction, which does not by reason of design or dimension conform to the regulations of the district in which it is situated. Nonconforming features include, but are not limited to, physical characteristics of development that exceed allowable maximum standards (e.g. built upon area, structure height, etc.), and those that lack or fall short of required minimum standards (e.g. off-street parking, landscaping and buffering, lighting standards, etc.). A feature added or changed after the passage of this Code which does not conform to regulations of the district in which it is situated shall be considered an illegal nonconforming feature and is a violation of this Code. Legal nonconforming features may be continued subject to the following limitations.

- A. No action shall be taken which increases the degree or extent of the nonconformity. Any enlargement, extension, structural alteration, parking changes, and other changes to lot design and access shall conform to all current requirements of this chapter.
- B. For development existing (or for which a vested right had been established) before the effective date of current regulations, nonconforming features created by a change in regulations may continue to exist, and structures with such nonconforming features may be reconstructed if demolished or destroyed.

**Section 11.9 Temporary Non-Conformances**

An administrative permit may be issued by the Zoning Administrator for an appropriate period of time not to exceed 12-month increments for nonconforming buildings, structures or uses incidental to building construction or land development or deemed to be generally beneficial, provided that the owner of such temporary nonconforming use agrees to remove the temporary nonconforming use upon expiration of the permit.

**Section 11.10 Changes of Tenancy or Ownership**

There may be a change in tenancy or ownership of an existing nonconforming use or structure provided there is no change in the nature or character of such nonconforming use or structure except as provided herein and all other applicable requirements of this Code are met (e.g., parking, screening, landscaping, etc.).

# chapter 12

Section 12.1  
Purpose and Intent

Section 12.2  
Designation of Landmarks

Section 12.3  
Certificate of Appropriateness

## HISTORIC PRESERVATION

### **Section 12.1 Purpose and Intent**

The historical heritage of the Town of Waxhaw is one of its most valued and important assets. Conservation of historic properties will help stabilize and increase property values in the surrounding areas and strengthen local, county and state economies. By means of recognizing, regulating and acquiring historic properties, the Town seeks, within its zoning jurisdiction, to:

- A. Safeguard its heritage by preserving any property therein that embodies significant elements of its culture, history, architectural history or prehistory; and
- B. Promote the use and conservation of such district or landmark for the education, pleasure and enrichment of local, county and state residents.

### **Section 12.2 Designation of Landmarks**

- A. The Board of Commissioners (BOC) may adopt and, from time to time, amend or repeal an ordinance designating one or more historic landmarks. The Code 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 BOC 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.
- B. 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 (HPC) 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.

- C. The HPC shall prepare and adopt rules of procedure and prepare and adopt principles and standards consistent with state law or this chapter, for altering, restoring, moving or demolishing properties designated as landmarks.
- D. 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 HPC or the BOC, until the following procedural steps have been taken:

1. The HPC 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 standards adopted by the HPC in addition to the following:
  - a. name of the property (both common and historic) if they can be determined;
  - b. name and address of the current property owner;
  - c. location of the property and a justification of the land proposed to be designated historic;
  - d. date of construction and of any later alterations, if any; and
  - e. photograph(s) that clearly depicts the property proposed to be designated and supplementary photographs showing facades, details and siting.

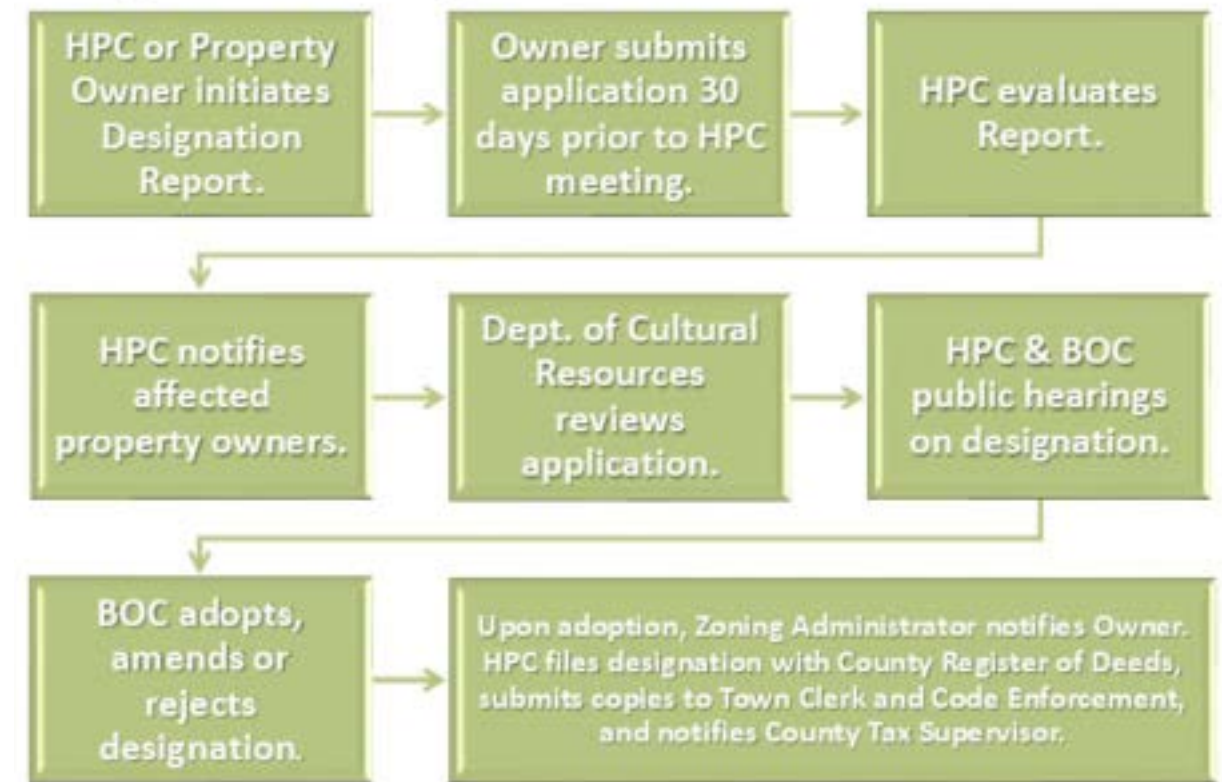
Such investigation or report shall be submitted to the Office of Archives and History, North Carolina Department of Cultural Resources.

2. Once the designation report has been prepared, either by the HPC or by the owner, the HPC shall consider the report. The HPC may accept it, amend it, reject it or recommend further study.
3. A designation report prepared by or for the HPC may be considered at any meeting of the HPC provided the notification requirements contained in subsection 12.2.C.iii 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 HPC to be considered at the meeting.
4. When a designation report is prepared by the HPC and is to be considered at a BOC meeting, the chairperson or appointed designee shall notify the owners of the property and the owners of abutting property by certified mail, mailed not less than seven calendar days prior to the meeting at which the matter is to be heard. When an application for designation is submitted by the owner, the chairperson or appointed designee 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, using stamped, addressed envelopes provided by the owner.



5. 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 HPC, 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 HPC and the BOC shall be relieved of any responsibility to consider such comments.
6. The HPC and the BOC 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 HPC shall be open to the public, in accordance with the North Carolina Open Meetings Law, G.S. 143-318.9 et seq.
7. Following the joint public hearing or separate public hearings, the BOC may adopt the ordinance of designation as proposed, or with any amendments it deems necessary, or reject the proposed ordinance.
8. 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. One copy of the ordinance and all amendments thereto shall be filed by the HPC with the Union County Register of Deeds. 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 HPC 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.
9. Upon adoption of an ordinance designating a landmark or any amendment thereto, it shall be the duty of the HPC to give notice thereof to the County Tax Supervisor.

**Fig. 12.2.D Designation of Landmarks Procedure**



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.

**Section 12.3 Certificate of Appropriateness**

**A. 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 structure (including masonry walls, fences, light fixtures, steps and pavement or other appurtenant features), nor above ground 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 HPC through hearings and procedural requirements for quasi-judicial decision-making. The Town shall require such a certificate to be issued by the HPC 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 chapter.

**B. Jurisdiction Limited to Exterior Features.** The HPC 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.

**C. Regulation of Interior Features.** Jurisdiction of the HPC 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 Union County Register of Deeds in the grantee and grantor indexes. The landmark designation shall specify the interior features to be reviewed and the specific nature of the HPC's jurisdiction over the interior.

**D. 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 12.4.D.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 HPC 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 HPC 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 HPC 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.

**E. 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 HPC finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial.

**F. 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 local 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 HPC that such action is required for the public safety because of an unsafe or dangerous condition. Nothing in this Chapter 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 HPC.

G. Prior to any action to enforce any landmark or local historic district provisions set forth in this chapter, the HPC shall (i) prepare and adopt rules of procedure, and (ii) prepare and adopt principles and standards consistent with this chapter for new construction, alterations, additions, moving and demolition.

H. 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 HPC take final action as soon as possible. Upon receipt of such written demand, the HPC shall take final action at the next HPC meeting which is at least 21 days in the future. Applications shall be filed with the Planning Department. The HPC shall, by uniform rules in its rules of procedure, require information 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 information has been submitted.

1. Prior to issuance or denial of a Certificate of Appropriateness, the HPC 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 HPC shall notify all adjacent property owners in compliance with NCGS 160D-406.b.
2. In cases where the HPC deems it necessary, it may hold a hearing concerning the application.
3. The HPC shall take action on the application and in doing so shall apply the requirements of this Chapter and the Waxhaw Historic Landmark Guidelines adopted by the HPC. The HPC's action on the application shall be approval, approval with modifications or disapproval. Prior to final action on an application, the HPC, using the Landmark Guidelines, shall make findings of fact indicating the extent to which the application is or is not in compliance with the review criteria.

**I. Minor Works.** The HPC shall delegate to staff 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 HPC liaison may approve but may not deny an application for a certificate of appropriateness for minor works. If the HPC liaison determines to not issue a certificate of appropriateness for minor works, the application shall be referred to the HPC for action. A decision by the HPC liaison to issue a certificate of appropriateness for minor works may be appealed in the same manner as other decisions made by the HPC as described above.

**J. Authentic Restoration or Reconstruction Not Meeting Zoning Requirements.** If the HPC, in reviewing an owner's proposed plans, finds 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 through a variance request, 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 HPC and the Board of Adjustment shall be conditions for the issuance of the building permit.



## DEFINITIONS

Section 13.1  
Rules for Development  
of Definitions  
and Interpretation of Terms

Section 13.2  
Definitions

### **Section 13.1 Rules for Development of Definitions and Interpretation of Terms**

In development of this chapter, the definitions found herein shall be observed and applied, except when the context of their use or specific wording clearly indicates otherwise. Definitions relating solely to certain chapters may also be contained within those chapters. Where possible, efforts have been made to avoid the overuse of technical language where the meaning could be conveyed in another form. Except as specifically drafted herein, all words and phrases used in this Code have their customary dictionary definitions. For the purpose of this Code, certain words or terms used herein shall be interpreted as follows.

- Words used in the present tense also include future tense, unless expressly noted otherwise.
- Words used as singular shall also include plural, unless expressly noted otherwise.
- The words “must,” “shall,” and “will” are mandatory, not discretionary.
- The word “may” is discretionary and permissive.
- The words “must”, “shall,” “will,” and “may” when used in the negative are mandatory and not discretionary.
- Any word denoting gender includes, male, female, and neutral.

In the event of a conflict between the text of the definitions in this chapter and any caption, figure, illustration, table, or text of the remaining chapters of this Code the most restrictive regulation shall apply.

Refer to the current *Waxhaw Engineering Design & Construction Standards Procedures Manual (Engineering Standards)* for additional detailed information on terms defined in this section.

References to the North Carolina General Statutes are abbreviated as “NCGS”.

### **Section 13.2 Definitions**

## A

**ABC Store.** An establishment that specializes in the sale and distribution of alcoholic beverages as a retail use, provided that such establishments meet all of the requirements and standards of Chapter 18B of the NCGS, the State of North Carolina ABC Commission, any local ABC Board in the jurisdiction where such an establishment will be placed, and any other appropriate local and/or state regulations or ordinances.

**Accessory Dwelling.** See Dwelling, Accessory.

**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.

**Accessory Use.** A use that is subordinate and clearly incidental to that of the principal use of land and located on the same lot therewith.

**Adjacent.** When referring to parcels or lots of land, that at least one boundary line of one lot touches a boundary line of another lot or is directly across a street or right-of-way from another lot.

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

**Administrative Decision.** Decisions made in the implementation, administration, or enforcement of development regulations that involves the determination of facts and the application of objective standards set forth in this Chapter or local government development regulations. These are sometimes referred to as ministerial decisions or administrative determinations.

**Adopted Plan.** The comprehensive plan, land use plan, small area plans, neighborhood plans, transportation plan, capital improvement plan, and any other plans regarding land use and development that have been officially adopted by the Board of Commissioners.

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

**Administrative Hearing** – A proceeding to gather facts needed to make an administrative decision.

**Agritourism.** A form of commercial enterprise that links agricultural production and/or processing with tourism to attract visitors onto a farm, ranch, or other agricultural business for the purposes of entertaining and educating the visitors and generating income for the farm, ranch, or business owner. Examples include, but are not limited to, corn mazes, pumpkin patches, hay rides, living history farms, petting and feeding zoos, etc. The location may also have accessory uses such as an onsite farmers market, retail shop, food and beverage sale, or other similar uses.

**Alley.** A private narrow roadway that allows for secondary access to the side or rear of abutting property.

**Alteration of a watercourse.** A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.



**Amphitheater.** A use that is an open air venue used for entertainment, performances, sporting, and other similar events.

**Amusement Park, Indoors.** Establishments that provide commercial recreation activities completely within an enclosed structure such as video arcades, shooting ranges, and bowling alleys.

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

**Animal Kennel.** A use or structure intended and used for the breeding or accommodation of domestic animals for sale or for the training or overnight boarding of animals for persons other than the owner of the lot. 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 for purposes of distribution to the general public.

**Animal Hospital.** A place where animals are given medical or surgical treatment and the boarding of animals is incidental to the hospital use.

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

**Applicant.** Any person, party, partnership, corporation, agent, or other business entity that is seeking local governmental approval of a proposed plan, permit, variance, etc.

**Arcade.** 1.) A colonnade where the majority of columns support an arch. See Colonnade. 2.) A large covered area with retail shops or an amusement place.

**Area of Future-Conditions Flood Hazard.** Land area that would be inundated by the 1-percent-annual-chance (100-year) flood based on future-conditions hydrology.

**Area of Shallow Flooding.** A designated Zone AO on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one to three 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)".

**As-built Drawings.** A revised set of drawings produced upon completion of a project or a particular job that are intended to reflect all changes made during the construction process and show exact dimensions, geometry, and location of all elements of the work completed.

**Auction House.** A facility that is used for conducting auctions on a regular basis.

**Authorized Agent.** A person, including a lessee or person holding an option or contract to purchase or lease land, who is certified by a duly executed and notarized affidavit to be authorized to represent a property owner's interest in a matter subject to this Code.

**Automated Teller Machines (ATMs).** 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 their own enclosed booth.

**Automobile Body Shop.** A business which primarily involves the repair of damaged vehicles.

**Auto Detailing.** An establishment primarily engaged in the cleaning and finishing of automobiles. Examples of detailing include deep cleaning of interior cabin and restoring or exceeding the original existing exterior condition of a vehicle through washing and drying, paint claying, polishing, waxing, and other exterior paint correction methods.

**Automobile Repair & Service.** A commercial establishment whose primary purpose involves the maintenance and service of vehicles. This use does not include automobile body shops.

**Automobile 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.

**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.

## **B**

**Bakery.** An establishment that prepares, produces, cooks, bakes, and sells flour-based products such as bread, cookies, cakes, pastries, and pies.

**Base Flood.** The flood having a one 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 a building having its floor subgrade (below ground level) on all sides.

**Bed and Breakfast Establishment.** An overnight lodging business where the owner of the business resides in the structure, and where a breakfast meal is typically provided to overnight guests.

**Bedroom.** A fully enclosed interior room as shown on the building plan for the structure having, as a minimum, a doorway, window and closet.

**Best Management Practices (BMPs).** A structural management facility used singularly or in combination for stormwater quality and quantity treatment to achieve water quality protection goals.

**Bicycle Lane.** A portion of the roadway that has been designated by striping, signing, and pavement markings for the preferential and exclusive use of cyclists.

**Block.** Specific to Chapter 7, a segment of road between two nodes.

**Board of Adjustment.** Under the authority of NCGS 160D-3-2, the Board of Adjustment hears and decides on cases involving appeals of administrative decisions, determinations, and variance requests.

**Board of Commissioners.** The governing body for the Town, elected by the Town citizens that makes decisions on policy and procedures as defined by this Code.

Bona Fide Farm. Agricultural activities as set forth in NCGS 160D-9-3.

Brewery. An establishment that manufactures and sells beer.

Buffer. A natural or vegetated area through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants.

Buffer Widths. See Stream Buffer Widths.

Buffer Yard. A strip of vegetation providing distance and screening between a property and a street or differing zoning district.

Building. Any structure intended for supporting or sheltering any use or occupancy. See "Structure".

Building Front. The linear length of building facing a street right of way or common area.

Built-Upon Area (BUA). That portion of a development project that is covered by impervious or partially impervious surface including, but not limited to, buildings; pavement and gravel areas such as roads, parking lots, and paths; and recreation facilities such as tennis courts. "Built-upon area" does not include a wooden slatted deck or the water area of a swimming pool.

## C

Cell Tower. A structure on which is mounted electronic communications equipment and antennae to facilitate the signal reception of cellular phones and other wireless communication devices. Examples of equipment are transmitters, receivers, control electronics, and additional power sources for backup.

Cemetery. Property used for the interment of the dead, including mausoleums. Uses may include the commercial sale and location of burial lots, markers, crypts, or vaults for use exclusively on the subject property.

Certificate of Compliance. A form that states that the building or portion of a building is in compliance with the provisions of this Code, and with the information stated on the administrative permit.

Certificate of Occupancy. A document that permits a tenant's occupancy in a structure or building.

Charter – As defined in G.S. 160A-1(2)

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.

Civil Penalty. A fine or surcharge imposed by a governmental agency to enforce regulations.

Clear Cut. The removal of all trees on a site or a portion of a tract of land.

Cluster Subdivision. A type of single family detached subdivision layout available for use in the R-3 and R-4 zoning districts. This type of subdivision layout allows a developer an increase in dwelling units per acre and reduction in lot dimensional requirements in exchange for open space on the property.

Colonnade. An open row of columns that are spaced at regular intervals, joined at the top by a horizontal support, lining the outer edge of a building, courtyard, or open walkway, and intended to provide shade, habitable space, pedestrian scale, and architectural interest. See Arcade.

Commercial Development. Any development involving an activity with goods, merchandise and service for sale or rental fee.

Commercial Kitchen. A building or portion of a building used for the cooking and preparation of a prearranged amount and type of food for consumption off premises or in a designated room or facility on premises where those individuals being served the finished food offerings are separate from those conducting the preparation. A commercial kitchen may also include storage areas for equipment, ingredients, supplies, etc.

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 or water areas designated for a particular development, not individually owned or dedicated for public use, which are designed and intended for the common use or enjoyment of the residents of the development. This does not include any lands occupied by streets, street rights-of-way, or off-street parking.

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 Zoning. A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.

Connectivity Ratio. Specific to Chapter 7, the number of street links (not including alleys) divided by the number of nodes.

Construction Document Plan. A site plan that includes fully engineered drawings of the proposed development that is approved administratively after all Town requirements have been satisfied.

Construction Trailer. A structure on a chassis with wheels that is used solely for office or storage purposes on a temporary basis.

Contiguous. Next to, abutting, or touching and having a boundary, or portion thereof, which is attached 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".

Contributing Structure. Any building or structure which adds to the historical integrity or architectural qualities that makes the National Historic District and Downtown Main Street significant.

Corner Lot. A lot that has two street frontages where the narrowest frontage is the front for setback purposes.

**Country Club.** A land area and buildings containing recreational facilities, clubhouses and usual accessory uses, open to members and their guests and 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.

**Covenant.** A private legal restriction most commonly used in the establishment of a subdivision to restrict the types of uses on an individual lot, usually recorded in a deed.

**Crematory.** A facility designed for the cremation of human, pet, and animal bodies.

**Cul-de-sac.** A street or passage closed at one end and including a “bulb” end design with a specified turning radius.

**Curb.** A concrete or other improved boundary marking the edge of the roadway or paved area.

**Curb Cut.** A solid ramp graded down from the top surface of a sidewalk to the surface of an adjoining street.

## D

**Day Care Center.** A facility licensed by the State of North Carolina for the care of children or adults for periods of less than 24 hours per day.

**Decision-making board** – A governing board or advisory board assigned to make legislative and quasi-judicial decisions.

**Density.** The total number of dwelling units divided by the total acreage or project area as regulated by this Code.

**Design Flood.** See “Regulatory Flood Protection Elevation.”

**Stormwater Design Manual.** Waxhaw’s local stormwater manual used in conjunction with the stormwater design manual developed for use in Phase II jurisdictions for the proper implementation of the requirements of the federal Phase II stormwater program. All references to the Design Manual are to the latest published edition or revision.

**Determination.** A written, final, and binding order, requirement, or determination regarding an administrative decision.

**Developer.** A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on the property.

**Development.** Any man-made change to improved or unimproved real estate, including, but not limited to:

- a. Buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.
- b. The construction, erection, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
- c. The subdivision, clearing or alteration of land.
- d. The initiation or substantial change in the use of land or the intensity of use of land.

**Development Approvals.** A written administrative or quasi-judicial approval that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, administrative permits, site plan approvals, special use permits, variances, and certificates of appropriateness. The term also includes all other regulatory approvals pursuant to NCGS 160D, including plat approvals, permits issued, development agreements entered into, and building permits issued.

**Development Services Department.** Works in conjunction with the Planning Department on Town administrative functions related to comprehensive planning, zoning, and subdivision administration as defined by this Code.

**Digital Display.** A display of a sign message that is made up of internally illuminated components that display an electronic image, which may or may not include text and is capable of changing the message periodically. Digital Displays may include but are not limited to television screens, holographic displays, programmable ink, LCD, or LED display.

**Digital Flood Insurance Rate Map (DFIRM).** The digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

**Direct Illumination.** Center of a beam of light or main beam angle of a lighting fixture.

**Directional Quadrant.** Specific to Chapter 7, the four most apparent property boundaries separated by approximately 90 degrees.

**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.

**Distillery.** An establishment which manufactures or produces distilled liquors.

**Disturbance.** Any use of the land by any person or entity which results in a change in the natural cover or topography of the land.

**Dormitory.** A building used as group living quarters for a student body or religious order as an accessory use for a college, university, boarding school, convent, monastery, or other similar public, or semi-public use.

**Double Frontage Lot.** A parcel or property with frontage on 2 or more streets that do not intersect, also known as through lot.

**Drainage Area.** That area of land that drains to a common point on a project site.

**Drip Line.** An imaginary vertical line extending from the outermost portion of the tree canopy to the ground.

**Driveway.** A private roadway serving at least one lot, building site, or other division of land and which allows for ingress and egress onto private property.

**Dwelling.** A structure or portion thereof that is used exclusively for human habitation including any outhouses and appurtenances associated with the dwelling. The term does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose.

**Dwelling Unit.** A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.



**Dwelling, Accessory.** A separate dwelling unit that is located on the same lot as the principal dwelling unit in specific zoning districts. The dwelling shall be used as a completely independent living facility with a separate parking area, cooking facility, and entrance.

**Dwelling, Attached Single Family.** A group of one family dwellings connected on at least one side by means of a common dividing structural or load bearing wall to one or more other one family dwellings; with each dwelling unit on its own individual lot.

**Dwelling, Detached Single Family.** A dwelling unit not physically attached to another dwelling unit and surrounded by open yards and spaces.

**Dwelling, Cottage.** A detached, single-family dwelling unit smaller than average that features unique architectural choices such as a bungalow or Victorian with detail given to window shapes, arches of doors and trim, and front porches.

**Dwelling, Duplex.** A building designed, constructed, or reconstructed and used for two dwelling units that are generally side by side and connected by a common structural or load-bearing wall.

**Dwelling, Triplex and Quadraplex.** A building containing three or four individual dwelling units, with each unit having direct access to the outside or to a common area.

**Dwelling, Multi Family.** A building designed, constructed, or reconstructed with five or more dwelling units placed on top of one 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 units are under condominium ownership. Multi-family dwelling units can also be located on the upper stories of commercial developments as part of mixed use projects as allowed by this Code.

## E

**Easement.** A grant of one or more of property rights, such as right of access, by the property owner to, or for use by the public, a corporation, or other entity. The easement is itself a real property interest, but legal title to the underlying land is retained by the original owner for all other purposes.

**Electronic Gaming (Sweepstakes).** Any business enterprise, whether as a principal or accessory use, where persons utilize electronic machines, including, but not limited to computers and gaming terminals to conduct games including but not limited to sweepstakes, lotteries, games, and/or games of chance. Cash or merchandise, or other items of value, are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds, which have a finite pool of winners. The term includes, but is not limited to internet sweepstakes, video sweepstakes, or cybercafés. This definition does not include any lottery endorsed, approved, or sponsored by the State of North Carolina, or arcade games of skill.

**Electric Vehicle.** A vehicle that operates, either partially or exclusively, on electrical energy from the grid, or an off-board source, that is stored on-board for motive purpose. Electric vehicle includes: (1) a battery electric vehicle; (2) a plug-in hybrid electric vehicle; (3) a neighborhood electric vehicle; and (4) a medium-speed electric vehicle.

**Electric Vehicle Charging Station (EVCS).** A public or private parking space that is served by battery charging station equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other energy storage device in an electric vehicle.

**Electric Vehicle Parking Space.** A marked parking space that identifies the use to be exclusively for an electric vehicle.

**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, fills, excavation, buildings, permanent structures or development. Floodplain encroachment can impede or alter the flow capacity of a floodplain (with respect to flood hazard regulations).

**Engineering Design and Construction Standards Procedures Manual.** A resource assembled to assist in ensuring compliance with all Town requirements for proposed land development activities within the Town's jurisdiction. The intent of the manual is to present clear and concise technical requirements, policies, details, and procedures as well as additional guidance to this Code.

**Event Center.** A multi-purpose venue facility hosting special events such as graduations, weddings, anniversaries, holiday gatherings, trade shows, corporate functions or parties, concert settings, and general get-togethers. An event center could typically have a catering kitchen, indoor and/or outdoor seating and a stage or event area.

**Evidentiary Hearing.** A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation.

**Exempt Subdivision.** A subdivision of land that qualifies under state law as exempt from subdivisions standards.

**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.

## E

**Façade.** The exterior elevation of each side of a building, including walls, parapets, fascia, windows, doors, canopies, and visible roof structures.

**Family.** One or more persons occupying a dwelling unit and living as a single household.

**Family Care Home.** See NCGS 168, Article 3.

**Farmer's Market.** An occasional or periodic market held in an open area or in a structure where groups of individual sellers offer fresh produce, seasonal fruits and vegetables, fresh flowers, arts and crafts items, food and beverages, and other similar products for sale.

**Farming Operation.** Any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

**Fee Schedule.** A list or table showing fixed fees for Town services.

**Fence.** An artificially constructed barrier of wood, masonry, stone, metal, wire, and/or other manufactured or durable natural materials erected to enclose, screen, or separate areas, but not including hedges, shrubbery, trees, or other natural growth.

Final Plat. A map prepared by a registered surveyor that shows all lot lines, street right of ways easements, monuments, distances, angles, and bearings pertaining to the exact dimensions of all parcels, street lines, and so forth.

Fixture. A gas powered, battery powered, solar powered or electronically powered device that is secured to a wall, ceiling, pole, or post that is used to hold one or more lamps and is intended to emit light.

Flag Lot. An irregularly shaped lot where the buildable portion of the lot is connected to its street frontage by an arm of the lot that can be no less than 25 feet in width at the street or right of way.

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.

“Flood” or “Flooding”. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- a. The overflow of inland or tidal waters; and/or
- b. The unusual and rapid accumulation or runoff of surface waters from any source.

Floodplain. The low, periodically-flooded lands adjacent to streams. For land use planning purposes, the regulatory floodplain is usually viewed as all lands that would be inundated by the Regulatory Flood.

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 foot.

Floodplain Administrator. The person appointed by the Town Manager to administer and enforce the environmental regulations in this Code related to special flood hazard areas.

Floodplain Development Activity. Any activity defined as Development which will necessitate a Floodplain Development Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

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.

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-resistant material. Any building product [material, component or system] capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbars are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials. Add TB 2 to Town Website info.

“Flood Prone Area” see “Floodplain”.

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, including the area above a bridge or culvert when applicable, 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 foot.

Floodway Encroachment Analysis. An engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and models.

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

Food Bank. A non-profit organization that collects and distributes food to hunger relief organizations. Food is not distributed to individuals from a food bank.

**Food Pantry.** A non-profit organization that provides food directly to individuals. Food pantries receive, buy, store, and distribute food.

**Food Truck.** A readily movable trailer or motorized wheel vehicle, currently registered with the Division of Motor Vehicles, designed and equipped to serve food.

**Footcandle.** A quantitative unit measuring the amount of light cast onto a given point, measured as one lumen per square 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”.

**Front Yard.** The open, unoccupied space between a street or right of way line and the front of a building or structure.

**Frontage.** The dimension of a property or portion of a property that is adjacent to a public street, private street, right-of-way, or required park space.

**Full Cut-off Fixture.** An outdoor light fixture shielded or constructed in such a manner that it emits no light above the horizontal plane of the fixture.

**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.

## G

**Gallery.** A covered passage that is open at one side, as with a portico, arcade, colonnade or porte cochere.

**General Commercial, Under 10,000 sq ft.** A use category allowing general commercial premises between 0 and 10,000 square feet in gross leasable area to be available for the commercial sale of merchandise, goods, food, etc.

**General Commercial, 10,001-60,000 sq ft.** A use category allowing general commercial premises between 10,000 square feet and 60,000 square feet in gross leasable area to be available for the commercial sale of merchandise, goods, food, etc.

**General Commercial, 60,001 sq ft and Above.** A use category allowing general commercial premises over 60,000 square feet in gross leasable area to be available for commercial sale of merchandise, goods, food, etc.

**General Office & Professional Services.** Services provided 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, and brokerages; and insurance-related services.

**Greenway.** Linear open spaces that link parks, neighborhoods, schools, and other sites within the community. Greenways provide public access to green spaces and opportunities for residents to be physically active.

## H

**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.

**Height (Building).** For buildings with flat roofs, the vertical distance from the mean elevation of the finished grade to the highest finished roof surface. For buildings with pitched roofs, the vertical distance from the mean elevation of the finished grade to a point representing the midpoint of the peak and eave heights.

**Heritage Tree.** Trees that are 36” or larger as measured by their diameter at breast height (DBH).

**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 Preservation Commission.** A state-mandated advisory board appointed by the Board of Commissioners that serves to protect and preserve the Town’s historic buildings, landmarks and unique character by identifying historical structures, recommending historical designations, reviewing design changes, assisting with preservation planning, promoting the appreciation of historic preservation and serving as an educational resource.

**Historic Structure.** Any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or 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 Office as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

**Home Occupation.** Any business use conducted entirely within a dwelling and carried on by the occupants thereof, which use is incidental and secondary to the use of the dwelling for residential purposes and does not change the character of the dwelling or the neighborhood.

**Homeowners Association.** An organization formed for a subdivision or other real estate development that makes and enforces rules for properties and their owners and residents in which the owners are bound to membership in an organization by a set of governing documents that require adherence to a set of rules and, often, the payment of assessments.

**Hotel.** Establishments providing lodging and short term accommodations for travelers. Services may include overnight sleeping space, food and beverage services, convention hosting services, and laundry services. Extended stay hotels are also included in this definition.



## I

IESNA. The Illuminating Engineering Society of North America, a non-profit professional organization of lighting specialists that has established recommended design standards for various lighting applications.

Impervious Surface. A surface that is highly resistant to infiltration by water, commonly called built-upon area. It includes surfaces such as compacted lime rock, or clay, as well as most conventionally paved streets, roofs, sidewalks, parking lots, and other similar improvements.

Improvement Guarantees. A security instrument accepted by the Town to ensure that all improvements, facilities, or work required by regulation or as a condition of approval of a subdivision plan will be completed in compliance with the approved plans and specifications.

Industrial Uses. Land used for industrial purposes only; commercial (or other non-industrial) businesses operating on industrially zoned property shall not be considered an industrial use.

Interior Site Area. Area of a site that does not include required buffers.

## J

Jurisdiction. The geographic area regulated by Waxhaw's Land Development Code, including the Town's municipal limits and its extra-territorial jurisdiction (ETJ).

## K

## L

Landowner. The holder of title in fee simple. Absent evidence to the contrary, a local government may rely on the county tax records to determine who is a landowner. The landowner may authorize a person holding a valid option, lease, or contract to purchase to act as his or her agent or representative for the purpose of making applications for development approvals.

Landscaping Plan. A plan, typically associated with new development or redevelopment, that shows the vegetative materials required to be approved or in compliance with this Code.

Legislative Decision. The adoption, amendment, or repeal of a regulation or an applicable local act. The term also includes the decision to approve, amend, or rescind a development agreement.

Legislative Hearing. A hearing to solicit public comment on a proposed legislative decision.

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

- a. Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.

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

Light Duty Truck. Any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:

- a. Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
- b. Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- c. Available with special features enabling off-street or off-highway operation and use.

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

Light Manufacturing. 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, commercial building, or a residentially-scaled garage.

Live/Work Unit. A building which incorporates a dwelling and an enclosed space for employment. These spaces share some common interior and/or exterior amenities, but shall have separate secured entry and exit locations. The residential and business use portions may be occupied by the same persons.

Loading Space. A designated space or berth outside the boundaries of a street, alley, or other public right-of-way and situated on the same lot with the building to be served, or contiguous to a group of buildings for the purpose of providing temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which is readily accessible to vehicular traffic by means of a street, alley or other appropriate access.

Lot. A parcel of land or any combination of several lots, occupied or intended to be occupied by a principal building or a building group, together with their accessory buildings or uses, and the access, yards, and other open spaces required by this Code.

Lot of Record. A lot described by plat or deed and recorded in the office of the Union County Register of Deeds.

Lot Width. The width of a lot along a public or private street.

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.

## M

Machine Shop. A workshop where metal is cut and shaped by machine tools.

Manufactured Home or Mobile Home. A structure as defined in NCGS 143-145(7).

Manufactured Home Overlay District. An overlay district allowed by code to provide for the principal use of land developed in harmony with the conventional or underlying zoning district regulations while permitting the substitution of manufactured homes as a principal use type provided the specific design and/or installation regulations are met. It can be applied to any area within the Town's jurisdiction by approval of the Board of Commissioners.

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

Major Subdivision. All subdivisions that do not qualify as exempt or minor in this Code.

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.

Marquee. A permanent, roofed structure attached to and supported entirely by a building, including any object or decoration attached to or part of said marquee, which projects out over a public right-of-way. Marquees frequently have illumination under the structure, as well as architectural embellishments that incorporate lighting.

Minor Change or Modification. Changes or modifications to an approved plan that do not significantly alter the original plan approval. Per state law, minor changes shall not include a modification to use or density.

Minor Subdivision. A subdivision of land that:

- a. Has no more than 9 lots.
- b. Has only private wastewater treatment facility or a private water supply system for a single lot or building site.
- c. Does not include the dedication of public right of way.
- d. Does not require the installation of drainage improvements through one or more lots to serve one or more other lots.

Mixed Use. The act of combining various types of development or uses (i.e. residential, commercial, office) within one structure or site.

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.

Multi-family. A group of two or more attached, duplex, triplex, quadruplex, or multi-family buildings, or a single building of more than two units constructed on the same lot or parcel of land under single ownership, and planned and developed with a unified design of buildings and coordinated common open space and service areas.

## N

Neighborhood Meeting. A meeting required for conditional zoning and special use permit requests where a developer/applicant introduces their proposed project to adjoining property owners and other interested parties.

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.

Nightclub. A commercial establishment that may dispense alcoholic beverages for consumption on the premises and in which dancing, music, and other live or recorded entertainment and performances, such as by comedians, magicians, or similar acts, is permitted.

Node. Specific to Chapter 7, a point of decision such as an intersection or roundabout. Cul-de-sacs and other road ends are also considered nodes to provide a block endpoint.

Nonconforming. A condition that occurs when on the effective date of this Code or a previous code a lot, structure, building, sign, development, or use does not conform to one or more of the regulations currently applicable by the adopted code.

Nonconforming Sign. A sign where at the time of adoption of this Code does not conform to the requirements of the Code.

Nonconforming Structure. A structure where at the time of adoption of this Code does not conform to the requirements of the Code.

Nonconforming Use. A use that existed prior to the adoption of this Code and does not conform to the requirements of the Code.

Non-Conforming Lot of Record. A lot where at the time of adoption of this Code or their successor in title thereto does not own sufficient land to enable him/her to conform to the area or lot width requirements. Such lot may be used as a building site provided all other dimensional requirements are met.

Non-Encroachment Area (NEA). The channel of a river or other watercourse, including the area above a bridge or culvert when applicable, 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 foot as designated in the Flood Insurance Study report.

Non-Point Source (NPS) Pollution. Forms of pollution caused by sediment, nutrients, organic and toxic substances originating from land use activities and carried to lakes and streams by surface runoff.

Nursing Home & Assisted Living. 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 - 131D10.2), assisted living residences (NCGS - 131D-2.1), adult care homes (NCGS - 131D-2.1), retirement housing, congregate living services, assisted living services, continuing care retirement centers, skilled nursing services, and orphanages. This term excludes family care homes and halfway houses.

## O

Open Space. An area (land and/or water) generally lacking in man-made structures and reserved for enjoyment in an unaltered state.

Ordinary Projections. Buildings, structures, facilities, or improvements or portions of buildings, structures, facilities, or improvements that would incidentally be located in yards, setbacks, or required open space or other landscaped areas. Examples of ordinary projections are roof eaves, fences and walls, utility equipment, flag poles, and other similar features.

Outparcel. An area or parcel of land set aside from the main shopping center or multi-tenant non-residential development for additional non-residential uses.

Overlay District. Districts that are superimposed over properties that are also subject to other “underlying” zoning district requirements. An overlay district can affect the regulations applicable to properties within such districts in two ways. First, an overlay district can add to the regulations of the underlying district, or make such regulations more restrictive. Second, an overlay district can alter the regulations of the underlying district so that they are less restrictive.

Owner. The legal or beneficial owner of land, including but not limited to a fee owner, mortgagee or vendee in possession, receiver, executor, trustee, or long term or commercial lessee, or any other person or entity holding proprietary rights in the property or having legal power of management and control of the property. “Owner” shall include long term commercial tenants; management entities, such as those charged with or engaged in the management of properties for profit; and every person or entity having joint ownership of the property. A secured lender not in possession of the property does not constitute an owner, unless the secured lender is included within the meaning of “owner” under another description in this definition, such as a management entity.

## P

Payment-in Lieu. A payment to the Town from any entity (developer, builder, contractor, etc.) for any item(s) not constructed as a part of the approved plan or agreement as determined by the Town.

Permitted Use. Uses that are permitted by right in a zoning district, subject to compliance with all other applicable standards of this Code.

Person(s). Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, or other legal entity.

Phase. Stages of a development plan that must be able to exist independently of subsequent phases by meeting all applicable laws and regulations as if the phase were a separate project.

Planning Board. An advisory board appointed by the Board of Commissioners to make recommendations on policies and processes pertaining to this Code.

Planning Department. Performs the Town administrative functions related to comprehensive planning, zoning, and subdivision administration as defined by this Code.

Planning Jurisdiction. The defined geographic area within which the Town may undertake planning and apply development regulations.

Plat. A map or plan of a parcel or parcels of land that is to be or has been subdivided.

Plot Plan. A plan of a lot or lots, drawn to scale, showing the measurements, size, and location of existing buildings and buildings to be erected and the location of the lot in relation to abutting streets, and other such information.

Porte Cochere. 1.) A roofed structure extending from an entrance of a building over an adjacent driveway to shelter those getting in or out of vehicles. 2.) A passageway through a building designed to let vehicles pass from the street to an interior courtyard.

Portico. A covered entrance to a building, that is supported by columns

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.

Pre-Application Meeting. An opportunity for applicants to learn about the rezoning or similar process and consult with staff about potential impacts of their proposed zoning and/or development.

Preliminary Plan. A tentative plan, drawing, or map of a proposed development or subdivision prepared in accordance with the regulations herein. A preliminary plan shall always be prepared by a civil engineer, land surveyor, landscape architect, architect, or land planner.

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

Principal Use. The primary purpose or function that a lot serves or is intended to serve.

Principal Building or Structure. A building or structure in which the principal use of the lot is conducted.

Produce Stand. The sale of any form of agricultural or horticultural products at a free-standing retail stand structure by an individual.

Property. All real property subject to land-use regulation by a local government.

Public Services Director(or designee). Has municipal authority to make operational decisions in the field with regard to construction materials and practices for all work within existing Town rights of way or those planned to be dedicated for Town maintenance by petition to the Board of Commissioners. Typically related to quality control and performance of roadway subgrade and surface materials, sidewalks, curb and gutter, storm drain, street tree, street lighting, and signage within the right of way or on Town facilities property.

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.



## Q

**Qualifying Tree.** A tree that meets Planting Species List standards, is at least 2" diameter at breast height (DBH), and meets current American Standard for Nursery Stock.

**Quasi-Judicial Decision.** A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of regulation. The term includes, but is not limited to, decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative determinations.

## R

**Race Track, Outdoor.** An outdoor facility for racing of automobiles, motorcycles, or other motorized vehicles.

**Rear Yard.** The open space required between the rear lot line and the rear building or setback line of a principal building.

**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.
- e. Is fully licensed and ready for highway use.

*For the purpose of this ordinance, "Tiny Homes/Houses" and Park Models that do not meet the items listed above are not considered Recreational Vehicles and should meet the standards of and be permitted as Residential Structures.)*

**Recreational Vehicle Park.** Land containing two or more campsites for recreational vehicles which are located, established, and maintained for occupancy by people in temporary living quarters for recreation and vacation purposes. Manufactured home parks are not associated with this definition.

**Redevelopment.** Rebuilding activities on land containing built-upon area as of the effective date of the PCO and where any pre-existing impervious surface remains intact and is not removed during the rebuilding or redevelopment process.

**Reference Level.** Is the bottom of the lowest horizontal structural member of the lowest floor for structures within all Special Flood Hazard Areas; the portion of a structure or other development that must be compared to the flood protection elevation to determine regulatory compliance of such structure. Within Special Flood Hazard Areas designated as zones A1-A30, AE, A, A99, AO, or AH, the reference level is the top of the lowest floor.

**Regulations.** Rules and directives of development made and maintained by the authority of the Town, State, and Federal Government.

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

**Religious Institutions.** Any facility such as a church, temple, monastery, synagogue, 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.

**Remedy a Violation (Floodplain).** 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.

**Remote Parking.** Off-street parking located on an adjacent lot to a development to meet the minimum parking requirement.

**Residential Development.** A development containing dwelling units with open yards on at least two sides where land is sold with each dwelling unit.

**Retirement Community.** A residential community including a range of living units from independent units to assisted care units to skilled nursing care facilities along with a variety of common amenities and ancillary services.

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

**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.

## S

**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.

**Self-Storage Units, Indoor.** A building consisting of indoor, individual, self-contained units leased to individuals, organizations, or businesses for self-service storage of personal property.

**Setbacks.** 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.

**Severability.** Refers to a provision in a contract or piece of legislation which states that if some of the terms are held to be illegal or otherwise unenforceable, the remainder should still apply.

**Shared Parking.** An off-street parking area identified for the shared use by one or more developments for the parking needs of employees, customers, and residents.

**Short Term Rental.** The rental of single family or multi-family residential housing for overnight or vacation lodging. These overnight accommodations are provided in dwelling units to guests for compensation for periods of less than 30 days.

**Side Yard.** The open, unoccupied space between the side lot line and side building or setback line. If no side setback is required, the side yard shall be defined as extending from the street line to the required rear yard.

**Sign.** A communications medium, method, device, structure, or fixture that incorporates motion, lighting, graphics, symbols, or written copy intended to promote the sale of a product, commodity, or service, or to provide direction to or identification of a neighborhood, premises, event or facility.

**Sign Alteration.** Any change to the size, shape, illumination, position, location, or construction of a sign or the supporting structure of a sign. Maintenance or change of copy which does not entail replacement of the sign face is not included in this definition.

**Sign Area.** The size of a sign in square feet as computed by the area of not more than two standard geometric shapes (specifically circles, squares, rectangles, or triangles) that encompass the shape of the sign exclusive of the supporting structure.

**Sign Copy.** Any graphic design, letter, numeral, symbol, figure, device or other media used separately or in combination that is intended to advertise, identify or notify, including the panel or background on which such media is placed.

**Sign Face.** The side or sides of a sign on which a message is placed.

**Sign Illumination.** An illuminated sign is any sign from which artificial light emanates: 1) by means of exposed lighting on the surface of the sign, such as neon tubing (internal illumination); 2) through transparent or translucent material from a source within the sign (internal illumination); 3) by a hidden light source directing light onto the background surface which creates a halo effect of opaque lettering or other message elements (external illumination); or 4) a sign which reflects artificial light from a source intentionally directed upon it (external illumination).

**Sign, Nonconforming.** A sign legally consistent with the standards in place at the time of installation but which now does not meet one or more current standards.

**Sign, A Frame.** An "A" shaped sign made of wood, cardboard, plastic, or other lightweight and rigid material having the capability to stand on its own support(s) and being portable and movable.

**Sign, Awning (or Canopy).** A sign incorporated into or attached to an awning.

**Sign, Animated (or Flashing).** A sign depicting action, motion, lights, or color change with animated sign features graphics, illustrations or a message that is continuously repeated.

**Sign, Blade (or Projecting).** A sign attached to and projecting from the building façade, typically at right angles to the building.

**Sign, Changeable Copy.** A sign or portion thereof designed to accommodate frequent copy changes through manual, mechanical or digital means.

**Sign, Directional.** An on-premises sign whose message is exclusively limited to guiding the circulation of motorists or pedestrians entering, exiting, or on a site, including signs marking entrances and exits, parking areas, loading zones, or circulation patterns.

**Sign, Directory.** A sign listing the names, uses, or locations of the discrete uses or activities conducted within a building or group of buildings that is intended to provide on-site directions.

**Sign, Exempt.** A sign identified in this Chapter that is exempt from the requirements of this ordinance.

**Sign, Wall.** A sign attached directly to and generally parallel with the façade of a building.

**Sign, Government.** A sign installed by an active domestic unit of government, or by a contracted installer on behalf of the unit of government.

**Sign, Incidental.** A sign, generally informational, whose purpose is secondary to the use of the premises on which it is located, such as the date of building erection, the building address, the hours of operation, the open or closed status of the operation, the credit cards honored, and similar incidental information, and containing no commercial message.

**Sign, Machine.** A sign attached to a machine such as a gasoline pump, a drive-thru menu kiosk, a soft drink dispensing machine, or an ATM.

**Sign, Marquee** - A sign attached to the face of a marquee, frequently containing a changeable copy component.

**Sign, Monument (or Ground).** A freestanding sign supported by a structure that is at least as wide as the sign to which it is attached.

**Sign, Neon.** Signage illuminated by a neon tube or other visible light-emitting gas tube, that is bent to form letters, symbols, or other graphics.

**Sign, Outdoor Advertising (or Billboard).** A sign that identifies, advertises or attracts attention to a business, product, service, event or activity sold, existing or offered at a different location.

**Sign, Permanent.** A sign intended, designed and/or constructed for permanent display and permitted as such.

**Sign, Post & Arm.** A minor or secondary sign which is used to identify the address of a building, or to identify the profession, family, organization, business, etc., occupying the building.

**Sign, Pylon.** A freestanding sign mounted on two posts. This does not include monument signs.

**Sign, Portable.** Any sign not permanently attached to the ground or other permanent structures, or a sign designed to be transported including, but not limited to, signs designed to be transported by means of wheels; signs converted to A- or T- frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless the vehicle is used in the normal day-to-day operations of the business.

**Sign, Snipe.** A temporary sign not otherwise defined in this Code that is tacked, nailed posted, glazed, or otherwise affixed to a light fixture, utility pole, public building, fence, railing, public telephone pole, traffic control device, or tree.

**Sign, Temporary.** A sign not intended, designed and/or constructed for permanent display and permitted as such.

**Sign, Time and Temperature.** A sign that displays time and temperature information as its only message.

**Sign, V-type.** An attached sign consisting of two separate faces arranged in a “V” pattern and having an angle of 120 degrees or less as measured from the side attached to the building.

**Sign, Window.** A sign attached to a display window or door window that is intended to be viewed from the exterior. This definition shall include signs attached to the interior of a display window or door window.

**Site Plan.** A scaled drawing and supporting text showing the relationship between lot lines and the existing proposed uses, buildings, or structures on the lot.

**Site Triangle.** An area at an intersection formed by two rights of way and a third line which must be kept clear of obstructions such as hedges or fences so the drivers on one road can see cars approaching on the other.

**Sleeping Unit.** A room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

**Social Assistance.** A diverse mix of programs and services intended to help individuals in need. Some of these services and programs are offered by local public agencies, including county departments of social services and programs or agencies serving senior citizens or veterans. In addition, private organizations, including nonprofits and churches, offer many social services programs.

**Solar Electric Power Generation (Solar Farm).** An energy generation facility comprised of one or more freestanding, ground mounted devices that capture solar energy and convert it to electrical energy for use in locations other than where it is generated. Solar generation stations typically utilize photovoltaic solar cells, but can also be combinations of light reflectors, concentrators, and heat exchangers. A solar farm is also known as a solar power plant, solar generation plant, solar power plant, or solar thermal power plant.

**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. This will need to be cross-referenced to the new location of the original article 3-B.

**Special Use Permit.** A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards.

**Spraybooth.** An establishment with a power-ventilated structure used to enclose or accommodate a spraying operation to confine and limit the escape of spray, vapor, and residue, and to safely conduct or direct them to an exhaust system.

**Stacking Space.** A space specifically designated as a waiting area for vehicles patronizing a drive-through establishment.

**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.

**Start of Construction.** The date of building permit issuance, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement commences within 180 days of the permit date. Actual start of construction refers to the first placement of permanent construction of a structure on a site, such as pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor the installation of streets and/or walkways; nor the excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor 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. Start of Construction may also refer to substantial improvement including 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.

**Statement of Consistency and Reasonableness.** A statement approving the zoning amendment and describing its consistency with an adopted comprehensive plan and explaining why the action taken is reasonable and in the public interest.

**Stormwater Administrator.** The position or individual that has been designated by the Town Engineer to administer and enforce the Post Construction Stormwater Ordinance.

**Stormwater Design Manual.** Waxhaw’s local stormwater manual used in conjunction with the stormwater design manual developed for use in Phase II jurisdictions for the proper implementation of the requirements of the federal Phase II stormwater program. All references to the Stormwater Design Manual are to the latest published edition or revision.

**Stormwater Management Permit.** A permit required for all development and redevelopment unless exempt pursuant to the Post Construction Stormwater Ordinance and the Department, which demonstrates compliance with the Post Construction Stormwater Ordinance.

**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.

**Stream Buffer Widths.** The area measured horizontally on a line perpendicular to the surface water, landward from the top of the bank on each side of the stream.

**Streetscape.** The visual elements of a street, including the road, adjoining buildings, sidewalks, street furniture, trees and open spaces, etc, that combine to form the street’s character.

**Structure.** Anything constructed, erected, or placed; a walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

**Subdivision.** The division of land for the purpose of sale or development.

**Substantial Damage.** Damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 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 and the alteration is approved by variance issued pursuant to Article 4 Section E of this ordinance.

## I

**Taprooms & Tasting Rooms.** An area maintained predominately for the purpose of tasting, selling and consumption of the alcohol beverages manufactured on the premises or at a production facility of an associated use, including the sale of take home containers such as kegs, bottles and cans as may be allowed under federal, state and county law.

**Technical Bulletin and Technical Fact Sheet.** A FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.

It should be noted that Technical Bulletins and Technical Fact Sheets provide guidance on the minimum requirements of the NFIP regulations. State or community requirements that exceed those of the NFIP take precedence. Design professionals should contact the community officials to determine whether more restrictive State or local regulations apply to the building or site in question. All applicable standards of the State or local building code must also be met for any building in a flood hazard area.

**Technical Review Committee.** A committee of Town staff and other governmental organizations that review plans for development within the Town limits.

**Temperature Controlled.** Having the temperature regulated by a heating and/or cooling system, built-in or appliance.

**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. Temporary uses are certain uses that are considered seasonal or transient and only allowed on a short term basis. These uses can be located on a developed lot or on an undeveloped lot.

**Theater, Indoor.** 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. This does not include Sexually Oriented Businesses/Adult Entertainment.

**Theater, Outdoor.** An establishment for the performing arts with open-air seating for audiences, usually circular or oval, in which tiers of seats rise from a central open avenue.

**“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.

**Tiny Home.** A vehicular-type unit primarily designed as mobile living quarters and which is mounted on or drawn by another vehicle. These type units are not required to meet standards set forth in the NCSBC.

**Tiny Home Park.** Any group of 2 or more tiny homes on a tract of land in single ownership, catering to temporary parking of said homes. Tiny home parks may include buildings and structures ancillary to such use.

**Top of Bank.** The landward edge of the stream channel during high water or bank-full conditions at the point where the water begins to overflow onto the floodplain.

**Topsoil.** Natural, fertile soil capable of sustaining vigorous plant growth that is of uniform composition throughout with an admixture of subsoil, has an acidity range of pH 5.5 - 7.0.

**Town Engineer (or designee).** Has municipal authority over technical civil engineering services within the Town, and assists other Town Departments, the Board of Commissioners, and Town Manager in matters relating to the design, construction, inspection, and acceptance of public infrastructure and other related engineering matters.

**Townhomes.** Attached dwellings where a lot is created for each unit.

**Town Manager.** Chief Administrative Officer for the Town who appoints the Zoning Administrator to administer and enforce this Code.

**Traffic Impact Analysis (TIA).** A TIA is a tool used to evaluate the incremental impacts that development, redevelopment and/or change of use may have on the surrounding transportation system. TIAs help local decision makers consider whether such development is appropriate for a site, or identify certain mitigation measures that are necessary to maintain the integrity of the transportation network.

**Tree Save Areas.** Land that consists of natural areas containing trees and other natural shrubs in either undisturbed areas or disturbed areas that have been replanted in accordance with the criteria established in the Land Development Code.

## U

**Use.** The purpose for which a lot or structure may be occupied in accordance with this Code.

## V

**Variance.** Official permission from the Board of Adjustment to depart from the requirements of this Code.

**Vehicular Use Area.** All surfaces connected to or associated with an off-street parking area included, but not limited, to driveways, aisles, curbs, islands, ramps, and vehicular parking spaces.

**Vested Right.** The right to undertake and complete the development and use of property under the terms and conditions of an approval secured as specified in NCGS 160D.

**Vineyard.** An establishment that manufactures or produces wine or sparkling wine as a principal or accessory use.

Violation (Floodplain). 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.

## W

Wall. A structure that encloses a building or other structure, or a structure that separates areas of land.

Wall Pack. A type of light fixture surface mounted on a vertical wall surface.

Wastewater Package Plant. Pre-manufactured treatment facilities used to treat wastewater in small communities or on individual properties.

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.

Watt. A standard unit of power that measures the rate of energy transfer.

Wind Electric Power Generation (Wind Farm). An electric generating facility, whose main purpose is to supply electricity and consists of one or more wind turbines and any other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

Winery. A manufacturing facility or establishment engaged in the processing of grapes to produce wine or wine-like beverages as defined by the NCGS.

## X

## Y

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.

## Z

Zoning Administrator. The person appointed by the Town Manager to administer and enforce this Code. This person may also delegate any of their duties to appropriate departmental staff. This person may also be referred to as the "Administrator."

Zoning Map. Depicts in graphic form the districts and boundaries described in this Code.

Zoning Map Amendment. An amendment to a zoning regulation for the purpose of changing the zoning district that is applied to a specific property or properties.

Zoning Text Amendment. An amendment to a zoning regulation for the purpose of changing the text of this Code.

