

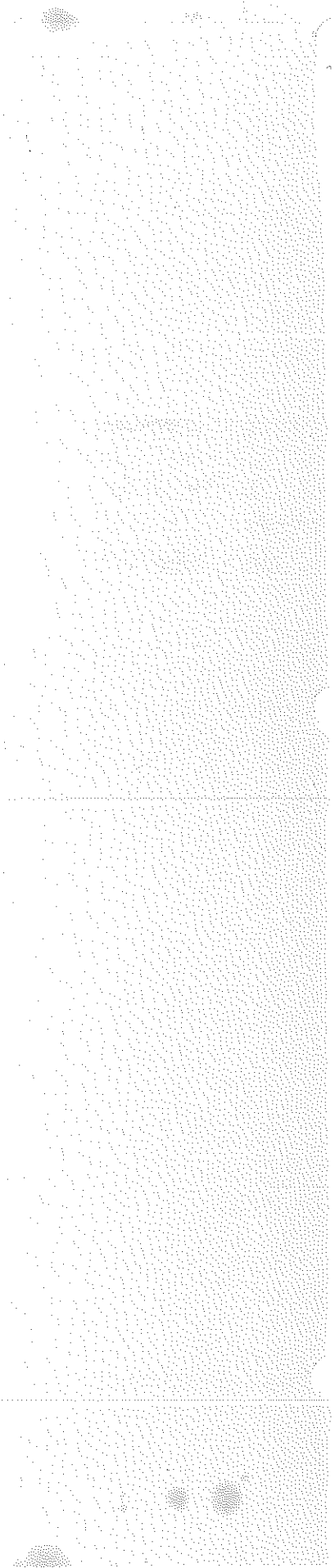


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**Mecklenburg County**

**Zoning  
Ordinance**

**Adopted by  
Mecklenburg County  
Board of County Commissioners**



# MECKLENBURG COUNTY ZONING ORDINANCE



Prepared by:

CHARLOTTE-MECKLENBURG PLANNING COMMISSION  
Charlotte, North Carolina

JANUARY, 1992

CODIFIED THROUGH JANUARY 9, 2001

RECENT AMENDMENTS IN APPENDIX 3





# MECKLENBURG COUNTY ZONING ORDINANCE

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# MECKLENBURG CODE

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## CHAPTER 1:

### PURPOSE AND APPLICABILITY

#### Section 1.101. Title.

These regulations shall be known and may be cited as the Zoning Ordinance of Mecklenburg County, North Carolina.

#### Section 1.102. Authority and purpose.

These regulations are adopted pursuant to the authority granted to Mecklenburg County by Chapter 153A, Article 18, of the General Statutes of North Carolina, and by any special local legislation enacted by the General Assembly for Mecklenburg County, in order to carry out the purposes listed below:

- (1) These zoning regulations have been designed to lessen congestion in the streets, to secure safety from fire, panic and other dangers, to promote health and the general welfare, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, and to facilitate the adequate and economic provision of transportation, water, sewerage, schools, parks and other public facilities and services.
- (2) The zoning districts and maps have been made with due consideration of future growth, development, and change in land development according to objectives expressed in the general plan or more detailed plan or policy for the development of the community, as well as with due consideration of existing development and uses of land in Mecklenburg County.
- (3) These regulations and districts represent reasonable consideration of the character of the districts and their peculiar suitability for particular uses of land and have been made with a view to preserving the existing environment and/or assuring the development of a future environment that realizes the greatest possible use and enjoyment of land on individual properties. This is balanced against the necessary protection of the values of buildings and land and the use and enjoyment of land on adjacent properties and with the objective of promoting and protecting the public welfare through the regulation of land use and the process of land development.

## MECKLENBURG CODE

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### **Section 1.103. Jurisdiction.**

These regulations govern the development and use of all land and structures in the unincorporated area of Mecklenburg County which is outside of the zoning jurisdiction of any other governmental unit. No building, structure, or land shall be used or occupied, and no building, structure, or part thereof shall be erected, constructed, reconstructed, moved, enlarged, or structurally altered, unless in conformity with all the provisions of these regulations for the district in which it is located and other applicable regulations, except as otherwise provided by these regulations. These regulations shall not apply to bona fide farms, as defined in Section 2.201 (F2) except that non-farm uses on farms may be regulated herein.

### **Section 1.104. Zoning Maps.**

The Board of Commissioners, upon the recommendation of the Planning Commission, may adopt a series of Zoning Maps which shall set out and delineate the zoning districts established in Chapters 9, 10, and 11 for all land within the jurisdiction of these regulations. The Zoning Maps are hereby designated, established, and incorporated as a part of these regulations and the originals thereof which are on file at the offices of the Planning Commission shall be as much a part of these regulations as if they were fully described in these regulations. The Zoning Maps shall be reviewed and may be amended from time to time through the amendment process, as provided in Chapter 6 of these regulations, to be consistent with the objectives and policies of the "Generalized Land Plan", district plans, area plans, and other public policies related to land development adopted by the Board of Commissioners provided, however, that nothing herein shall limit the authority of the Board of Commissioners to approve any petition for reclassification of property in accordance with the procedures set out in the "District Plan General Policies", as the same may be amended from time to time.

### **Section 1.105. Exceptions to applicability.**

- (1) These regulations shall not be applicable or enforceable without the consent of the owner with regard to lots, buildings, or structures for which a building permit has been issued prior to the effective date of these regulations so long as the permit has not been revoked pursuant to G.S. Sec. 153A-362. If construction authorized by the permit is not started within 6 months of the permit issuance, or after construction has commenced, it is discontinued for a period of 12 months, the permit shall immediately expire pursuant to G.S. Sec. 153A-357 and any further work shall be subject to these regulations.
- (2) Any amendments, modifications, supplements, repeal, or other changes to these regulations and restrictions or the Zoning Maps shall not be applicable or enforceable without the consent of the owner with regard to buildings and uses



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for which either (a) a building permit has been issued prior to the effective date of the ordinance making the change, so long as the permit remains valid and unexpired pursuant to G.S. Sec. 153A-358 and the building permit has not been revoked pursuant to G.S. Sec. 153A-362, or (b) a vested right has been established pursuant to Section 1.110 and such vested right remains valid and unexpired pursuant to Section 1.110. A permit issued pursuant to G.S. Sec. 153A-357 shall expire by limitation in six (6) months after the date of issuance if the work authorized by the permit has not been commenced, except that a permit shall not expire or be revoked because of the running time while a vested right under Section 1.110 is outstanding. If after commencement the work is discontinued for a period of twelve (12) months, the permit therefore shall immediately expire except for a permit issued under Section 1.110. Upon issuance of a building permit under Section 1.110, the provisions of G.S. Sec. 153A-358 and G.S. Sec. 153A-362 shall apply, except that the permit shall not expire or be revoked because of the running of time while a vested right under the section is outstanding. No work authorized by any permit that has expired shall thereafter be performed until a new permit has been secured.

- (3) These regulations shall not be applicable or enforced without the consent of the owner with regard to uses previously approved as a conditional zoning district (including those districts which previously were described variously as conditional district, conditional use district, parallel conditional district, and parallel conditional use district) or approved pursuant to a special use permit, except as provided in subsection (4) below. Development of those uses, cited above, will be governed by the previously approved site plans and the regulation in effect at time that such uses were approved. Any amendments to these approved uses, which cannot be approved administratively, will be subject to the requirements of these regulations. An exception is that an adult establishment shall not be a permitted use as a vested right unless the site specific development plan explicitly provides that the adult establishment is permitted use or the site meets the standards of Section 12.518.
- (4) Those uses previously approved as a conditional zoning district (including those districts which previously were described variously as conditional district, conditional use district, parallel conditional district, and parallel conditional use district) or special use permit that are located within a Watershed Overlay District and that have not met the requirements of subsections (1) or (2) above, may be developed if they comply with the minimum State watershed regulations (G.S. §143-214.5) adopted by the North Carolina Environmental Management Commission. Amendments to the previously approved site plan in order to comply with the adopted minimum State watershed regulations may be approved administratively by the Planning Director in accordance with Section 6.207 of these regulations.

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### **Section 1.106. Relation to other ordinances.**

It is not intended that this ordinance will in any way repeal, annul or interfere with the existing provisions of any other law or ordinance except the zoning ordinance which this ordinance replaces. In addition, it is not intended that this ordinance will in any way repeal, annul or interfere with any rules, regulations or permits which were legally adopted or issued under previous ordinances for the use or development of land or structures. Finally, it is not intended that this ordinance will interfere with any easements, covenants or other agreements between parties. However, if the provisions of this ordinance impose greater restrictions or higher standards for the use of a building or land, or for yards or size of structures than is called for by other ordinances, permits, easements or agreements, then the provisions of this ordinance will take precedence over the others and will control the use or development, except as otherwise provided under Sec. 1.105.

### **Section 1.107. Relation of this ordinance to any pending actions.**

The adoption of this ordinance will not affect any action, suit or proceeding which may be pending at the time the ordinance is adopted. With respect to the subject matter of any pending action, all rights and liabilities that have been received or created under any previous zoning ordinances which have been superseded by this ordinance are still valid and may be preserved and enforced.

### **Section 1.108. Separability.**

If any section or specific provision or standard of these regulations or any zoning district boundary that now exists or may exist in the future is found by a court to be invalid for any reason, the decision of the court shall not affect the validity of any other section, provision, standard, or district boundary of these regulations, except the provision in question. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect.

### **Section 1.109. Effective date.**

These regulations shall become effective on January 1, 1992.

**Section 1.110. Procedures for establishing a vested right.**

Pursuant to G.S. § 153A-344.1, "Vested Rights", a vested right to undertake and complete the development and use of the property under the terms and conditions as approved shall be established with respect to any property zoned as follows:

- (a) conditional zoning district (including those districts which previously were described variously as conditional district, conditional use district, parallel conditional district, and parallel conditional use district) and
- (b) special use permit.

The approved plans and conditions for these districts and the vested right certification constitute, for purposes of G.S. Sec. 153A-344.1, site specific development plans.

A right which has been vested as provided for in this section shall remain vested for a period of two to five years. The approving authority in its sound discretion may establish a vesting period exceeding the two year minimum where the applicant or petitioner shows such extended period is warranted in light of all relevant circumstances, including but not limited to, the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions. Modifications or amendments to an approved plan do not extend the period of vesting unless specifically so provided by the County Commission when it approves the modification or amendment. A vested right obtained under this section is not a personal right, but shall attach to and run with the subject property.

A right which has been vested as provided in this Section 1.110 shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed.

**Section 1.111. Vested right certification.**

Upon compliance with the provisions of this subsection, the Planning Commission shall issue a vested right certification.

- (1) Initiation. A petition for a vested right certification may be initiated only by the owner of a legal interest in the affected property, or anyone else authorized in writing to act on the owner's behalf. Petitions under this subsection may be initiated for any property which is within a general zoning district, a conditional district, or a parallel conditional use district.

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- (2) Filing of petitions. A petition for a vested right certification must be in a form prescribed by the Planning Commission and accompanied by the fee established by the Board of Commissioners, and shall be filed with the Planning Director. No applications for a vested right certification will be accepted until it is complete. A decision by the Planning Director that an application is incomplete may be appealed to the Planning Commission.
- (3) Staff Review. The Planning Director shall review the petition, and shall deliver copies of the petition to other appropriate agencies for review, if necessary. The petition shall be reviewed for compliance with the provisions of this subsection and all applicable development regulations. The Planning Director, based on the Planning Commission staff's review of the proposed petition and incorporating or summarizing the reports of other agencies, shall deliver to the Planning Commission, prior to the scheduled hearing, a written report and recommendation regarding the petition and the reasons for such recommendation.
- (4) Public hearing. Notice of the public hearing required by this subsection shall be consistent with notice requirements for amendments to the zoning ordinance. No vested rights certification shall be issued until after the Planning Commission has held a public hearing on the proposed certification. The hearing shall provide the applicant and any opponents of the petition the opportunity to provide comments to the Planning Commission regarding compliance of the application with the requirements of this section. The hearing shall be conducted as a quasi-judicial proceedings in accordance with rules and procedures adopted by the Planning Commission.
- (5) Action by the Planning Commission. The Planning Commission, after receiving the report and recommendation of the Planning Commission staff, shall consider the report and recommendations, and the reports, if any, of other departments, as well as the information derived from the public hearing. If the petition complies with the requirements of this subsection and all applicable development regulations, it shall be approved by the Planning Commission. The Planning Commission may attach conditions to protect the public health, safety and welfare to the approval. Within a reasonable time, the Planning Commission shall either approve or deny the proposed certification.
- (6) Effect of denial of petition. A petition for a vested right certification that has been denied shall not be resubmitted within two years of the date of the Commission's action on the original petition, unless there has been a substantial change in conditions or circumstances.

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- (7) Plans and other information to accompany petition. Every petition submitted under this subsection shall be accompanied by a site specific development plan, which shall include the following information:
- (a) Approximate boundaries of the site.
  - (b) Significant topographical and other natural features affecting development of the site.
  - (c) Approximate location on the site of the proposed buildings, structures, and other improvements (this may be presented as building "envelopes"). The petitioner may be required to include the approximate dimensions and height of proposed buildings and other structures.
  - (d) Approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways.
  - (e) Existing zoning and proposed uses to be established on the site.
  - (f) The total density of development on the site.
- (8) Effect of approval. If a petition is approved under this subsection, all subsequent development of the property shall be in accordance with the terms and conditions of the approved certification and all applicable development regulations. Following approval of a vested right certification, notification of such approval shall be transmitted to the Zoning Administrator who shall review development or construction applications in accordance therewith.
- (9) Alterations to approval. Except as provided in this subsection, changes to an approved certification shall be processed under the same procedures as the original petition. Minor changes in the detail of the approved certification which will not alter the basic relationship of the proposed development to surrounding properties; may be approved by the Planning Director at his discretion without going through the certification application procedures of this subsection. Any such minor changes will not extend the effective period of the vested right certification. Administrative changes under this subdivision which increase nonresidential development are limited to a maximum of 10% of the approved density, or 1,000 square feet, whichever is less. For residential development, increases in density are limited to 10% of the development or no more than 5 units, whichever is less.

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- (10) Appeals. Any appeal from the action of the Planning Commission pertaining to a decision on a vested right certification may be taken to the Board of County Commissioners. Within 15 days of the action of the Planning Commission, the applicant or any party participating in the hearing may appeal the decision of the Planning Commission directly to the Board of County Commissioners. The County Commission may hold a de novo quasi-judicial public hearing on the application, or it may decide the appeal based upon written submissions. The appeal will be considered according to "Rules of Procedure for Hearing Appeals of Vested Right Certifications," to be adopted by the Board of County Commissioners. An application fee as established by the Board of County Commissioners must be paid by the aggrieved party at the time the appeal is filed. Those members of the Planning Commission who participated in the original hearing and decision-making process may not participate in the appeal in any manner.

# MECKLENBURG CODE

## PART 1: RULES OF CONSTRUCTION

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### CHAPTER 2

#### DEFINITIONS AND RULES OF CONSTRUCTION

##### PART 1: RULES OF CONSTRUCTION

###### **Section 2.101. General rules of construction.**

For the purposes of these regulations, the following rules of construction shall apply:

- (1) These regulations shall be construed to achieve the purposes for which they are adopted.
- (2) In the event of a conflict between the text of these regulations and any caption, figure, illustration, or table, the text of these regulations shall control.
- (3) In the event of any conflict in limitations, requirements, or standards applying to an individual use or structure, the more stringent or restrictive provision shall apply.
- (4) The words "shall", "must", and "will", are mandatory in nature, implying an obligation or duty to comply with the particular provision.
- (5) The word "may" is permissive in nature, except when the context of the particular use is negative, then it is mandatory.
- (6) Words used in the present tense include the future tense.
- (7) Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise.
- (8) Words used in the masculine gender include the feminine gender.

###### **Section 2.102. Interpretation of Zoning Maps.**

Where uncertainty exists with respect to the boundaries of the zoning districts shown on the Zoning Maps, the following rules shall be used to interpret the maps:

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- (1) Where a map shows a boundary line located within a street or alley right-of-way, railroad or utility line right-of-way, easement, or navigable or non-navigable waterway, it shall be considered to be in the center of the right-of-way, easement, or waterway. If the actual location of such right-of-way, easement, or waterway varies slightly from the location as shown on a map, then the actual location shall control.
- (2) Where a map shows a boundary line as being located a specific distance from a street line or other physical feature, this distance shall control.
- (3) Where a map shows a district boundary to approximately coincide with a property line or city, town, or county border, the property line or city, town, or county border shall be considered to be the district boundary, unless otherwise indicated.
- (4) Where a map shows a district boundary to not coincide or approximately coincide with any street, alley, railroad, waterway, or property line, and no dimensions are shown, the location of the boundary shall be determined by use of the scale appearing on the map.
- (5) If, because of error or omission in the maps, any property within the jurisdiction of these regulations is not shown as being in a zoning district, such property will be classified as R-3 until changed by amendment.
- (6) In instances when a zoning case file contains detailed information regarding the boundary, that information will be used as the correct boundary location.
- (7) In instances where none of the above methods are sufficient to resolve the boundary location, the reasonable maintenance of a regular boundary will be used to establish the boundary location.
- (8) If it is alleged by any party that an error exists on the zoning maps with respect to any zoning district designation, zoning district boundary, special use permit or conditional district boundary, historical district boundary, the lines showing the effective dates of zoning enactment or any other matter with respect to the provisions of these regulations relating to zoning information, the party may request a review of the alleged error by the Planning Commission.

The staff of the Planning Commission will evaluate any alleged map error using all available materials and records. These materials may include, but are not limited to, the following:

- (a) The tax map, current or historic.



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- (b) Legal descriptions of properties or boundaries.
- (c) Historical zoning maps.
- (d) Zoning case history maps.
- (e) Tax records, current or historic.
- (f) Zoning and special use permit case files.
- (g) Official maps from other jurisdictions.
- (h) Topographic and planimetric maps and aerial photos.
- (i) Other documentable information.

The staff will report to the Planning Commission and present its findings regarding the alleged error. If the staff determines that an error exists as alleged, then the Planning Commission may institute a corrective map amendment at no cost to the complaining party. If the staff determines that no error exists, the complaining party may present evidence or documentation to the Planning Commission sufficient to overturn the finding of the staff. If the Planning Commission accepts the evidence of the complaining party and, thus, overturns the finding of the staff, the Planning Commission will institute a corrective map amendment. If the Planning Commission accepts the findings of the staff, no further action will be taken on the matter.

This provision for Planning Commission review of alleged map errors will be in effect for a period of five (5) years from the effective date of the adoption of the new zoning map set entitled "Charlotte-Mecklenburg County, North Carolina Zoning Maps." After that date, all matters involving interpretation of information on the zoning maps will be made by the Zoning Administrator and the Board of Adjustment.

#### **Section 2.103. Fractional requirements.**

When any requirement of these regulations results in a fraction of a dwelling unit or other measurement, that fraction will be disregarded and the nearest lower whole number shall apply. Whenever a density calculation for a lot of record existing prior to January 1, 1992, results in less than one dwelling unit being permitted, the fractional requirement will be disregarded and one dwelling unit will be permitted subject to Section 7.105.

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### **PART 1: RULES OF CONSTRUCTION**

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#### **Section 2.104. Additions to existing development.**

Whenever any increment or addition to existing development results in the total amount of development being greater than a threshold size identified in these regulations, the development shall be treated as a whole in determining the type of review and approval required under these regulations. For any single development which is later subdivided, each increment of development will be treated as a whole.

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### PART 2: DEFINITIONS

#### Section 2.201. Definitions.

For the purposes of these regulations, the following words and terms have the meanings specified in this part:

##### Abandon.

To cease the regular use or maintenance of a lot, building, or structure.

##### Abutting.

Having common property boundaries or lot lines which are not separated by a street. For purposes of this ordinance adjoining shall have the same meaning as abutting.

##### Accessory structure or use.

A use or structure that is customarily or typically subordinate to and serves a principal use or structure; is clearly subordinate in area, extent, or purpose to the principal use or structure served; and is located on the same lot as the principal use or structure. In no event shall "accessory use" or "accessory structure" be construed to authorize a principal use or structure not otherwise permitted in the district in which the use is located.

##### Adjacent.

Having common property boundaries or lot lines or being directly across a street, alley or body of water none of which exceeds 100 feet in width.

##### Adult bookstore.

- (a) A retail establishment that has: (1) as one of its principal business purposes the sale or rental of; or (2) a substantial or significant portion of its stock in trade for sale or rental:
  - (i) "publications" which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specified anatomical areas", as defined in G.S. 14-202.10(10), or "specified sexual activities", as defined in G.S. 14-202.10(11); and/or
  - (ii) sexually oriented devices", as defined in G.S. 14-202.10(9).

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- (b) As used in this definition, "publications" include, by way of illustration, books, magazines, other periodicals, movies, video tapes, and other products offered in photographic, electronic, magnetic, digital or other imaging medium.
- (c) Any of the following shall be indicia that an establishment has as one of its principal business purposes the sale or rental of: (i) "publications" which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specified sexual activities", as defined in G.S. 14-202.10(10), or "specified anatomical areas", as defined in G.S. 14-202.10(11); and/or (ii) "sexually oriented devices", as defined in G.S. 14-202.10(9):
  - (i) the business advertises the sale or rental of adult publications and/or sexually oriented devices;
  - (ii) access by persons under eighteen (18) years of age to the business establishment or portions of the business establishment is restricted.
  - (iii) signs or notices are posted outside and/or inside the business establishment indicating that the material offered for sale or rental might be offensive;
  - (iv) the building or portion of the building containing the business establishment does not have windows or has windows that are screened or otherwise obstructed or are situated in a manner that restricts visual access from outside the building to materials displayed within for sale or rental.

Such indicia shall be considered along with all other factors and available information.

- (d) Notwithstanding the foregoing, a general circulation video store that does not offer for sale any sexually oriented devices shall not constitute an "adult bookstore" even though it offers for sale and/or rental video tapes which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specified anatomical areas", as defined in G.S. 14-202.10(10), or "specified sexual activities", as defined in G.S. 14-202.10(11) so long as:
  - (i) such described video tapes are stocked and displayed in a room separate from the area of the business establishment where general circulation video tapes are stocked and displayed;

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- (ii) access by persons under eighteen (18) years of age to the room where such described video tapes are stocked and displayed is restricted;
- (iii) the square footage of the separate room where such described video tapes are stocked and displayed is no more than ten (10) percent of the square footage of the area where general circulation video tapes are stocked and displayed; and
- (iv) the general circulation video tape portion of the business establishment offers a quantity and selection of new release general circulation video tapes that is typical of a general circulation video store and offers a quantity and selection of other general circulation video tapes that are organized and displayed in a manner that is typical of a general circulation video store.

#### Adult care center.

A facility where an individual, agency or organization provides supervision or care for more than 6 adults in a place other than their usual place of abode.

#### Adult care home.

A home where an individual provides supervision or care for no more than 6 adults in their home.

#### Adult establishment.

An adult bookstore, adult motion picture theatre, adult mini motion picture theatre, or adult live entertainment business as defined in this section, or massage business as defined in G.S. 14-202.10(8). (Health massage/body work therapists licensed pursuant to G.S. 90-620 *et seq.* shall not be considered to be a massage business.)

#### Adult live entertainment business.

Any establishment or business which has as one of its principal business purposes the presentation of "adult live entertainment" for observation by patrons. "Adult live entertainment" means any performance of or involving the actual presence of real people which exhibits to "specified sexual activities", as defined in G.S. 14-202.10(10), or "specified anatomical areas", as defined in G.S. 14-202.10(11).

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#### Adult mini motion picture theatre.

- (a) A commercial establishment with one or more “adult mini motion picture booths” where:
  - (i) one of the principal business purposes is the presentation and viewing of still or motion pictures in the viewing booths that are distinguished or characterized by their emphasis on matter depicting, describing or relation to “specified anatomical areas”, as defined in G.S. 14-202.10(10), or “specified sexual activities”, as defined in G.S. 14-202.10(11); or
  - (ii) A substantial or significant portion of the stock of still or motion pictures available for viewing or that are actually viewed in the viewing booths are distinguished or characterized by their emphasis on matter depicting, describing, or relating to “specified anatomical areas”, as defined in G.S. 14-202.10(10), or “specified sexual activities”, as defined in G.S. 14-202.10(11).
- (b) Any of the following shall be indicia that the business establishment has as one of its principal business purposes the presentation and viewing in viewing booths motion pictures which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to “specified sexual activities”, as defined in G.S. 14-202.10(10), or “specified anatomical areas”, as defined in G.S. 14-202.10(11)
  - (i) Restricted access to the business establishment or portions of the business establishment where viewing booths are located by persons under 18 years of age;
  - (ii) Posted signs or notices outside and/or inside the business establishment indicating that the material offered for presentation and viewing in the viewing booths might be offensive.

Such indicia shall be considered along with all other factors and available information.

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- (c) "Adult mini motion picture booth" means any booth or partitioned area of less than one-hundred fifty (150) square feet in an adult mini motion picture theatre that is designed to hold patrons for the presentation and viewing of still or motion pictures (slides, film, video tape, laser disc, CD-ROM or other imaging media) that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specified anatomical areas", as defined in G.S. 14-202.10(10), or "specified sexual activities", as defined in G.S. 14-202.10(11).

#### Adult motion picture theatre.

A commercial establishment that regularly presents motion pictures which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified anatomical areas", as defined in G.S. 14-202.10(10), or "specified sexual activities", as defined in G.S. 14-202.10(11), whether enclosed or not, of one-hundred fifty (150) square feet or greater, for observation by patrons therein.

#### Agricultural industry.

Commercial poultry or swine production, cattle or swine feed lots, fur bearing animal farms, commercial (except retail) plant nurseries and greenhouses, commercial fish or poultry hatcheries, and other similar activities. The definition of "agricultural industry" shall not include "bona fide farm."

#### Airport.

A facility intended and used as the place where one or more fixed-wing or rotary-wing aircraft are regularly stored, maintained, or repaired while not in flight with an area that the aircraft may use to take off and land, and including the sale of goods or materials to users of such aircraft.

#### Airport elevation.

The established elevation of the highest point on the useable landing area.

#### Airport hazard.

Any structure, tree or use of land, which obstructs the airspace, required or is otherwise hazardous to the flight of aircraft in landing or taking-off at an airport.

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#### Airport reference point.

The point established as the approximate geographic center of an airport landing area.

#### Alley.

A private or public right-of-way or easement which is less than 30 feet in width and runs between two or more lots or located on a single lot, affording primary or secondary vehicular access to the properties which abut it, but not including a street, utility easement, or railroad right-of-way.

#### Amendment.

Any change to the text of these regulations or the official zoning maps by the Board of Commissioners or an administrative change pursuant to Section 6.206.

#### Amusement, commercial outdoor.

Any business establishment operating for profit, which is primarily engaged in providing outdoor recreational activities to the general public. "Commercial outdoor recreation" include such uses as miniature golf courses, par three golf courses, skateboard courses, water slides, mechanical rides, go-cart or motorcycle courses, fish ranches, golf driving ranges or other similar uses.

#### Arboretum.

A place for the scientific study and public exhibition of trees or shrubs, or both.

#### Arena. (See Stadium.)

#### Automotive repair. (Also, see Automobile service station.)

A building or area designed and used for the storage, care, and repair of motor vehicles including both minor and major mechanical overhauling, paint and body work.

#### Automobile service station. (Also, see Automotive repair.)

Any premises where gasoline and other petroleum products are sold and/or light maintenance activities such as engine tune-ups, lubrication, minor repairs, and carburetor cleaning are conducted. Service stations shall not include premises where heavy automobile maintenance activities such as engine overhauls, automobile painting, and body fender work are conducted.



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#### Bed and Breakfast (B & B).

An owner-occupied, single family detached dwelling duly licensed as a Bed and Breakfast by the appropriate State agency, which offers lodging for paying guests, and may provide food service to these guests. Bed and breakfasts do not include other similar uses such as hotels or motels health care facilities, boarding houses, group homes, halfway houses, hostels, or rescue missions.

#### Beneficial fill site.

A beneficial fill site is operated to recontour land for the purpose of improving land use potential or for other beneficial reuse as defined by the North Carolina Solid Waste Management Rules, 15A NCAC 13B and by Chapter 130A of the North Carolina General Statutes; involves no excavation and accepts only fill material consisting of inert debris or used asphalt or a combination of inert debris and used asphalt. Provided, however, that excavation, grading and fill activity shall not be considered a beneficial fill site within this definition if such activity (1) is confined within the boundaries of a parcel of property or development project and involves uncontaminated soil, gravel or rock originating on such property or development project, or (2) is conducted pursuant to a valid preliminary subdivision plan or final subdivision plat, a residential building permit, a commercial building permit, or any preliminary permit issued pursuant to a pending application for such plan or permit, and involves only uncontaminated soil, gravel or rock.

#### Board of Adjustment.

The Zoning Board of Adjustment of the Mecklenburg County.

#### Boarding house.

A single family detached dwelling unit on a lot with rooms for boarders that are rented or are designed to be rented, but which rooms individually or collectively do not constitute separate dwelling units. The occupants must live together as a single, integrated housekeeping unit with no separate cooking facilities being provided for any boarder. "Boarding House" shall not include similar uses such as bed and breakfasts, hotels or motels, health care facilities, group homes, halfway houses, hospitals, or rescue missions.

#### Breakwater.

A structure located offshore or extending into the water from the shore and intended or used to protect a shoreline, boat, or building or other structure from the force of waves.

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Buffer. (Also, see Screening.)

A strip of land with natural or planted vegetation located between a use or structure and a side or rear property line intended to separate and partially obstruct the view of two abutting land uses or properties from one another. A buffer area may include any required screening for the site.

Building.

A temporary or permanent structure having a roof supported by columns or walls and which can be used for the shelter, housing, or enclosure of persons, animals, or goods.

Building height. (See Height.)

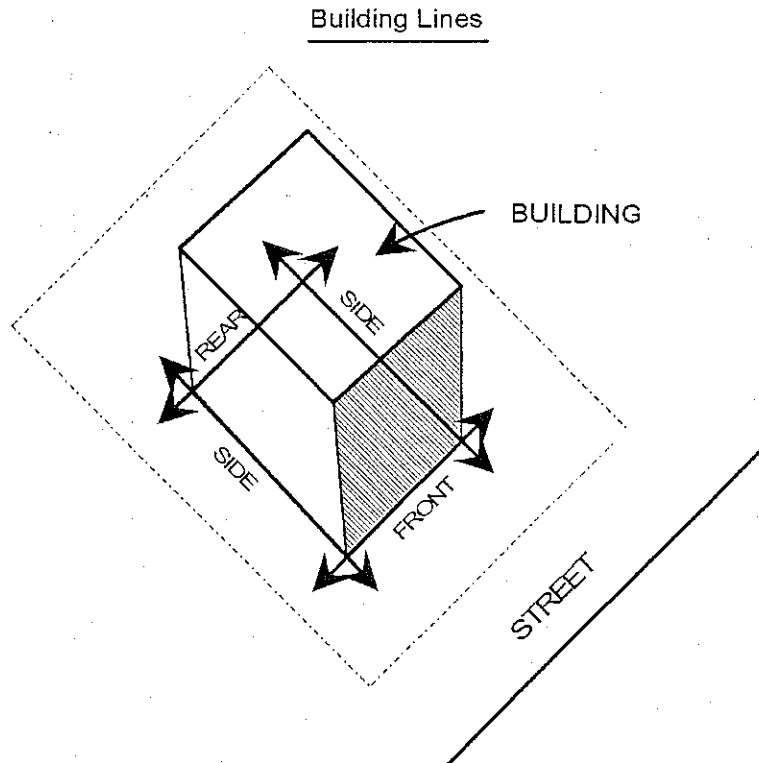
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### Building lines.

Lines that are tangent to the exterior surface of buildings or structures, or the surfaces of cantilevered projections therefrom, parallel to front, side and rear lot lines, and referred to as front, side and rear building lines, respectively.



### Building site. (Also, see Development.)

An area of land or property where development is undertaken.

### Bus stop shelter.

A freestanding structure, of less than 100 square feet located on a bus transit route which is designed to accommodate embarking and disembarking bus transit passengers.

### Child care center.

An individual, agency or organization providing supervision or care on a regular basis to children who are not related by blood or marriage to, and who are not the legal wards or foster children of, the supervising adult.

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#### Child care home.

A facility run by an individual, that provides supervision or care on a regular basis in the individual's home for between 6 to 15 children who are not related by blood or marriage to, and who are not the legal wards or foster children of, the supervising adult.

#### Civic, social service, or fraternal facility.

A building or meeting facility, which is restricted to members and guests of members of a non-profit association or corporation, including accessory uses, such as recreational facilities, banquet facilities, and overnight lodging for members, but not including the sale of goods or services to the general public on the premises on a regular basis, or commercial outdoor recreational or entertainment activities involving the use of animals or firearms.

#### Clinic, medical, dental, or optical.

A use or structure intended or used primarily for the testing and treatment of human physical or mental disorders.

#### Clinic, veterinary.

A use or structure intended or used primarily for the testing and treatment of the physical disorders of animals or their grooming and indoor boarding, but not including the training of animals or outdoor cages, pens, or runs for animals.

#### Cluster development.

A tract of land, at least 10 acres in area, under individual, corporate, firm, partnership, or association ownership, planned and developed as an integral unit, in a single development operation or a definitely programmed series of development operations and according to an approved preliminary site plan.

#### Coliseum. (See Stadium)

#### College. (See University, college and junior college.)

#### Commercial use.

An occupation, employment, or enterprise that is carried on for profit by the owner, lessee, or licensee.

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Common open space. (Also, see Open space.)

An area of open space within a development site designed and intended for the use and enjoyment of residents of the development or for the general public, not including streets or off-street parking area.

Condominium.

The ownership of single units in a structure with common areas and facilities.

Condominium unit.

An enclosed space consisting of one or more rooms occupying all or part of a floor in a building or one or more floors or stories regardless of whether it is designed for residence, office, the operation of any industry or business, or any other type of independent use and shall include such accessory spaces and areas as may be described in the declaration, such as garage space, storage space, balcony, terrace or patio.

Construction and demolition debris.

Solid waste resulting solely from construction, remodeling, repair or demolition operations on pavement, buildings or other structures; but does not include inert debris, land clearing debris or yard trash.

Construction and demolition landfill (C & D).

A facility for the land disposal of construction and demolition debris, designed to meet minimum standards of the State of North Carolina, by utilizing acceptable landfill engineering technology.

County Attorney.

The County Attorney or his or her designee.

County Engineer.

The director of the County Engineering Department or his or her designee.

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#### Cultural facility.

An indoor or outdoor theater (excluding commercial motion picture theater), auditorium, or other building or structure designed, intended, or used primarily for musical, dance, dramatic, or other performances, or a museum or gallery operated primarily for the display, rather than the sale of works of art.

#### Customary home occupation.

An occupation, service, profession or enterprise carried on by a resident member of a family within a dwelling unit.

#### Dependent living facility. (Also, see Independent living facility.)

Nursing homes, rest homes and homes for the aged which are designed for persons who need a wide range of health and support services located on the site, such as medical and nursing care, central dining, and transportation services.

#### Density, gross residential.

The number of residential dwelling units per acre of land determined by dividing the number of dwelling units by the total number of acres in the parcel to be developed.

#### Developer.

Any person seeking approval under these regulations for any form of development.

#### Development.

Except as limited in this subsection, the carrying out of any building activity, the making of any change in the use or appearance of any structure or land, or the subdividing of land into two or more parcels.

- (a) Except as provided in Subsection (c) hereof, for the purposes of these regulations, the following activities or uses shall be considered "development:"
  - (i) The reconstruction, alteration of the size, or substantial change in the external appearance of a structure on land or water;

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- (ii) A change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on land or a material increase in the number of businesses, manufacturing establishments, offices, or dwelling units in a structure or on land, but only so long as the increase in the number of such establishments materially increases the number of persons occupying or employed on the premises.
  - (iii) Alteration of the shore or bank of a pond, lake, river, or other waterway;
  - (iv) Commencement of drilling (except to obtain soil samples), mining, or excavation on a parcel of land;
  - (v) Clearing of land, including clearing or removal of vegetation and including any significant disturbance of vegetation or soil manipulation; or
  - (vi) Deposit of refuse, solid or liquid waste, or fill on a parcel of land.
- (b) When appropriate to the context, "development" refers to the act of developing or to the result of development. Reference to any specific operation is not intended to mean that the operation or activity, when part of other operations or activities, is not development. Reference to particular operations is not intended to limit the generality of this definition.
- (c) For the purpose of these regulations the following operations or uses shall not be considered "development:"
- (i) Work involving the maintenance, renewal, improvement, or alteration of any structure, if the work affects only the color or decoration of the exterior of the structure or interior alterations that do not change the use for which the structure was constructed;
  - (ii) Work involving the maintenance or replacement of existing landscaped areas and existing rights-of-way;
  - (iii) A change in use of land or structure from a use within a specified category of use to another use in the same category;
  - (iv) A change in the ownership or form of ownership of any parcel or structure;

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- (v) The creation or termination of rights of access, riparian rights, easements, covenants concerning development of land, or other rights in land unless otherwise specifically required by law; or
- (vi) The clearing of survey cuts or other paths of less than four feet in width.

#### Dormitory.

A building containing bathroom facilities available for common use by the residents of the building, which is occupied or intended to be occupied as the dwelling for more than six persons who are not related by blood, marriage, or adoption but who are enrolled in, affiliated with or employed by the same educational, religious, or health institution. "Dormitory" shall not include a boarding house, motel, hotel, group home, or health institution.

Drive-in restaurant. (See Restaurant, drive-in.)

#### Drive-in service windows.

A customer service facility located either within the principal structure of an office or retail establishment or accessory structure thereto, which is intended to enable the customer to transact business with a salesperson located within the principal structure without exiting the motor vehicle. It is presumed that the motor vehicle exits the premises immediately upon the transaction of business.

#### Dwelling, attached.

Any duplex, triplex, quadraplex or multi-family dwelling developed side by side where land is sold with each dwelling unit.



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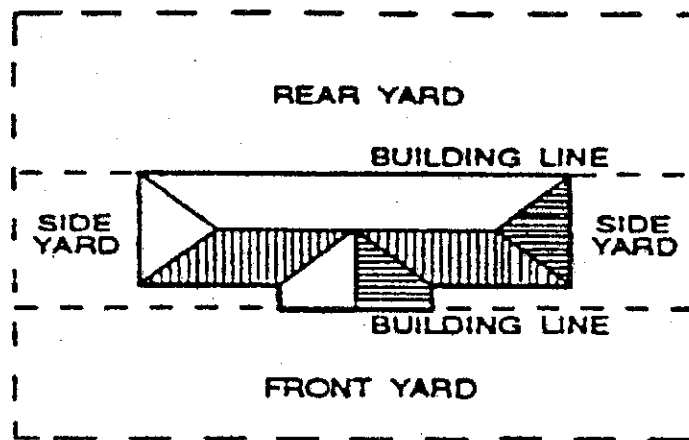
## PART 2: DEFINITIONS

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### Dwelling, detached.

A dwelling unit that is developed with open yards on at least three sides, including modular homes, but not including manufactured homes, mobile homes, or recreational or motor vehicles.

### Dwelling, detached



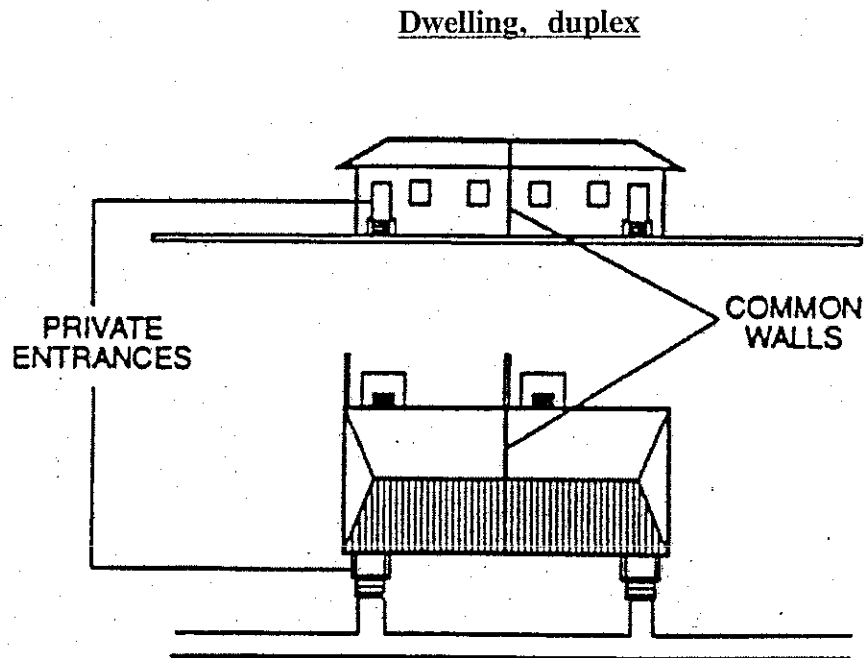
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#### Dwelling, duplex.

Two dwelling units, including modular homes, placed one on top of another or attached side by side and sharing one or more common walls.



#### Dwelling, mixed use.

A dwelling unit included within an office or retail building.

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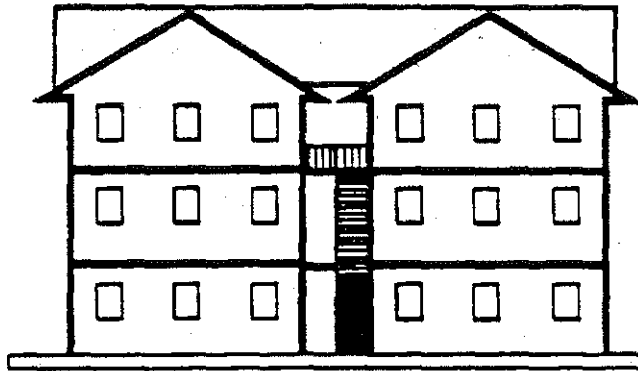
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### Dwelling, multi-family.

More than four dwelling units, including modular homes, placed one on top of another or side by side and sharing common walls or common floors and ceilings.

### Dwelling, multi-family



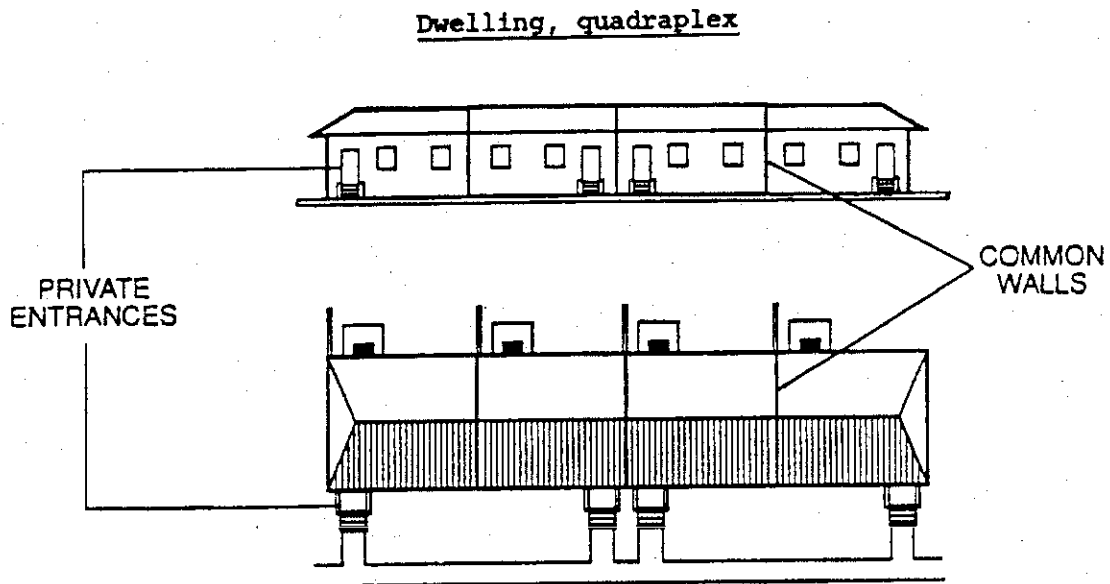
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### Dwelling, quadraplex.

Four dwelling units, including modular homes, attached side by side or one on top of another and sharing common walls or common floors and ceilings.



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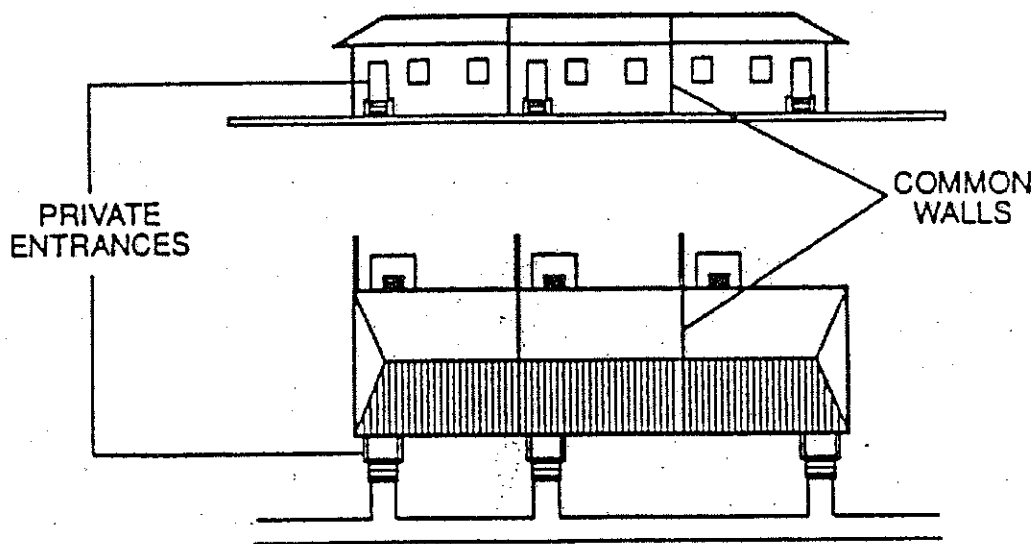
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#### Dwelling, triplex.

Three dwelling units, including modular homes, placed on top of one another or attached side by side and sharing common walls or common floors and ceilings.

#### Dwelling, triplex



#### Dwelling unit.

A room or combination of rooms designed for year-round habitation, containing a bathroom and kitchen facilities, and designed for or used as a permanent residence by at least one family.

#### Elderly and disabled housing.

A dwelling unit which is located on the same lot as a principal dwelling unit and intended to be used by an occupant who is at least 55 years old or disabled, and related to the owner of the principal dwelling by blood, marriage or adoption.

#### Elementary and secondary schools.

A privately-owned or publicly-owned pre-school, elementary school, middle school, junior high school, or high school.

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#### Family.

An individual, or two or more persons related by blood, marriage, or adoption living together as a single housekeeping unit; or a group of not more than six persons not related by blood, marriage or adoption, living together as a single housekeeping unit.

#### Farm, bona fide.

Any tract of land containing at least three acres which is used for farming purposes including the production and activities relating or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other farms of agricultural products having a domestic or foreign market. The definition of "farm" and "bona fide farm" shall not include "agricultural industries."

#### Financial institution.

A use or structure where financial, pecuniary, fiscal or monetary services are made available to the public, including but not limited to depository institutions (i.e., banks, credit unions, savings and loans, etc.) non-depository credit institutions (i.e., credit agencies, loan brokers, etc.), holding companies (but not predominantly operating companies), other investment companies, brokers and dealers in securities and commodity contracts and security and commodity exchanges.

#### Flood.

A temporary rise in stream flow or stage that results in water overtopping its bank and inundating areas adjacent to the watercourse.

#### Floodway.

That portion of the channel and flood plain of a stream designated to provide passage for the Regulatory Flood, without increasing the elevation of that flood at any point by more than one foot.

#### Floodway encroachment lines.

The outer boundaries of the floodway.

#### Flood protection elevation.

The elevation shown on the Flood Area Map and to which structures and uses allowed under these regulations are to be elevated or floodproofed.

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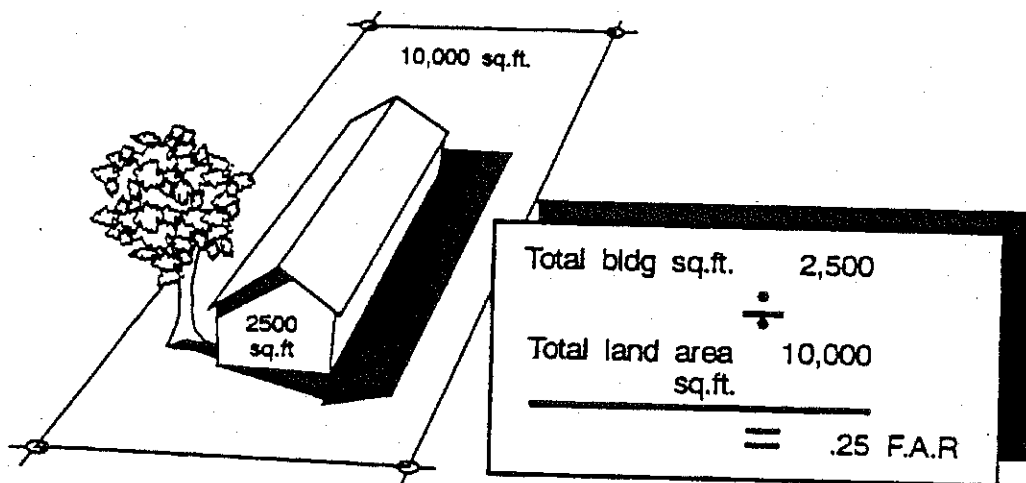
#### Floor area.

The sum of the gross horizontal areas of each floor of the principal building, and any accessory building or structures measured from outside of the exterior walls or from the center line of party walls. The term does not include any area used exclusively for the surface parking of motor vehicles or for building or equipment access, such as stairs, elevator shafts, and maintenance crawlspace.

#### Floor Area Ratio (FAR).

The total floor area of the building or buildings on a lot or parcel divided by the gross area of the lot or parcel.

#### FLOOR AREA RATIO



Freeway or expressway (Class I). (See Street, freeway or expressway (Class I).)

#### Government building.

A building, use, or facility owned or operated by a government agency and serving as an agency office, police station, fire station, library, community center, or similar facility, and a building, use or facility serving as a volunteer fire station, but not including a vehicle storage yard, jail, prison, sanitary landfill, solid waste transfer or disposal facility, wastewater treatment facility, educational or health institution, university, group home, or housing for persons who are participating in work release programs or who have previously served and completed terms of imprisonment for violations of criminal laws.

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#### Grade.

Along any lot line abutting a street, "grade" means the elevation at the higher of either the center line of the street or the property line. Along any lot line not abutting a street, "grade" means the ground elevation at the property line.

#### Group home.

A group home consists of residents and staff. There are three categories of group homes. First, a group home means a "family care home" as defined in Chapter 168, Article 3, of the General Statutes. A group home means a home with support and supervisory personnel that provides room and board, personal care and habilitation service in a family environment for not more than six resident handicapped persons. A handicapped person means a person with a temporary or permanent physical, emotional or mental disability, including, but not limited to mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances and orthopedic impairments, but not including mentally ill persons who are dangerous to others as defined in G.S. § 122C-3(11)b. Second, a group home shall mean a residential use, even if it does not conform to the language above, that provides a residential environment for no more than six residents who may require various services, living assistance, or supervision but does not include any facility that provides medical services requiring or comparable to on-site, nursing, physician, or medical care for the residences which is only permitted in a dependent living facility or health institution. Third, a group home includes six resident elderly persons. All group homes must comply with all applicable federal, state, local licensing requirements and health regulations. The limit of six residents with staff applies to group homes located in single family districts. Group homes located in any other permitted district may house up to 10 residents and staff.

#### Halfway house. (See Group Home)

#### Hazardous materials treatment facility.

A building, structure or use of land devoted, or intended to be devoted, primarily to changing by any method, technique or process, including incineration or neutralization, the physical, chemical, or biological character of any hazardous material regulated by the Federal Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. Sec. 6901 et seq.), and the "North Carolina Solid Waste Management Act", as amended (Article 13B. G.S. 130-166.16), so as to neutralize such material or render it nonhazardous, safer for transport, amenable for recovery, amenable for storage or reduced in bulk. Such a use may also contain temporary storage facilities normally associated with these operations and of sufficient size to conduct a commercially feasible operation. However, under no circumstances is a hazardous materials



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treatment facility to be construed to be any of the following:

- (a) A facility which manufactures hazardous materials from component nonhazardous materials;
- (b) A facility or location for the long term or perpetual storage of hazardous materials; or
- (c) A facility for the treatment of hazardous materials which is clearly subordinate, incidental and related to the principal structure, building or use of land and is located on the same lot as the principal structure, building or use.

#### Health Institution.

A hospital, clinic, (not including veterinary), health maintenance organization, or similar use or building, not including a group home, which routinely provides for the care of, treatment of, and testing for physical, emotional, or mental injury, illness, or disability, and for the overnight boarding of patients, either on a for-profit or not-for-profit basis.

#### Heavy manufacturing. (Also, see Light manufacturing.)

The assembly, fabrication, or processing of goods and materials using processes that ordinarily have greater than average impacts on the environment, or that ordinarily have significant impacts on the use and enjoyment of adjacent property in terms of noise, smoke, fumes, odors, glare, or health and safety hazards, or that otherwise do not constitute "light manufacturing", or any use where the area occupied by outdoor storage of goods and materials used in the assembly, fabrication, or processing exceeds 25 percent of the floor area of all buildings on the lot.

#### Height.

The vertical distance between the average grade at the base of a structure and the highest part of the structure, but not including sky lights, and roof structures for elevators, stairways, tanks, heating, ventilation and air-conditioning equipment, or similar equipment for the operation and maintenance of a building.

#### Helistop, limited.

A facility or structure that is intended or used for the landing and take-off of rotary-wing aircraft, but not including the regular repair, fueling or maintenance of such aircraft or the sale of goods or materials to users of such aircraft.

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#### Heliport or Helistop, unlimited.

A facility or structure that is intended or used for the landing and take-off of rotary-wing aircraft including the regular repair, fueling or maintenance of such aircraft or the sale of goods or materials to users of such aircraft.

#### Home for the aged. (See Nursing home.)

#### Home occupations. (See Customary home occupations.)

#### Hotel or motel.

A building containing more than four individual rooms for the purpose of providing overnight lodging facilities to the general public for compensation with or without meals, and which has common facilities for reservations, cleaning services, combined utilities, and on-site management and reception.

#### Impervious ground cover.

Any structure or ground cover consisting of asphalt, concrete, stone, brick, terrazzo, roofing, ceramic tile or any other natural or man-made material that prevents the absorption of surface water into the soil.

#### Independent living facility. (Also, see Dependent living facility.)

A residential development which is designed for older or disabled persons who do not require health and support services located on the site, such as medical and nursing care, central dining and transportation services. Each living unit within the facility is a self-contained dwelling unit, which is physically accessible to older or disabled persons.

#### Indoor recreation.

Public or private health or exercise clubs, tennis or other racquet courts, swimming pools, YMCA's, YWCA's or similar uses which constitute principal uses and are enclosed in buildings and are operated on a fee or membership basis primarily for the use of persons who do not reside on the same lot as that on which the recreational use is located. "Indoor recreation" structures may include accessory uses, such as snack bars, pro shops, and locker rooms, which are designed and intended primarily for the use of patrons of the principal recreational use.

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#### Inert debris.

Solid waste consisting solely of material that is virtually inert, that is likely to retain its physical and chemical structure under expected conditions of disposal, and that will not pose a threat to groundwater standards. Inert debris includes material such as concrete, brick, concrete block, uncontaminated soil, rock and gravel.

#### Jail. (Also, see Prison.)

A publicly or privately owned building(s), and all accessory uses and structures, used to confine, house, and supervise persons held in lawful custody including those who are serving terms of imprisonment for violations of criminal laws or who are awaiting trial for alleged violations of criminal laws, but not including temporary holding facilities that are accessory to a police station.

#### Junkyard.

A parcel of land on which waste material (not including medical or hazardous waste) or inoperative vehicles or other machinery are collected, stored, salvaged or sold.

#### Kennel, commercial.

A use or structure intended and used for the breeding or storage of animals for sale or for the training or overnight boarding of animals for persons other than the occupant of the lot.

#### Kennel, private.

A structure used by the occupant of the property for the outdoor storage of animals and not operated on a commercial basis.

#### Land clearing debris.

Solid waste generated solely from land clearing activities such as stumps, trees, limbs, brush, grass and other naturally occurring vegetative material.

#### Land clearing and inert debris landfill (LCID): off-site.

A facility for the land disposal of inert debris, land clearing debris, yard trash and untreated and unpainted wood. The facility is designed to meet minimum standards of the State of North Carolina by utilizing acceptable landfill engineering technology.

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#### Land clearing and inert debris landfill (LCID): on-site.

A facility for the land disposal of inert debris, land clearing debris, yard trash and untreated and unpainted wood. The facility is designed to meet minimum standards of the State of North Carolina by utilizing acceptable landfill engineering technology.

The facility is located within the confines of the property being developed or in use, and used only for the disposal of acceptable waste as described above, which are generated on the property being developed or used as an accessory to the development activity.

#### Land Development Standards Manual.

The most recent edition of the manual developed and published jointly by the City of Charlotte Engineering Department and the Mecklenburg County Engineering Department setting forth standard details for the design and construction of various aspects of development.

#### Landing area.

The area of an airport used for the landing, taking off, or taxiing of aircraft.

#### Large maturing tree.

A tree whose height is greater than 35 feet at maturity and has a minimum caliper of 2½ inches at the time of planting and meets the specifications of "American Standards for Nursery Stock" published by the American Association of Nurseryman. (See Appendix 1)

#### Light manufacturing. (Also, see Heavy manufacturing.)

The assembly, fabrication, 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 or lot where such assembly, fabrication, or processing takes place, where such processes are housed entirely within a building, or where the area occupied by outdoor storage of goods and materials used in such processes does not exceed 25 percent of the floor area of all buildings on the property.

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Limited access arterial street (Class II). (See Street, limited access arterial (Class II).)

Local street (Class VI). (See Street, local (Class VI).)

Lot.

A parcel of land or any combination of several parcels of land occupied or intended to be occupied by a principal use or structure, together with any accessory structures or uses and such accessways, parking areas, yards, and open spaces required in these regulations.

Lot area.

The total horizontal area within the lot lines of a lot.

Lot line.

A line dividing one lot from another lot or from a street or alley.

Lot of record.

A lot described by plat or by metes and bounds which has been recorded in the office of the Register of Deeds.

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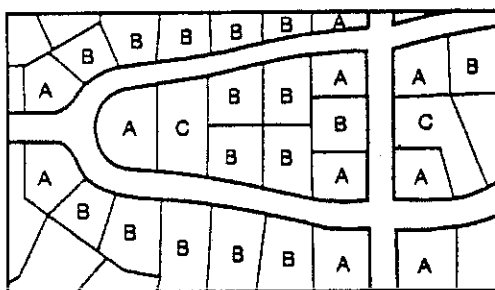
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#### Lot, types.

The diagram below illustrates terminology used in these regulations with reference to corner lots, interior lots and through lots. In the diagram a corner lot (A) is defined as a lot located at the intersection of two (2) or more streets. A lot shall also be considered a corner lot, if it occupies the interior angle at the intersection of two streets, and such angle is less than 135 degrees. See lot marked A in the diagram. An interior lot (B) is defined as a lot other than a corner lot with only one frontage on a street. A through lot (C) is defined as a lot other than a corner lot with a frontage on more than one street. Through lots may be referred to as double frontage lots.

#### LOT TYPES



A - CORNER LOT  
B - INTERIOR LOT  
C - THROUGH (OR DOUBLE FRONTAGE) LOT

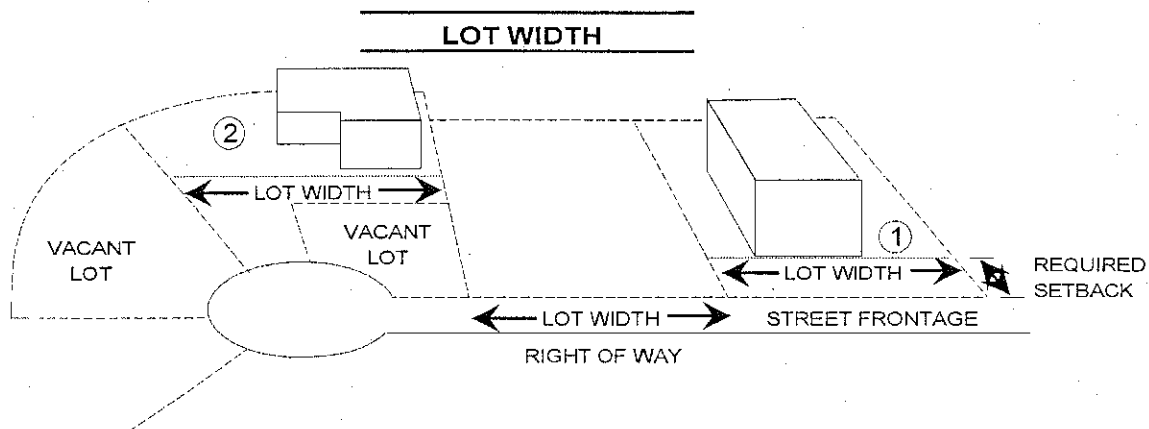
#### Lot width.

- .1 The continuous distance between the side lot lines measured along the setback line as established by these regulations; or

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- .2 The continuous distance between the side lot lines measured along a setback line shown on a duly recorded plat when that line is greater than the setback required by these regulations along the turnaround portion of a cul-de-sac street.



Major arterial (Class III). (See Street, major arterial (Class III).)

Minor arterial (Class IV). (See Street, minor arterial (Class IV).)

Minor residential access street. (See Street, minor residential access street).

Manufactured home. (Also, see Mobile home.)

A dwelling unit, other than a modular home, fabricated in an off-site manufacturing facility for installation or assembly on the building site, which dwelling unit is at least eight feet in width and at least 32 feet in length, which bears a seal certifying that it was built to the standards adopted pursuant to the "National Manufactured Housing Construction and Safety Standards Act of 1974", 42 U.S.C. Sec. 5401 *et seq.*, which is placed upon a permanent foundation which meets the installation and foundation requirements adopted by the N.C. Commissioner of Insurance.

Manufactured home or mobile home subdivision.

Any parcel of land which is subdivided, sold and utilities are provided for the installation or placement of manufactured or mobile homes.

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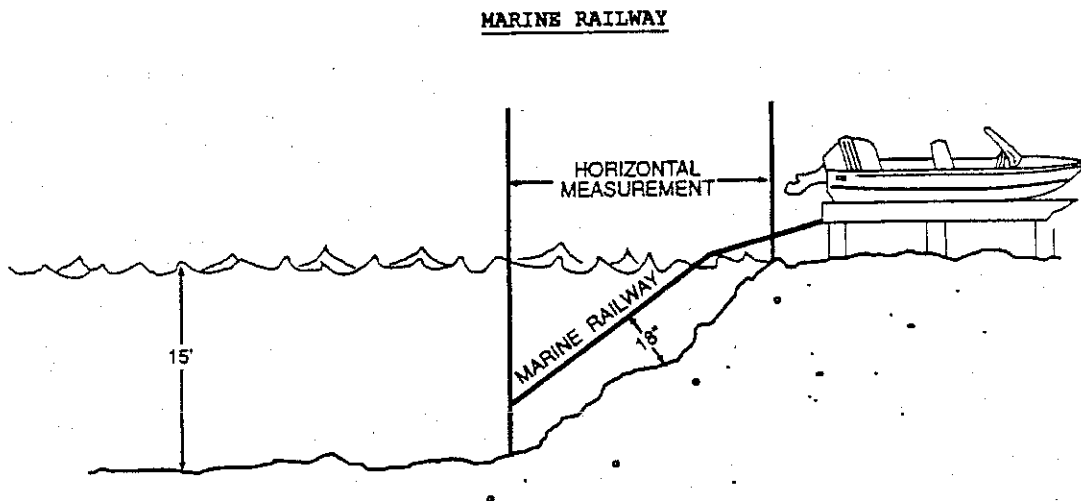
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### Marina, commercial.

A commercial facility for 10 or more boats with wet or dry storage (or combination thereof), launching and mooring of boats, together with all accessory structures and uses.

### Marine railway.

A line of track running from the shoreline into a body of water to provide a runway for a wheeled or other apparatus to lower a boat into the water.



### Mean sea level.

The National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on the Flood Insurance Rate Maps for Mecklenburg County are referenced.

### Mobile home. (Also, see Manufactured home.)

A movable or transportable dwelling unit, other than a modular home or manufactured home, of at least 8 feet in width and at least 32 feet in length, constructed to be transported on its own chassis and including one or more components that can be retracted for transporting the unit.



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#### Mobile home park.

Any site or parcel of land under single ownership where land is rented, and utilities are provided for the installation or placement of mobile homes.

#### Modular home.

A dwelling unit which is constructed in compliance with the State Building Code and composed of components substantially assembled in an off-site manufacturing plant and transported to the building site for final assembly on a permanent foundation.

#### Mooring or float.

An object or structure secured in the water by cables, lines, chains, anchors or similar devices, and intended or used for securing one or more boats in the water or for navigational purposes.

#### Nightclubs.

Any commercial establishment serving alcoholic beverages and providing entertainment for patrons including bars, lounges, and cabarets.

#### Nonconforming structure.

Any structure lawfully existing on the effective date of these regulations, or on the effective date of any amendment thereto, which does not comply with these regulations or any amendment thereto, whichever might be applicable.

#### Nonconforming use.

Any use lawfully being made of any land, building, or structure on the effective date of these regulations or on the effective date of any amendment thereto rendering such use nonconforming, which does not comply with all of the regulations of these regulations or any amendment thereto, whichever might be applicable.

#### Nonconforming vacant lot.

Any lot which does not meet the minimum area or width requirements established in these regulations or any amendment thereto.

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Nursing home. (Also, see Dependent living facilities and Independent living facilities.)

A facility providing care for 3 or more sick, aged or disabled persons not related by blood or marriage to the operator. Nursing homes are classified as "dependent" or "independent" living facilities depending upon the degree of support services on site.

Office.

A use or structure where business or professional services are conducted or rendered.

Open space. (Also, see Common open space.)

An area of land or water which is open and unobstructed including areas maintained in a natural or undisturbed character or areas improved for active or passive recreation. "Open space" shall not include water below the mean high water line located adjacent to the Catawba River and its impoundments, or areas covered with buildings, structures, streets or off-street parking areas, but shall include landscaping associated with such parking areas.

Outdoor lighting.

Any light source that is installed or mounted outside of an enclosed building, but not including street lights installed or maintained along public or private streets.

Outdoor recreation.

Public or private golf courses, swimming pools, tennis courts, ball fields, ball courts, and similar uses which are not enclosed in buildings and are operated on a commercial or membership basis primarily for the use of persons who do not reside on the same lot as that on which the recreational use is located. "Outdoor recreation" shall include any accessory uses, such as snack bars, pro shops, club houses, country clubs or similar uses which are designed and intended primarily for the use of patrons of the principal recreational use. Outdoor recreation shall not include commercial outdoor amusement or open space recreational uses.

Overnight camping trailer park.

Any lot upon which two or more overnight camp sites and/or overnight camping trailers occupied for temporary shelter, dwelling, recreation or vacation uses may be located on a non-profit or for profit basis.

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#### Owner.

Any full or part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety with legal title to the whole or to part of a structure or land.

#### Parcel.

Any quantity of land and/or water capable of being described in definitive terms with respect to its location and boundaries. It may be established as distinct from other parcels which are designated by its owner or developer as land to be used or developed as a unit, or which has been used or developed as a unit.

#### Park, public.

Any land owned by the public and open for use by the general public for active (including playgrounds) or passive recreational purposes or as a refuge for wildlife.

#### Parking deck.

A multi-level building designed and used for the parking or storage of motor vehicles.

#### Parking lot.

An area not within a building designed and used for the storage of motor vehicles.

#### Person.

An individual, corporation, governmental agency, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal entity.

#### Pier.

A structure designed to extend into or along the water for use as a landing place for boats or as a promenade.

## MECKLENBURG CODE

### PART 2: DEFINITIONS

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Pilot plant. (Also, see Prototype production plant.)

A building or operation in which processes planned for use in production elsewhere can be tested, but not including the production of any goods on the premises primarily or customarily for sale or for use in production operations.

Planned multi-family development.

A group of two or more attached, duplex, triplex, quadraplex, or multi-family buildings, or a single building of more than 12 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 in accordance with the requirements of Chapter 9 for the zoning district in which it is located.

Planning Commission.

The Charlotte-Mecklenburg Planning Commission, including any duly appointed committee of that body provided for and authorized to act for the whole Planning Commission by the Interlocal Cooperation Agreement of July 2, 1984, as may be amended.

Planning Director.

The director of the staff of the Charlotte-Mecklenburg Planning Commission or his or her designee.

Principal building or structure.

A building or structure containing the primary use of the lot.

Principal use.

The primary purpose or function that a lot serves or is proposed to serve.

Prison. (Also, see Jail.)

A publicly or privately owned building(s), and all accessory uses and structures used for long-term confinement housing, and supervision of persons who are serving terms of imprisonment for violation of criminal laws. A prison is distinguished from a jail, in that a prison is considered to be a larger, long term incarceration facility normally operated under the authority or jurisdiction of the State or Federal government.

## MECKLENBURG CODE

### PART 2: DEFINITIONS

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#### Project area.

Any area of land, and/or water regardless of the number of individual parcels contained therein on which development is proposed under these regulations.

#### Prototype production plant. (Also, see Pilot plant.)

A building or operation in which goods are produced only in a quantity necessary for full investigation of the merits of a product, but not including the production of any goods on the premises primarily or customarily for sale or for use in production operations on the premises.

#### Public utility structure.

An electricity or gas substation, water or wastewater pumping station, telephone repeater station, water storage tank, reservoir, cellular and telephone transmission facilities, or similar structure used as an intermediary switching, boosting, distribution, or transfer station for electricity, water, wastewater, cable television, or telephone services between the point of generation and the end user, or a wastewater treatment plant, but not including satellite dish antennas, facilities for the handling of solid waste, or radio, television, or microwave transmission or relay towers.

#### Quarry.

An operation for the dredging, digging, extraction, mining, or quarrying of stone, sand, gravel, or minerals for commercial purposes.

#### Reach.

A longitudinal segment of a stream or river, such as, the segment between two bridge crossings or the mouths of two tributaries to the stream or river.

#### Redevelopment.

The demolition and reconstruction of a building.

#### Reclassification of land.

A change in the zoning district assigned to a lot through a public hearing before the Board of Commissioners.

## MECKLENBURG CODE

### PART 2: DEFINITIONS

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#### Regulatory flood.

A flood representative of large floods reasonably characteristic of what can be expected to occur on a particular stream, with an average recurrence interval of 100 years, determined from an analysis of floods on a particular stream and other streams in the same general region.

#### Religious institution.

A church, synagogue, temple, mosque, or other place of religious worship, including any accessory use or structure, such as a school, day care center, or dwelling, located on the same lot.

#### Research laboratory.

A facility equipped for basic and applied research or experimental study, testing, or analysis in the natural sciences, including any educational activities associated with and accessory to such research, but not including a medical, dental, optical, or veterinary clinic, or a research facility located on the principal site of a health institution or university.

#### Residential use.

Any detached, duplex, triplex, quadraplex, attached, or multifamily dwelling, manufactured home, mobile home, group home for up to six clients, boarding house, or dormitory.

#### Rest home. (See Nursing home.)

#### Restaurant.

An establishment designed, in whole or in part, to accommodate the consumption of food and/or beverages.

#### Restaurant, drive-in.

An establishment designed, in whole or part, to accommodate the consumption of food and/or beverages in motor vehicles on the premises of such establishment, or a restaurant with a drive-in service window and/or outdoor service window having indoor seating accommodation for fewer than 50 patrons.

## MECKLENBURG CODE

### PART 2: DEFINITIONS

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#### Retail establishment.

A building, property, or activity the principal use or purpose of which is the sale of goods, products, or merchandise directly to the consumer.

#### Riding academy.

A facility which provides lessons on horseback riding on a non-profit or for profit basis.

#### Road. (See Street)

#### Rooming house. (See Boarding house.)

#### Runway.

That paved or unpaved area of an airport designated for the landing and taking-off of aircraft.

#### Sanitary landfill (Municipal Solid Waste Landfill).

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

#### Saw mill.

A mechanized facility for cutting logs into lumber that is suitable for building or for carpentry.

#### Schools. (See Elementary and secondary schools and Vocational schools.)

#### Screening.

A fence, wall, hedge, landscaping, earth berm, buffer area or any combination of these provided to create a visual and/or physical separation between certain land uses. Screening may be located on the property line or elsewhere on the site.

#### Service station. (See Automobile service station.)

## MECKLENBURG CODE

### PART 2: DEFINITIONS

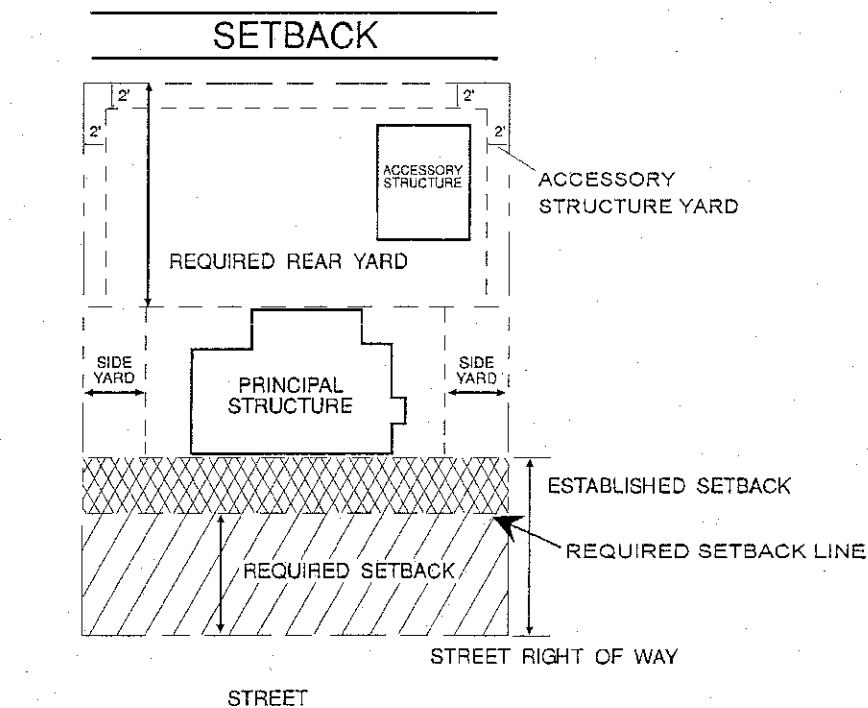
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#### Setback, established.

The distance between the right-of-way line and the front building line of a principal building or structure, as constructed, projected to the side lines of the lot.

#### Setback, required.

The minimum distance required by this ordinance between the street right-of-way line and the front building line of a principal building or structure as measured parallel from the street right-of-way line, projected to the side lines of the lot. In the case of a through lot, a required setback also will be measured from the right-of-way line at the rear of the lot to the rear building line. In the Neighborhood Service district, the setback is measured from the back of the curb to the building line.



#### Shopping center.

A group of two or more retail establishments or restaurants constructed and planned and developed with a unified design of buildings with associated out parcels and coordinated parking and service areas.



## MECKLENBURG CODE

### PART 2: DEFINITIONS

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#### Shrubs.

Woody branching plants of relatively low height. (See Appendix 1)

#### Sign.

Any object, device, or structure, or part thereof, situated outdoors which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images. Signs do not include the flag or emblem of any nation, organization of nations, state, city, or any fraternal, religious or civic organizations; works of art which in no way identify a product; or scoreboards located on athletic fields.

#### Significant tree.

A tree with a caliper of 8 inches or greater.

#### Site plan.

A plan, prepared to scale, showing accurately all information required by these regulations with respect to the development proposal.

#### Small maturing trees.

A tree the height of which is less than 35 feet at maturity and has a minimum 1½ inch caliper at the time of planting and meets the specifications of "American Standards for Nursery Stock" published by the American Association of Nurseryman.

#### Solid waste.

Any hazardous or nonhazardous garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, institutional, commercial, agricultural, and land clearing operations. This term does not include the following:

- (a) Fowl and animal fecal waste;

## MECKLENBURG CODE

### PART 2: DEFINITIONS

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- (b) Solid or dissolved material in any of the following:
  - (1) Domestic sewage and sludges generated by the treatment thereof in sanitary sewage disposal systems which have a design capacity of more than 3,000 gallons or which discharge effluents to the surface waters,
  - (2) Irrigation return flows; or
  - (3) Wastewater discharges and the sludges incidental thereto and generated by the treatment thereof which are point sources subject to permits granted under Section 402 of the Federal Water Pollution Control Act, as amended (33 U.S.C. Sec. 1251 et seq.) and permits granted under G.S. 143-215.1 by the Environmental Management Commission;
- (c) Oils and other liquid hydrocarbons controlled under Article 21A of Chapter 143 of the North Carolina General Statutes;
- (d) Any radioactive material as defined by the North Carolina Radiation Protection Act (G.S. 104E-1 through 104E-23); or
- (e) Mining refuse covered by the North Carolina Mining Act (G.S. 74-46 through 74-68), and regulated by the North Carolina Mining Commission (as defined under G.S. 143B-290).

#### Stable, boarding.

A building in which horses are kept for commercial use including boarding, hire, sale or show.

#### Stable, private.

An accessory building or parcel of land where horses are kept for private use and not for remuneration, hire or sale.

#### 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 raceway or dragstrip.

# MECKLENBURG CODE

## PART 2: DEFINITIONS

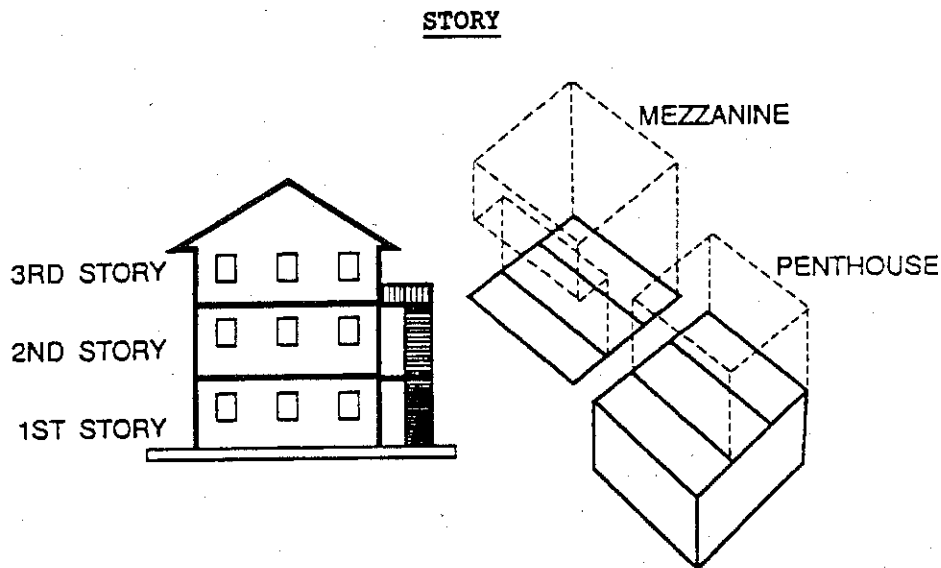
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### Storm Drainage Design Manual.

The most recent edition of the manual developed and published by the Engineering Department setting forth standard details for the design and construction of stormwater management systems.

### Story.

That part of a building or structure above ground level between a floor and the floor or roof next above. A mezzanine shall be considered a story if it exceeds one-third of the area of the floor immediately below. A penthouse shall be considered a story if it exceeds one-third of the area of a roof.



### Street.

A public right-of-way or fee simple tract of land not less than 30 feet in width, set aside for public travel, which has been accepted by or offered for maintenance to the City of Charlotte or the State of North Carolina, has been established as a public street prior to the effective date of these regulations, or has been dedicated or offered for dedication to the City of Charlotte or the State of North Carolina for public travel by the recording of a subdivision plat.

## MECKLENBURG CODE

### PART 2: DEFINITIONS

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#### Street, collector (Class V).

A roadway which assembles traffic from local streets and distributes it to the nearest arterial street, providing direct primary access to low/medium density land uses and designed to carry low to moderate traffic volumes at low to moderate speeds.

#### Street, commercial arterial (Class III-C).

A multi-lane, major roadway connecting Class I or II roads with lesser streets in the network or connecting this region to other regions. It is designed to accommodate large volumes of traffic at moderate speeds while also providing, as a major part of its function, direct access to nonresidential high trip generating land uses. A Class III-C road may be part of state primary or secondary highway systems.

#### Street, freeway or expressway (Class I).

A multi-lane, grade-separated limited access major road connecting this region, major activity centers, or major roads with other regions, major activity centers, or major roads and designed to accommodate large traffic volumes at high speeds. Such a facility may be part of the interstate, federal, or state primary highway system. A class I road will be built to or approaching interstate design standards.

#### Street, limited access arterial (Class II).

A multi-lane limited access major road connecting major activity centers or major roads and designed to accommodate large volumes of traffic at moderate speeds. Intersections are at grade, with access only at cross streets rather than at individual driveways. All types of land uses are acceptable along this road with proper consideration to environmental stresses related to the road.

#### Street line.

The boundary of a street right-of-way.

#### Street, local (Class VI).

A two-lane roadway which, provides access directly to adjoining low/medium density land uses and conducts traffic to local limited and Class V streets which serve the area. The Class VI road is designed to accommodate low volumes of traffic at low speeds. A local limited street (Class VI-L) serves the same system function as the Class VI street but is located in residential environments which have been created through special conditions or design considerations. These unique environments include planned developments and other similar techniques or cul-de-sac streets in conventional

## MECKLENBURG CODE

### PART 2: DEFINITIONS

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subdivisions. A Class VI-L street may not provide vehicular access to elementary, junior or senior high schools, colleges or official sites for such schools or to proposed places of public assembly, including public or private parks, recreation facilities or greenways.

#### Street, major arterial (Class III).

A multi-lane major roadway connecting Class I, II or III with lesser streets in the network or connecting the region to other regions. It is designed to accommodate large volumes of traffic at moderate speeds, but it is not intended to provide primary access to adjoining high trip generating uses.

#### Street, minor arterial (Class IV).

A roadway, frequently two lanes, providing a connection from Class II and Class III roads to other lesser roads in the system and designed to accommodate moderate volumes of traffic at moderate speeds. It does not have a significant function in connecting different regions and, therefore, it usually only handles trips for short to moderate distances.

#### Street, private.

An interior circulation road designed and constructed to carry vehicular traffic from public streets within or adjoining a site to private buildings or land uses to parking and service areas and which is not maintained by the public.

#### Structure.

Anything constructed, installed, or portable, the use of which requires a location on a parcel of land. This includes a fixed or movable building which can be used for residential, business, commercial, agricultural, or office purposes, either temporarily or permanently. "Structure" also includes, but is not limited to, swimming pools, tennis courts, signs, cisterns, sewage treatment plants, sheds, docks, mooring areas, and other accessory construction.

#### Thoroughfare.

Any street designated on the adopted Charlotte-Mecklenburg Thoroughfare Plan, or any street, which is an extension of any street on the adopted Thoroughfare Plan. The words thoroughfare and arterial are used synonymously and indicate streets, which are designed as Class I, II, III, III-C, or IV.

# MECKLENBURG CODE

## PART 2: DEFINITIONS

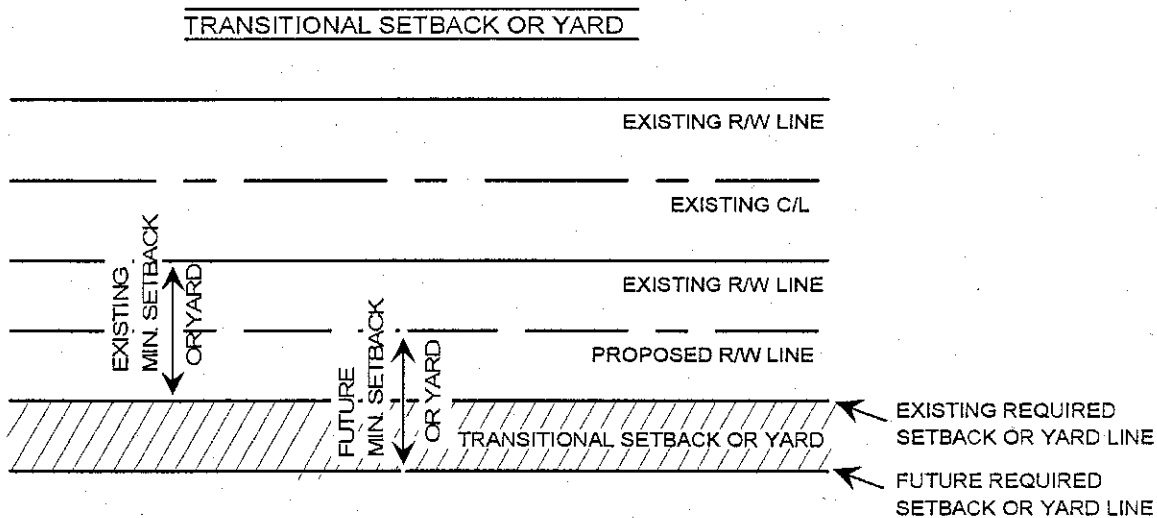
### Thoroughfare Plan.

The most recent map approved by the local Metropolitan Planning Organization which indicates the system of roads expected to serve major access and travel needs with regard to auto, truck and transit transportation. The words thoroughfare plan and arterial street plan are used interchangeably.

### Transitional setback or yard.

That area, if any, along a thoroughfare which lies between the existing required setback line or yard line and the future required setback line or yard line. The future setback or yard is measured from the proposed right-of-way line. There will be no transitional setback or yard when the existing street right-of-way line and the proposed right-of-way line are the same or when the existing right-of-way width exceeds the proposed right-of-way width.

Figure 12.103



### Turkey shoot.

A place or event where contestants discharge shotguns in competition for prizes.

## MECKLENBURG CODE

### PART 2: DEFINITIONS

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#### University, college and junior college.

A use, whether privately-owned or publicly-owned, providing education beyond the high school level.

#### Used asphalt.

Used asphalt or used asphalt mixed with dirt, sand, gravel, rock, concrete or similar nonhazardous material.

#### Vocational school.

A use, whether privately-owned or publicly-owned, that trains persons in specific trades or occupations such as mechanics, stenography, or similar occupations.

#### Warehouse.

The indoor storage of goods, materials, or merchandise for shipment to or processing on other property.

#### Wastewater treatment facility.

A facility operated by a licensed utility, in compliance with all applicable State and County regulations, intended or used for the treatment and surface or subsurface disposal of wastewater and which serves more than one use or more than four dwelling units or a facility intended or used for the treatment and subsurface disposal of wastewater which serves only one use or up to four dwelling units.

#### Wholesale establishment.

A building, property, or activity the principal use or purpose of which is the sale of goods, products, or merchandise stored on the premises to persons who are intermediaries between the producer and the consumer.

#### Working day.

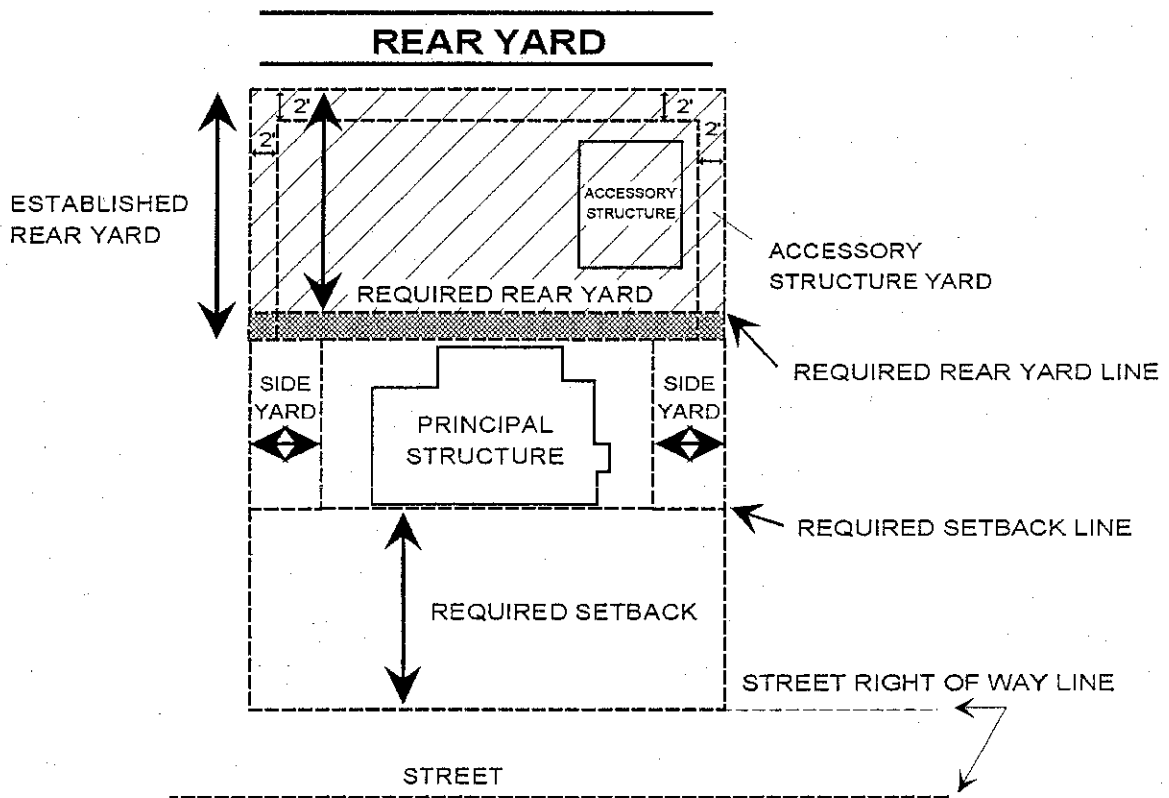
Any day on which the offices of a County agency are officially open, not including Saturdays, Sundays, and other holidays designated by the Board of Commissioners.

## MECKLENBURG CODE

### PART 2: DEFINITIONS

#### Yard, rear, required.

The minimum distance required by this ordinance between the rear of a principal building or structure and the lot line farthest from the street fronting the lot as measured parallel to the rear lot line, projected to the side lines of the lot on which the building or structure is located.



#### Yard, rear, established.

The distance between the rear of a principal building or structure and the lot line farthest from the street fronting the lot as measured parallel to the rear lot line, projected to the side lines of the lot on which the building or structure is located.

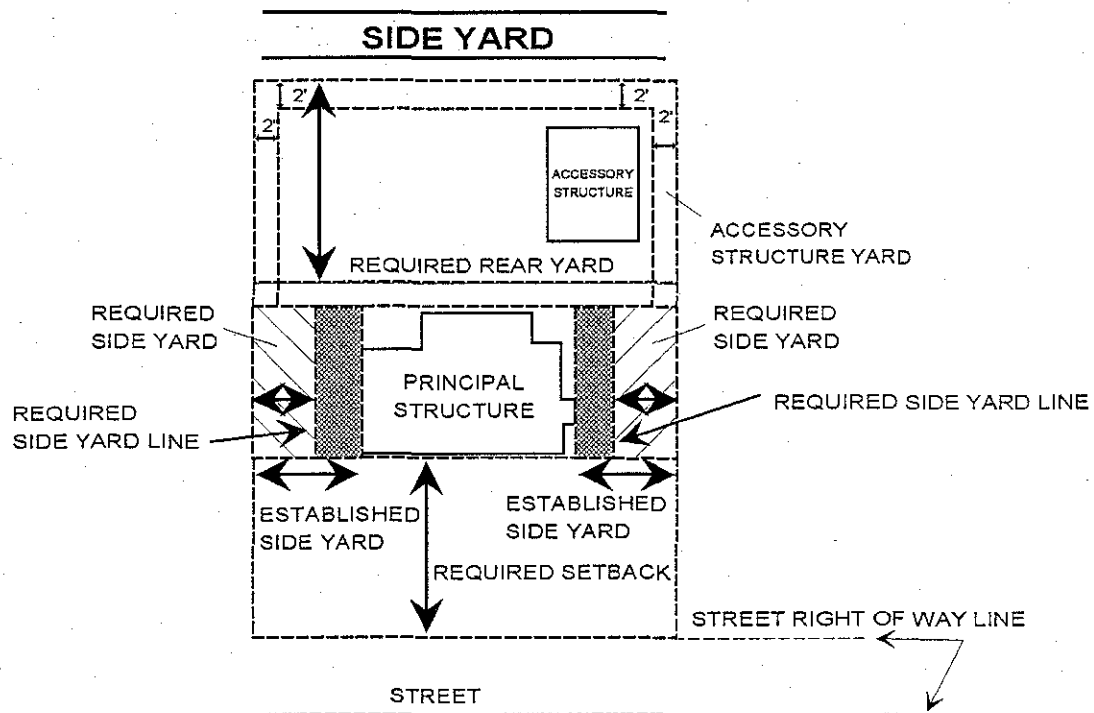


## MECKLENBURG CODE

### PART 2: DEFINITIONS

#### Yard, side, required.

The minimum distance required by this ordinance between the side lot line and the side building line, extending from the established setback to the established rear yard. If no setback is required, the side yard shall be defined as extending from the street line to the rear yard.



#### Yard, side, established.

The distance between the side lot line and the side building line, extending from the established setback to the established rear yard. If no setback is required, the side yard shall be defined as extending from the street line to the established rear yard.

## MECKLENBURG CODE

### PART 2: DEFINITIONS

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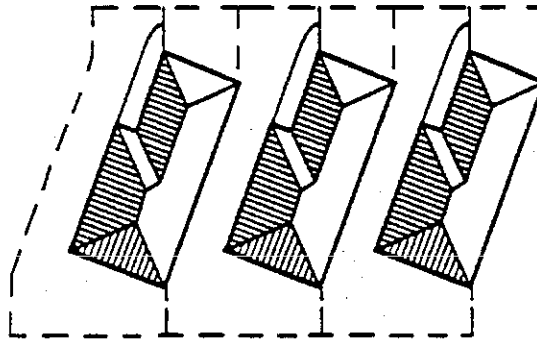
#### Yard trash.

Solid waste consisting solely of vegetative material resulting from landscaping and yard maintenance such as brush, grass, tree limbs.

#### Zero lot line.

The location of a building on a lot in such a manner that one or more of the building's sides rests directly on a side lot line.

#### ZERO LOT LINE



#### Zoning Administrator.

The employee of the Mecklenburg County Building Standards Department charged with the administration and enforcement of these regulations or his or her designee.

# MECKLENBURG CODE

## **PART 1: BOARD OF COMMISSIONERS**

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### **CHAPTER 3:**

### **DECISION-MAKING AND ADMINISTRATIVE BODIES**

#### **PART 1: BOARD OF COMMISSIONERS**

##### **Section 3.101. Powers and duties.**

The Board of Commissioners shall have the following powers and duties to be carried out in accordance with these regulations which include, but are not limited to, the following:

- (1) To initiate and make amendments to the text of these regulations and to the Zoning Maps.
- (2) To hear, review, and adopt or reject amendments to the text of these regulations and to the Zoning Maps.
- (3) To take such other action not delegated to the Planning Commission or Board of Adjustment as the Board of Commissioners may deem desirable and necessary to implement the provisions of these regulations.

## MECKLENBURG CODE

### **PART 2: PLANNING COMMISSION**

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#### **PART 2: PLANNING COMMISSION**

##### **Section 3.201. Powers and duties.**

The Planning Commission shall have the following powers and duties to be carried out in accordance with these regulations which include, but are not limited to, the following:

- (1) To initiate, review, and make recommendations to the Board of Commissioners regarding amendments to the text of these regulations and to the Zoning Maps.
- (2) To review the progress of development allowed under the terms of a reclassification of property.
- (3) To adopt such rules of procedure necessary for the administration of its responsibilities not inconsistent with these regulations.

##### **Section 3.202. Membership; officers.**

Members and officers of the Planning Commission shall be appointed and removed in accordance with the Interlocal Cooperation Agreement made and entered into as of July 2, 1984, between the City of Charlotte and the County of Mecklenburg, as it may be amended from time to time.

##### **Section 3.203. Meetings, hearings, and procedures.**

- (1) All meetings and hearings shall be open to the public as required by law and shall be conducted in accordance with the procedures set forth in these regulations and rules of procedure adopted by the Planning Commission in accordance with these regulations and in accordance with the Interlocal Cooperation Agreement of July 2, 1984, as it may be amended from time to time.
- (2) Any rules of procedure adopted by the Planning Commission shall be kept on file by the Planning Commission.
- (3) No meeting or business shall be conducted by the Planning Commission without a quorum, as defined for the Planning Commission and its committees by the Interlocal Cooperation Agreement of July 2, 1984, as it may be amended from time to time.

## MECKLENBURG CODE

### **PART 2: PLANNING COMMISSION**

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- (4) In the event that a quorum is not present at any meeting of the Planning Commission, the meeting shall be rescheduled by the Chairman to a date certain, as soon as is practical and in accordance with applicable rules of the Commission.
- (5) The Planning Commission shall keep minutes of its proceedings, showing the vote of each member upon each question, or indicating the fact that a member is absent or is excused from voting under the rules of the Commission, and shall keep records of its examinations and other official actions, all of which shall be filed immediately in the office of the Planning Commission as public records.

#### **Section 3.204. Staff.**

The staff for the Planning Commission shall be provided in accordance with the Interlocal Cooperation Agreement made and entered into as of July 2, 1984, between the City of Charlotte and the County of Mecklenburg, as it may be amended from time to time.

## MECKLENBURG CODE

### **PART 3: BOARD OF ADJUSTMENT**

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#### **PART 3: BOARD OF ADJUSTMENT**

##### **Section 3.301. Powers and duties.**

The Zoning Board of Adjustment shall have the following powers and duties to be carried out in accordance with these regulations which include, but are not limited to, the following:

- (1) To hear and decide appeals from and to review any specific order, requirement, decision or determination made under these regulations by the Zoning Administrator (except with respect to S.W.I.M. stream buffers as regulated by PART 8 of CHAPTER 12 and watershed buffers regulated by a watershed overlay district which are within a S.W.I.M. stream buffer).
- (2) To hear and decide petitions for variances from these regulations (except with respect to S.W.I.M. stream buffers as regulated by PART 8 of CHAPTER 12 and watershed buffers regulated by a watershed overlay district which are within a S.W.I.M. stream buffer) in accordance with the provisions of Section 5.108.
- (3) To adopt such rules of procedure necessary for the administration of its responsibilities not inconsistent with these regulations.
- (4) To assume any other duties assigned by the Board of Commissioners.
- (5) The Board of Adjustment shall not have jurisdiction with respect to Section 6.201 Conditional Districts except as provided in this section. The Board of Adjustment shall have jurisdiction with respect to conditional districts if the request pertains to a variance from specified minimum requirements of the zoning ordinance and is filed with the Board prior to the approval of a conditional district. In addition the Board of Adjustment may also hear and decide on various petitions for approved conditional district plans on matters related to ordinance provisions which are not associated with specifically approved conditions of the plan that are more restrictive than minimum ordinance requirements. At no time shall the Board of Adjustment have authority to consider a variance relating to the number of or size of permissible signs in a conditional district.

##### **Section 3.302. Membership; officers.**

Members and officers of the Zoning Board of Adjustment shall be appointed and removed in accordance with the Board of Commissioners procedures.

## MECKLENBURG CODE

### **PART 3: BOARD OF ADJUSTMENT**

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#### **Section 3.303. Meetings, hearings and procedures.**

- (1) All meetings and hearings shall be open to the public as required by law and shall be conducted in accordance with the procedures set forth in these regulations and rules of procedure adopted by the Board of Adjustment in accordance with these regulations.
- (2) Any rules of procedure adopted by the Board of Adjustment shall be kept on file at the office of the Zoning Administrator, and a current copy or synopsis of such rules shall be provided to each appellant or applicant at the time of filing a notice of appeal or variance application.
- (3) No meeting, hearing, or action shall be conducted by the Board of Adjustment without a quorum, as defined for the Board of Adjustment rules of procedure.
- (4) The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or indicating the fact that a member is absent or is excused from voting under the rules of the Board of Adjustment, and shall keep records of its examinations and other official actions, all of which shall be filed immediately in the office of the Zoning Administrator as public records.
- (5) The concurring vote of majority of the members of the Board of Adjustment is required to reverse or modify any other, requirement, decision, or determination made by the Zoning Administrator or to grant a variance from the requirements of these regulations.

#### **Section 3.304. Staff.**

The staff for the Board of Adjustment shall be provided by the Zoning Administrator.

## MECKLENBURG CODE

### **PART 4: HISTORIC DISTRICT COMMISSION**

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#### **PART 4: HISTORIC DISTRICT COMMISSION**

##### **Section 3.401. Powers and duties.**

The Historic District Commission shall have the following powers and duties to be carried out in accordance with these regulations, which include, but are not limited to the following:

- (1) To hear, review, and decide on applications for certificates of appropriateness under Chapter 10, Part 2.
- (2) To develop guidelines for development within designated historic districts.

##### **Section 3.402. Membership; officers.**

Members and officers of the Historic District Commission shall be appointed and removed in accordance with the Interlocal Cooperation Agreement made and entered into as of the effective date of this ordinance between the City of Charlotte and the County of Mecklenburg, as it may be amended from time to time.

##### **Section 3.403. Meetings, hearings, and procedures.**

- (1) All meetings and hearings shall be open to the public as required by law and shall be conducted in accordance with the procedures set forth in these regulations and rules of procedure adopted by the Historic District Commission in accordance with these regulations and in accordance with the Interlocal Cooperation Agreement entered into as of the effective date of these regulations, as it may be amended from time to time.
- (2) Any rules of procedure adopted by the Historic District Commission shall be kept on file at the office of the Historic District Commission.
- (3) No meeting, hearing, or action shall be conducted by the Historic District Commission without a quorum, as defined for the Historic District Commission by the Interlocal Cooperation Agreement entered into as of the effective date of these regulations, as it may be amended from time to time.
- (4) In the event that a quorum is not present at any meeting of the Historic District Commission, the meeting shall be rescheduled by the Chairman to a date certain.



## MECKLENBURG CODE

### **PART 4: HISTORIC DISTRICT COMMISSION**

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as soon as is practical and in accordance with applicable rules of the Historic District Commission.

- (5) The Historic District Commission shall keep minutes of its proceedings, showing the vote of each member upon each question, or indicating the fact that a member is absent or is excused from voting under the rules of the Historic District Commission, and shall keep records of its examinations and other official actions, all of which shall be filed immediately in the office of the Historic District Commission as public records.

#### **Section 3.404. Staff.**

Staff for the Historic District Commission shall be provided in accordance with the Interlocal Cooperation Agreement made and entered into as of the effective date of this ordinance between the City of Charlotte and the County of Mecklenburg, as it may be amended from time to time.

## MECKLENBURG CODE

### **PART 5: PROFESSIONAL STAFF**

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#### **PART 5: PROFESSIONAL STAFF**

##### **Section 3.501. Planning Commission Staff; powers and duties.**

In addition to any authority granted to the staff of the Charlotte-Mecklenburg Planning Commission by other laws and ordinances, the Planning Director and the employees under his or her control shall have the following powers and duties to be carried out in accordance with these regulations which include, but are not limited to, the following:

- (1) To serve as staff to the Board of Commissioners, and the Planning Commission, with regard to their functions under these regulations, and to inform such bodies of all facts and information at their disposal with respect to applications for amendments to the text of these regulations, and amendments to the Zoning Maps, the preparation, adoption, and updating of land use plans, or any other matters brought before them.
- (2) To maintain the text of these regulations and the Zoning Maps.
- (3) To maintain development review files and other public records related to the administration and enforcement of these regulations.
- (4) To review applications for building permits in conditional zoning districts filed under these regulations.
- (5) To recommend and comment on proposed amendments to these regulations and to the Zoning Maps.
- (6) To establish such rules of procedure as are necessary and proper for the administration of their responsibilities under these regulations.
- (7) To determine street classifications not otherwise specified on the adopted Charlotte-Mecklenburg Thoroughfare Plan.

##### **Section 3.502. Building Standards Department; powers and duties.**

In addition to any authority granted to the Building Standards Department by other laws and ordinances, the Zoning Administrator and the employees under his or her control shall have the following powers and duties, to be carried out in accordance with these regulations which include, but are not limited to, the following:

- (1) To enforce the provisions of these regulations and conduct inspections.

## MECKLENBURG CODE

### **PART 5: PROFESSIONAL STAFF**

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- (2) To distribute applications for building permits and certificates of occupancy as required by these regulations.
- (3) To review for zoning compliance with these regulations all applications for building permits, certificates of occupancy and all rezoning petitions.
- (4) To serve as staff to the Zoning Board of Adjustment with regard to its function under these regulations and inform such body of all facts and information at its disposal with respect to appeals and variances, or any other matter brought before it under these regulations.
- (5) To maintain development review files and other public records related to the administration and enforcement of these regulations.
- (6) To inform applicants in order to facilitate and expedite their compliance with the requirements of these regulations.
- (7) To render interpretations of the provisions of these regulations and the district boundaries indicated on the Zoning Maps.
- (8) To determine the extent of damage or destruction of nonconforming uses and structures.
- (9) To provide the Board of Commissioners and Planning Commission with reports and recommendations, at their direction, with respect to matters before those bodies under the provisions of these regulations.
- (10) To establish such rules of procedure as are necessary and proper for the administration of their responsibilities under these regulations.

#### **Section 3.503. Engineering Department; powers and duties.**

In addition to any authority granted to the Engineering Department by other laws and ordinances, the Engineering Department shall have the powers and duties in accordance with these regulations, which include, but are not limited to, the following:

- (1) To review applications for building permits and rezoning petitions to determine compliance of the proposed development with County requirements for engineering, erosion control, and drainage.
- (2) To provide the Board of Commissioners and Planning Commission with reports and recommendations, at their direction, with respect to matters before those bodies under the provisions of these regulations.

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### **PART 5: PROFESSIONAL STAFF**

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- (3) To review applications for building permits and rezoning petitions to determine compliance of the proposed development with the standards in these regulations regarding parking, loading and unloading, internal traffic circulation, and connections to public street rights-of-way.
- (4) To evaluate the traffic generated by a proposed development and any improvements to be provided by the developer to ameliorate the impact of that traffic.

#### **Section 3.504. Utility Department; powers and duties.**

In addition to any authority granted to the Charlotte-Mecklenburg Utility Department by other laws and ordinances, the Charlotte-Mecklenburg Utility Department shall have the powers and duties in accordance with these regulations, which include, but are not limited to, the following:

- (1) When requested, to review applications for rezoning petitions to evaluate the impact of proposed development on the demand for public water and sewer facilities intended to serve that development.
- (2) When requested, to review applications for building permits and rezoning petitions to determine compliance of any water and sewer facilities and improvements to be provided by the developer.
- (3) To provide the Board of Commissioners and Planning Commission with reports and recommendations, at their direction, with applicable standards and regulations.

#### **Section 3.505. Parks and Recreation Department; powers and duties.**

In addition to any authority granted to the Parks and Recreation Department by other laws and ordinances, the Parks and Recreation Department shall have the powers and duties in accordance with these regulations, which include, but are not limited to, the following:

- (1) When requested, to review applications for rezoning petitions to evaluate the impact of the proposed development on the demand for public recreational lands and facilities intended to serve that development.
- (2) When requested, to review applications for building permits to determine the compliance of any public recreational lands and facilities to be provided by the developer with applicable standards and regulations.

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- (3) To provide the Board of Commissioners and Planning Commission with reports and recommendations, at their direction, with respect to matters before those bodies under the provisions of these regulations.

#### **Section 3.506. Department of Health; powers and duties.**

In addition to any authority granted to the Health Department by other laws and ordinances, the Health Department shall have the powers and duties in accordance with these regulations, which include, but are not limited to, the following:

- (1) To review applications for rezoning petitions to evaluate the impact of the proposed development on septic tank usage and public health.
- (2) When requested, to review applications for building permits to evaluate septic tank usage for compliance with applicable standards and regulations.
- (3) To provide the Board of Commissioners and Planning Commission with reports and recommendations, at their direction, with respect to matters before those bodies under the provisions of these regulations.

#### **Section 3.507. Department of Environmental Protection; powers and duties.**

In addition to any authority granted to the Environmental Protection Department by other laws and ordinances, the Environmental Protection Department shall have the powers and duties in accordance with these regulations, which include, but are not limited to, the following:

- (1) To review applications for rezoning petitions to evaluate the impact of proposed development on air quality, water quality, public water supplies, and the transportation and disposal of solid and hazardous wastes.
- (2) When requested, to review applications for building permits for compliance with applicable standards and regulations.
- (3) To provide the Board of Commissioners and Planning Commission with reports and recommendations, at their direction, with respect to matters before those bodies under the provisions of these regulations.

#### **Section 3.508. Fire Marshal; powers and duties.**

In addition to any authority granted to the Fire Marshal by other laws and ordinances, the Fire

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### **PART 5: PROFESSIONAL STAFF**

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Marshal shall have the powers and duties in accordance with these regulations which include, but are not limited to, the following:

- (1) To review applications for building permits and rezoning petitions to evaluate the proposed development's risk for fire hazards and accessibility for fire fighting equipment, to determine the compliance of water supplies with applicable standards and regulations to meet fire fighting needs, and to determine the compliance of any hydrants or other fire fighting equipment to be provided by the developer with applicable standards and regulations.
- (2) To provide the Board of Commissioners and Planning Commission with reports and recommendations, at their direction, with respect to matters before those bodies under the provisions of these regulations.

#### **Section 3.509. Charlotte-Mecklenburg Schools Staff; powers and duties.**

In addition to any authority granted to the staff of the Charlotte- Mecklenburg Schools by other laws and ordinances, the Superintendent of Schools and the employees under his or her control shall have the following powers and duties to be carried out in accordance with these regulations which include, but are not limited to, the following:

- (1) When requested, to review applications for rezoning petitions to evaluate the impact of the proposed development on the demand for school facilities.
- (2) When requested, to review building permits to determine the compliance of any school land or facilities to be provided by the developer with applicable standards and regulations.
- (3) To provide the Board of Commissioners and Planning Commission with reports and recommendations, at their direction, with respect to matters before those bodies under the provision of these regulations.

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### **PART 6: CHARLOTTE-MECKLENBURG STORM WATER ADVISORY COMMITTEE**

#### **PART 6: CHARLOTTE-MECKLENBURG STORM WATER ADVISORY COMMITTEE**

##### **Section 3.601. Powers and duties.**

The Charlotte-Mecklenburg Storm Water Advisory Committee is designated as a planning agency and shall have the following powers and duties to be carried out in accordance with these regulations, which include, but are not limited, to the following:

- (1) To hear and decide appeals from and to decide any specific order, requirement, decision or determination made by the Zoning Administrator under PART 8 of CHAPTER 12, S.W.I.M. (SURFACE WATER IMPROVEMENT AND MANAGEMENT) STREAM BUFFERS and with respect to watershed buffers regulated by a watershed overlay district which are within a S.W.I.M. stream buffer.
- (2) To hear and decide petitions for variances from PART 8 of CHAPTER 12 and with respect to watershed buffers regulated by a watershed overlay district, which are within a S.W.I.M. stream buffer, in accordance with the provisions of Section 5.108.
- (3) To adopt such rules and procedures necessary for the administration of its responsibilities under this Ordinance not inconsistent with these regulations.
- (4) To assume any other duties assigned by the Board of Commissioners.
- (5) The Storm Water Advisory Committee shall follow the procedures contained in Part 2 of CHAPTER 5 with respect to the hearing and granting of appeals and variances.

##### **Section 3.602. Membership; officers.**

Members and officers of the Storm Water Advisory Committee shall be appointed and removed in accordance with the Interlocal Cooperation Agreement for Operation of a Single Storm Water System in Mecklenburg County made and entered into in 1993 between the City of Charlotte and Mecklenburg County, as it may be amended from time to time.

## MECKLENBURG CODE

### PART 6: CHARLOTTE-MECKLENBURG STORM WATER ADVISORY COMMITTEE

#### **Section 3.603. Meetings, hearings and procedures.**

- (1) All meetings and hearings shall be open to the public as required by law and shall be conducted in accordance with the procedures set forth in these regulations and rules of procedures adopted by the Storm Water Advisory Committee in accordance with these regulations and in accordance with the Interlocal Cooperation Agreement, as it may be amended from time to time.
- (2) Any rules of procedure adopted by the Storm Water Advisory Committee with respect to its duties under this Ordinance shall be kept on file at the office of the Zoning Administrator, and a current copy or synopsis of such rules shall be provided to each appellant or applicant at the time of filing a notice of appeal or variance application.
- (3) No meeting, hearing or action in fulfillment of its duties under this Ordinance shall be conducted by the Storm Water Advisory Committee without a quorum, as defined for the Storm Water Advisory Committee by the Interlocal Cooperation Agreement, as it may be amended from time to time.
- (4) The Storm Water Advisory Committee shall keep minutes of its proceedings, showing the vote of each member upon each question, or indicating the fact that a member is absent or excused from voting under the rules of the Storm Water Advisory Committee, and shall keep records of its examinations and other official actions pursuant to its responsibilities under this Ordinance, all of which shall be filed immediately in the office of the Zoning Administrator as public records.
- (5) The concurring vote of a majority of the members of the Storm Water Advisory Committee (five (5) of the nine (9) members regardless of the number of members present for a hearing) is required to reverse or modify any order, requirement, decision, or determination made by the Zoning Administrator or to grant a variance from the requirements of these regulations.

#### **Section 3.604. Staff.**

The staff for the Storm Water Advisory Committee shall be provided by the Mecklenburg County Engineering and Building Standards Department.



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## CHAPTER 4:

### DEVELOPMENT APPROVAL

#### Section 4.101. General.

- (1) The forms of development approval governed by this Chapter concern uses permitted as of right, and uses permitted under prescribed conditions allowed in a zoning district under Chapters 9, 10, and 11.
- (2) Uses permitted by-right and uses permitted under prescribed conditions, and uses and structures accessory thereto, shall require a building permit and a certificate of occupancy.
- (3) Changes in the use of property shall require a certificate of occupancy.
- (4) The procedures and standards of this Chapter shall not apply to signs; rather, signs shall be subject to the permit requirements, procedures, and standards established in Chapter 13 of these regulations.
- (5) Appeals from administrative decisions rendered under this Chapter shall be governed by Chapter 5.
- (6) Variances from these regulations to allow a person to receive approval under this Chapter shall be governed by Chapter 5.
- (7) Amendments to the text of these regulations and to the Zoning Maps, including the reclassification of property to a conditional zoning district, shall be governed by Chapter 6.

#### Section 4.102. Building permit required.

- (1) It is illegal for any person to begin the construction, reconstruction or demolition of a structure or any part of a structure, or to begin to excavate a structure, or to make any structural repairs, alterations, or additions to any structure, or to commence construction of any paved area, which will result in an area of more than twenty thousand square feet of impervious cover, without obtaining a building permit from the Director of Building Standards.

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- (2) The Director of Building Standards will not issue a building permit unless the plans, specifications, and intended use of the structure conform to the requirements of these regulations. The application for a building permit must be accompanied by information sufficient to allow the Director of Building Standards to act on the request and be filed in the office of Director of Building Standards accompanied by a fee established by the Board of Commissioners.

### **Section 4.103. Certificate of occupancy required.**

It is illegal for any person to occupy or use any land, building, or structure or change the use of any land, building, or structure, except for land used for agricultural purposes, without first obtaining a certificate of occupancy.

### **Section 4.104. Zoning review.**

The Zoning Administrator shall conduct reviews and make approvals of zoning compliance under these regulations for the issuance of building permits, certificates of occupancy, sign permits and zoning use permits.

### **Section 4.105. Moratorium on the establishment or the expansion of certain land uses.**

- (1) Rational

The Mecklenburg County Board of Commissioners is concerned that certain land uses - demolition landfills, medical waste disposal facilities, sanitary landfills, solid waste transfer facilities, and quarries - may not be regulated by the Mecklenburg County Zoning Ordinance in the most appropriate manner. Therefore, the Board of Commissioners has requested that the Charlotte-Mecklenburg Planning Commission comprehensively study the most appropriate manner for the Zoning Ordinance to regulate such land uses. Further, the Board of Commissioners has determined that no additional facilities of such land use types be authorized to be established or expanded until the study is complete and necessary amendments are made to the Zoning Ordinance.

- (2) Moratorium

- (a) A moratorium is established by the Board of Commissioners on the issuance of zoning permits for, the approval of, or the establishment of

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rights to establish or expand the following land uses: demolition landfills, medical waste disposal facilities, sanitary landfills, solid waste transfer facilities and quarries.

- (b) This moratorium shall be for a period of nine (9) months from the date of adoption of this amendment, or until the Zoning Ordinance is amended with respect to the regulation of such uses, whichever is sooner. Following the expiration of the original nine (9) month moratorium on July 8, 1997, the moratorium shall be extended for an additional six (6) months to January 8, 1998, or until the Zoning Ordinance is amended with respect to the regulation of such uses, whichever is sooner.

### **Section 4.106. Public notification process for certain land uses.**

#### **(1) Purpose**

There are certain land uses, which, because of their nature or scale, may have particular impacts on both the immediate area and the community as a whole. While these uses may be permitted under prescribed conditions, the neighboring property owners as well as the general public should have the opportunity to learn about these uses, present relative information that may affect the extent or design of the project, to rebut information supplied by the permit applicant, to ask questions, and to present any pertinent evidence regarding the petition and the requirements of this ordinance. Part of this process will be accomplished through the means of a public forum.

#### **(2) Notification process**

In order to facilitate the exchange of information and dialogue, the following process is established for certain land uses so specified:

- (a) The Zoning Administrator will cause the subject site to be posted with a notice stating that the proposed use has been requested, where additional information may be obtained, and establishing a date, time and place for a public forum. The Zoning Administrator will also mail a notice to affected property owners, as shown on the current County tax abstracts, within 100 feet of the proposed site including those across a street as

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well as those neighborhood leaders, as listed by the planning department, within one mile of the proposed site. Such notice will be posted and mailed within 10 working days from the time that the Zoning Administrator determines that the application is complete. The public forum should be held within 30-calendar days of the posting of the sign(s) and the mailing of the notices.

- (b) The applicant will be responsible for including with the application a listing of the affected property owners and addressed envelopes with proper postage affixed for mailing.
- (c) The Zoning Administrator shall not render a decision on the proposed use until a minimum of 21 calendar days has elapsed following the date of the forum. The 21-day period may be used by all parties to submit written statements of rebuttal to the Zoning Administrator. The Zoning Administrator will consider only those rebuttal statements that relate to the compliance of the proposed use with the provisions of this ordinance.
- (d) Within five business days after making a decision on the issuance of a permit, the Zoning Administrator will mail a notice of his decision to the affected property owners and any other persons who commented on the proposed issuance of the permit whose addresses are known.

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### PART 1: PROVISIONS OF GENERAL APPLICABILITY

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#### CHAPTER 5:

#### APPEALS AND VARIANCES

#### PART 1: PROVISIONS OF GENERAL APPLICABILITY

##### Section 5.101. Authority of Mecklenburg County Board of Adjustment.

- (1) The Board of Adjustment shall have the authority to hear and decide appeals from and to review any specific order, requirement, decision, or determination made under these regulations by the Zoning Administrator.
- (2) The Board of Adjustment shall have the authority to hear and decide petitions for variances from the requirements of these regulations, which relate to uses of land or the establishment, extension, or use of structures.
- (3) The Board of Adjustment shall have the authority to impose reasonable conditions and safeguards that the Board judges ought to be made on the lot involved with respect to the uses of land or the establishment, extension, or use of structures.
- (4) The Board of Adjustment shall not have jurisdiction with respect to Section 6.201 Conditional Zoning Districts except as provided in this section. The Board of Adjustment shall have jurisdiction with respect to conditional zoning districts if the request pertains to a variance from specified minimum requirements of the zoning ordinance and is filed with the Board prior to the approval of a conditional zoning district. In addition the Board of Adjustment may also hear and decide on various petitions for approved conditional zoning district plans on matters related to ordinance provisions which are not associated with specifically approved conditions of the plan that are more restrictive than minimum ordinance requirements. At no time shall the Board of Adjustment have authority to consider a variance relating to the number of or size of permissible signs in a conditional zoning district.
- (5) Pursuant to G.S. §153A-345(b) and (d), the Board of Adjustment only has the statutory authority to grant or to deny variances and to determine if the Zoning Administrator correctly or incorrectly interpreted and applied the zoning ordinance in rendering a decision. The Board of Adjustment does not have jurisdiction to address or rule upon constitutional and federal and state statutory issues or any other legal issues beyond its statutory authority.

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### **PART 1: PROVISIONS OF GENERAL APPLICABILITY**

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#### **Section 5.102. Initiation of an appeal or variance.**

- (1) An appeal must be initiated by any person aggrieved or by any officer, department, board, or bureau of the City of Charlotte or Mecklenburg County.
- (2) A petition for variance may be initiated only by the owner of the affected property, an agent authorized in writing to act on the owner's behalf, or a person having a written contractual interest in the affected property.

#### **Section 5.103. Filing of notice of appeal.**

- (1) A notice of appeal, in the form prescribed by the Board of Adjustment, shall be properly filed by a person aggrieved with the Zoning Administrator contesting the specific order, requirement, decision, or determination within 60 days of the day the order, requirement, decision, or determination is made or rendered by the Zoning Administrator. Such period for appeal shall be provided for in the Board of Adjustment rules of procedure. The notice filed with the Zoning Administrator shall be accompanied by a nonrefundable filing fee as established by the Board of Commissioners. Failure to timely and properly file such notice and fee shall constitute a waiver of any rights to appeal under this Chapter and the Board of Adjustment shall have no jurisdiction to hear the appeal.
- (2) Upon the filing of such notice, the Zoning Administrator shall forthwith transmit to the Board of Adjustment all administrative papers, records, and other information regarding the subject matter of the appeal.
- (3) An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment, after notice of appeal has been filed, that because of facts stated in the certificate a stay would cause imminent peril to life or property or that because the violation charged is transitory in nature a stay would seriously interfere with enforcement of these regulations. In that case proceedings shall not be stayed except by a restraining order, which may be granted by the Board of Adjustment or by a court of record on application, on notice to the officer from which the appeal is taken and on due cause shown.

#### **Section 5.104. Filing of variance petition.**

A petition for variance, in the form prescribed by the Board of Adjustment, shall be filed with

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### **PART 1: PROVISIONS OF GENERAL APPLICABILITY**

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the Zoning Administrator, accompanied by a nonrefundable filing fee as established by the Board of Commissioners.

#### **Section 5.105. Determination of completeness.**

A notice of appeal or a variance petition will not be deemed properly filed unless it is complete. Upon proper filing, the Board of Adjustment shall schedule the appeal or variance for a hearing.

#### **Section 5.106. Staff review.**

After proper filing of a completed variance petition or notice of appeal application by the Zoning Administrator, the petition or application shall be reviewed by the Zoning Administrator. A copy of an appeal or variance petition shall be transmitted to the Planning Director for informational purposes.

#### **Section 5.107. Notice and hearing.**

The Board of Adjustment shall, in accordance with rules adopted by it for such purpose, hold public hearings on any appeal or variance petition which comes before it.

#### **Section 5.108. Standards for granting a variance.**

- (1) Before granting a variance, the Board of Adjustment shall find:
  - (a) That practical difficulties or unnecessary hardship would result from the strict application of these regulations; and
  - (b) That the spirit of these regulations should be observed by taking into consideration the general intent of these regulations. The Zoning Board of Adjustment may also consider any adopted district plan or area plan covering the property, any other adopted written policies governing land development and the construction and improvement of public facilities; and
  - (c) That the public safety and welfare have been protected and substantial justice done.

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- (2) The Board of Adjustment shall not grant a variance which would allow the establishment of a use which is not otherwise permitted in the district, would result in the extension or expansion of a nonconforming use, or would change the district boundary, or zoning classification of any or all of the subject property. Except under circumstances described in subsection (3) below, the Board of Adjustment shall not grant a variance.
- (3) Only the following three conditions shall constitute a practical difficulty or unnecessary hardship and all must be met:
  - (a) The difficulty or hardship would result only from these regulations and from no other cause, including the actions of the owner or previous owners of the property; and
  - (b) The difficulty or hardship is peculiar to the property in question and is not generally shared by other properties in the same neighborhood and/or used for the same purposes; and
  - (c) The difficulty or hardship resulting from the application of these regulations would prevent the owner from securing a reasonable return or making a reasonable use of the property. The fact that the property could be utilized more profitably or conveniently with the variance than without the variance shall not be considered as grounds for granting the variance.

#### **Section 5.109. Standards for granting an appeal.**

- (1) The Board of Adjustment shall reverse or modify the specific order, requirement, decision, or determination under appeal only upon finding an error in the application of these regulations on the part of the officer rendering the order, requirement, decision, or determination.
- (2) In affirming, reversing, or modifying the order, requirement, decision, or determination, the Board of Adjustment shall have all the powers of the officer from whom the appeal is taken.

#### **Section 5.110. Action by the Board of Adjustment.**

- (1) The Board of Adjustment shall grant or deny the variance or shall reverse, affirm, or modify the order, decision, requirement, or determination under



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### **PART 1: PROVISIONS OF GENERAL APPLICABILITY**

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appeal. The Board of Adjustment shall make findings of fact and conclusions of law to support its decision.

- (2) If any aggrieved party wishes to receive a written copy of the decision of the Zoning Board of Adjustment, then the aggrieved party, as stated in G.S. Sec. 153A-345(e), must file a written request for a copy of the Board's decision with the Secretary or Chairperson of the Zoning Board of Adjustment at the time of the hearing of the case.

#### **Section 5.111. Effect of grant of variance or reversal or modification of administrative decision.**

After the Board of Adjustment approves a variance, or reverses or modifies an order, requirement, decision, or determination, of the Zoning Administrator, the appellant or petitioner shall be required to follow the applicable procedures of Chapter 4 for the approval of a building permit and certificate of occupancy in order to proceed with development of the subject property. Unless otherwise specified by the Board, any decision of the Board granting a variance shall automatically expire if a building permit or a certificate of occupancy pertaining to the need for the variance is not obtained within one year from the date of the meeting of the Board at which the Board rendered its decision.

All orders, requirements, decisions, and determinations made by the Zoning Administrator under those procedures shall be consistent with the variance, reversal, or modification granted to the appellant or petitioner by the Board of Adjustment.

#### **Section 5.112. Rehearing.**

The Board of Adjustment may rehear an appeal or variance petition that has been denied at any time after two years from the date of the denial. Prior to that two year period, the Board of Adjustment shall refuse to rehear an appeal or variance petition unless it finds that there have been substantial changes in the conditions or circumstances relating to the subject property beyond the control of the appellant or petitioner or in the surrounding area or other extraordinary change.

#### **Section 5.113. Appeal from Board of Adjustment.**

- (1) If no aggrieved party files a written request for a copy of the decision at the time of the hearing of the case, then any petition for a review of the Board's decision in the nature of certiorari by Superior Court must be filed with the Clerk of Superior Court within thirty (30) days after the decision of the Board

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of Adjustment is filed in the Charlotte-Mecklenburg Building Standards Department. Upon the filing of the decision in the Building Standards Department, the Zoning Administrator will make a notation on the filed decision stating the date upon which the decision has been filed.

- (2) If any aggrieved party has filed a written request for a copy of the decision at the time of the hearing of the case, as stated in G.S. Sec. 153-345(e), then a decision of the Board may be delivered to that aggrieved party either by personal service or by registered or certified mail with return written receipt requested.
- (3) Any aggrieved party, who has filed a written request for a copy of the decision at the time of the hearing of the case, will have thirty (30) days from receipt of the decision of the Board of Adjustment to file the petition for review in the nature of certiorari in Superior Court with the Clerk of Superior Court, or will have thirty (30) days from the date of the filing of the decision in Building Standards Department, by the Zoning Administrator, as stated above in Subsection (1), whichever is later.
- (4) If a petition for review pursuant to G.S. §153A-345(e) is filed, then the petitioner must order from the court reporter and pay for the original transcript of the hearing for delivery to the secretary of the Zoning Board of Adjustment for preparation of the filing of the record in superior court. If a court ultimately renders a decision in favor of the petitioner, then the County shall reimburse the petitioner for the cost of the transcript. In the event that the petitioner does not order the transcript and does not prevail on appeal, then the County shall request the Court to make the costs of the original transcript part of the costs of the action or recover the costs in the nature of debt owed.

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### **PART 2: SPECIAL PROVISIONS FOR APPEALS AND VARIANCES WITH RESPECT TO S.W.I.M. (SURFACE WATER IMPROVEMENT AND MANAGEMENT) STREAM BUFFERS, AND WATERSHED BUFFERS REGULATED BY A WATERSHED OVERLAY DISTRICT WHICH ARE WITHIN A S.W.I.M. STREAM BUFFER**

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### **PART 2: SPECIAL PROVISIONS FOR APPEALS AND VARIANCES WITH RESPECT TO S.W.I.M. (SURFACE WATER IMPROVEMENT AND MANAGEMENT) STREAM BUFFERS, AND WATERSHED BUFFERS REGULATED BY A WATERSHED OVERLAY DISTRICT WHICH ARE WITHIN A S.W.I.M. STREAM BUFFER**

#### **Section 5.201. Authority of Charlotte-Mecklenburg Storm Water Advisory Committee.**

- (1) The Storm Water Advisory Committee shall have the authority to hear and decide appeals from and to review any specific order, requirement, decision, or determination made under Part 8 of Chapter 12, S.W.I.M. (SURFACE WATER IMPROVEMENT AND MANAGEMENT) STREAM BUFFERS and with respect to watershed buffers regulated by a watershed overlay district which are within a S.W.I.M. stream buffer of these regulations by the Zoning Administrator.
- (2) The Storm Water Advisory Committee shall have the authority to hear and decide petitions for variances from the requirements of Part 8 of Chapter 12, S.W.I.M. (SURFACE WATER IMPROVEMENT AND MANAGEMENT) STREAM BUFFERS and with respect to watershed buffers regulated by a watershed overlay district which are within a S.W.I.M. stream buffer, of the regulations.
- (3) The Storm Water Advisory Committee shall have the authority to impose reasonable conditions and safeguards that the Committee judges ought to be made on the lot involved with respect to the uses of land or the establishment, extension, or use of structures.
- (4) The Storm Water Advisory Committee shall not have jurisdiction with respect to Section 6.201 Conditional Districts except as provided in this section. The Storm Water Advisory Committee shall have jurisdiction with respect to conditional districts if the request pertains to a variance from specified minimum requirements of Part 8 of Chapter 12, S.W.I.M. (SURFACE WATER IMPROVEMENT AND MANAGEMENT) STREAM BUFFERS or with respect to watershed buffers regulated by a watershed overlay district which are within a S.W.I.M. stream buffer, of the regulations and is filed with the Storm Water Advisory Committee prior to the approval of a conditional district. In

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### **PART 2: SPECIAL PROVISIONS FOR APPEALS AND VARIANCES WITH RESPECT TO S.W.I.M. (SURFACE WATER IMPROVEMENT AND MANAGEMENT) STREAM BUFFERS, AND WATERSHED BUFFERS REGULATED BY A WATERSHED OVERLAY DISTRICT WHICH ARE WITHIN A S.W.I.M. STREAM BUFFER**

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addition, the Storm Water Advisory Committee may also hear and decide on various petitions for approved conditional district plans on matters related to ordinance provisions which are not associated with specifically approved conditions of the plan that are more restrictive than minimum ordinance requirements.

- (5) Pursuant to G.S. §153A-345(b) and (d), the Storm Water Advisory Committee only has the statutory authority to grant or to deny variances and to determine if the Zoning Administrator correctly or incorrectly interpreted and applied the zoning ordinance in rendering a decision. The Storm Water Advisory Committee does not have jurisdiction to address or rule upon constitutional and federal and state statutory issues or any other legal issues beyond its statutory authority.

#### **Section 5.202. Initiation of an appeal or variance.**

- (1) An appeal must be initiated by any person aggrieved or by any officer, department, board, or bureau of the City of Charlotte or Mecklenburg County.
- (2) A petition for variance may be initiated only by the owner of the affected property, an agent authorized in writing to act on the owner's behalf, or a person having a written contractual interest in the affected property.

#### **Section 5.203. Filing of notice of appeal.**

- (1) A notice of appeal, in the form prescribed by the Storm Water Advisory Committee shall be properly filed by a person aggrieved with the Zoning Administrator contesting the specific order, requirement, decision, or determination within 60 days of the day the order, requirement, decision, or determination is made or rendered by the Zoning Administrator. Such period for appeal shall be provided for in the Storm Water Advisory Committee rules of procedure. The notice filed with the Zoning Administrator shall be accompanied by a nonrefundable filing fee as established by the Board of Commissioners. Failure to timely and properly file such notice and fee shall constitute a waiver of any rights to appeal under this Chapter and the Storm Water Advisory Committee shall have no jurisdiction to hear the appeal.

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### **PART 2: SPECIAL PROVISIONS FOR APPEALS AND VARIANCES WITH RESPECT TO S.W.I.M. (SURFACE WATER IMPROVEMENT AND MANAGEMENT) STREAM BUFFERS, AND WATERSHED BUFFERS REGULATED BY A WATERSHED OVERLAY DISTRICT WHICH ARE WITHIN A S.W.I.M. STREAM BUFFER**

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- (2) Upon the filing of such notice, the Zoning Administrator shall forthwith transmit to the Storm Water Advisory Committee all administrative papers, records, and other information regarding the subject matter of the appeal.
- (3) An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Storm Water Advisory Committee, after notice of appeal has been filed, that because of facts stated in the certificate a stay would cause imminent peril to life or property or that because the violation charged is transitory in nature a stay would seriously interfere with enforcement of these regulations. In that case proceedings shall not be stayed except by a restraining order, which may be granted by the Storm Water Advisory Committee from which the appeal is taken and on due cause shown.

#### **Section 5.204. Filing of variance petition.**

A petition for variance, in the form prescribed by the Storm Water Advisory Committee, shall be filed with the Zoning Administrator, accompanied by a nonrefundable filing fee as established by the Board of Commissioners.

#### **Section 5.205. Determination of completeness.**

A notice of appeal or a variance petition will not be deemed properly filed unless it is complete. Upon proper filing, the Storm Water Advisory Committee shall schedule the appeal or variance for a hearing.

#### **Section 5.206. Staff review.**

After proper filing of a completed variance petition or notice of appeal application with the Zoning Administrator, the petition or application shall be reviewed by the Zoning Administrator, or his designee. A copy of an appeal or variance petition shall be transmitted to the Planning Director for informational purposes.

## MECKLENBURG CODE

### **PART 2: SPECIAL PROVISIONS FOR APPEALS AND VARIANCES WITH RESPECT TO S.W.I.M. (SURFACE WATER IMPROVEMENT AND MANAGEMENT) STREAM BUFFERS, AND WATERSHED BUFFERS REGULATED BY A WATERSHED OVERLAY DISTRICT WHICH ARE WITHIN A S.W.I.M. STREAM BUFFER**

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#### **Section 5.207. Notice and hearing.**

The Storm Water Advisory Committee shall, in accordance with rules adopted by it for such purpose, hold public hearings on any appeal or variance petition which comes before it.

#### **Section 5.208. Standards for granting a variance.**

- (1) Before granting a variance, the Storm Water Advisory Committee shall find:
  - (a) That practical difficulties or unnecessary hardship would result from the strict application of these regulations; and
  - (b) That the spirit of these regulations should be observed by taking into consideration the general intent of these regulations. The Storm Water Advisory Committee may also consider any adopted district plan or area plan covering the property, any other adopted written policies governing land development and the construction and improvement of public facilities; and
  - (c) That the public safety and welfare have been protected and substantial justice done.
- (2) The Storm Water Advisory Committee shall not grant a variance, which would allow the establishment of a use which is not otherwise permitted in the district, would result in the extension or expansion of a nonconforming use, or would change the district boundary, or zoning classification of any or all of the subject property. Except under circumstances described in subsection (3) below, the Storm Water Advisory Committee shall not grant a variance.
- (3) Only the following three conditions shall constitute a practical difficulty or unnecessary hardship and all must be met:
  - (a) The difficulty or hardship would result only from these regulations and from no other cause, including the actions of the owner or previous owners of the property; and

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- (b) The difficulty or hardship is peculiar to the property in question and is not generally shared by other properties in the same neighborhood and/or used for the same purposes; and
- (c) The difficulty or hardship resulting from the application of these regulations would prevent the owner from securing a reasonable return or making a reasonable use of the property. The fact that the property could be utilized more profitably or conveniently with the variance than without the variance shall not be considered as grounds for granting the variance.

#### **Section 5.209. Standards for granting an appeal.**

- (1) The Storm Water Advisory Committee shall reverse or modify the specific order, requirement, decision, or determination under appeal only upon finding an error in the application of these regulations on the part of the officer rendering the order, requirement, decision, or determination.
- (2) In affirming, reversing, or modifying the order, requirement, decision, or determination, the Storm Water Advisory Committee shall have all the powers of the officer from whom the appeal is taken.

#### **Section 5.210. Action by Storm Water Advisory Committee.**

- (1) The Storm Water Advisory Committee shall grant or deny the variance or shall reverse, affirm, or modify the order, decision, requirement, or determination under appeal. The Storm Water Advisory Committee shall make findings of fact and conclusions of law to support its decision.
- (2) If any aggrieved party wishes to receive a written copy of the decision of the Storm Water Advisory Committee, then the aggrieved party, as stated in G.S. Sec. 153A-345(e), must file a written request for a copy of the Committee's decision with the Secretary or Chairperson of the Storm Water Advisory Committee at the time of the hearing of the case.

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### **PART 2: SPECIAL PROVISIONS FOR APPEALS AND VARIANCES WITH RESPECT TO S.W.I.M. (SURFACE WATER IMPROVEMENT AND MANAGEMENT) STREAM BUFFERS, AND WATERSHED BUFFERS REGULATED BY A WATERSHED OVERLAY DISTRICT WHICH ARE WITHIN A S.W.I.M. STREAM BUFFER**

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#### **Section 5.211. Effect of grant of variance or reversal or modification of administrative decision.**

After Storm Water Advisory Committee approves a variance, or reverses or modifies an order, requirement, decision, or determination, of the Zoning Administrator, the appellant or petitioner shall be required to follow the applicable procedures of Chapter 4 for the approval of a building permit and certificate of occupancy in order to proceed with development of the subject property. Unless otherwise specified by the Committee, any decision of the Committee granting a variance shall automatically expire if a building permit or a certificate of occupancy pertaining to the need for the variance is not obtained within one year from the date of the meeting of the Committee at which the Committee rendered its decision.

All orders, requirements, decisions, and determinations made by the Zoning Administrator under those procedures shall be consistent with the variance, reversal, or modification granted to the appellant or petitioner by the Storm Water Advisory Committee.

#### **Section 5.212. Rehearing.**

The Storm Water Advisory Committee may rehear an appeal or variance petition that has been denied at any time after two years from the date of the denial. Prior to that two-year period, the Storm Water Advisory Committee shall refuse to rehear an appeal or variance petition unless it finds that there have been substantial changes in the conditions or circumstances relating to the subject property beyond the control of the appellant or petitioner or in the surrounding area or other extraordinary change.

#### **Section 5.213. Appeal from the Storm Water Advisory Committee.**

- (1) If no aggrieved party files a written request for a copy of the decision at the time of the hearing of the case, then any petition for a review of the Committee's decision in the nature of certiorari by Superior Court must be filed with the Clerk of Superior Court within thirty (30) days after the decision of the Storm Water Advisory Committee is filed in the Mecklenburg County Engineering and Building Standards Department. Upon the filing of the decision in the Engineering and Building Standards Department, the Zoning Administrator will make a notation on the filed decision stating the date upon which the decision has been filed.



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- (2) If any aggrieved party has filed a written request for a copy of the decision at the time of the hearing of the case, as stated in G.S. Sec. 153-345(e), then a decision of the Committee may be delivered to that aggrieved party either by personal service or by registered or certified mail with return written receipt requested.
- (3) Any aggrieved party, who has filed a written request for a copy of the decision at the time of the hearing of the case, will have thirty (30) days from receipt of the decision of the Storm Water Advisory Committee to file the petition for review in the nature of certiorari in Superior Court with the Clerk of Superior Court, or will have thirty (30) days from the date of the filing of the decision in Engineering and Building Standards Department, by the Zoning Administrator, as stated above in Subsection (1), whichever is later.
- (4) If a petition for review pursuant to G.S. §153A-345(e) is filed, then the petitioner must order from the court reporter and pay for the original transcript of the hearing for delivery to the secretary of the Storm Water Advisory Committee for preparation of the filing of the record in superior court. If a court ultimately renders a decision in favor of the petitioner, then the County shall reimburse the petitioner for the cost of the transcript. In the event that the petitioner does not order the transcript and does not prevail on appeal, then the County shall request the Court to make the costs of the original transcript part of the costs of the action or recover the costs in the nature of the debt owed.



# MECKLENBURG CODE

## PART 1: PROVISIONS OF GENERAL APPLICABILITY

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### CHAPTER 6:

### AMENDMENTS

#### PART 1: PROVISIONS OF GENERAL APPLICABILITY

##### **Section 6.101. Purpose.**

The purpose of this chapter is to provide a means for amending the text of these regulations and the classification of any parcel of land identified on the Official Zoning Maps. The purpose is not to relieve particular hardships, nor to confer special privileges or rights on any person, but only to make adjustments (i) necessary in light of changed conditions or changes in public policy, or (ii) likely to achieve the purposes of these regulations.

##### **Section 6.102. Authority.**

Upon compliance with the provisions of this Chapter, the Board of Commissioners shall have the authority to amend or repeal the text of these regulations and the classification of any parcel of land, as indicated on the Official Zoning Maps.

##### **Section 6.103. Initiation.**

- (1) Any amendment, except for the reclassification of property to a conditional zoning district, may be initiated by the Board of Commissioners or Planning Commission on its own motion, or by any owner of a legal interest in the property, anyone else authorized in writing to act on the owner's behalf, or by any non-owner in accordance with the procedures set forth in Section 6.106.
- (2) An amendment for the reclassification of property to a conditional zoning district may be initiated only by the owner of a legal interest in the affected property, any person having an interest in the property by reason of a written contract with owner, or an agent authorized in writing to act on the owner's behalf.
- (3) When considering a petition for the reclassification of property to any district other than a conditional zoning district, the Planning Commission and the Board of Commissioners shall not evaluate the petition based on any specific proposal for the use or development of the affected property and the petitioner shall refrain from using any graphic materials or descriptions of the proposed use or

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development except for those which would apply to any use permitted in the requested district.

- (4) A text amendment to these regulations may be initiated by any person.

#### **Section 6.104. Preliminary meeting with staff.**

Before filing a petition for the reclassification of property under Section 6.105, the petitioner shall meet with the Planning Commission staff to discuss the nature of the proposed reclassification, the standards for development under the existing and proposed classifications, and concerns that persons residing in the vicinity of the property may have regarding the proposed reclassification, if known.

#### **Section 6.105. Filing of petitions.**

- (1) A petition for reclassification of property or text amendment must be in a form prescribed by the Planning Commission and accompanied by the fee established by the Board of Commissioners, and shall be filed with the Planning Director.
- (2) No application for reclassification of property will be accepted until it is complete. A decision by the Planning Director or his or her designee that an application is incomplete may be appealed to the Planning Commission. A decision by the Planning Commission that an application is incomplete may be appealed to the Board of Commissioners.

#### **Section 6.106. Procedures for rezonings proposed by someone other than the property owner, Planning Commission, or Board of Commissioners.**

- (1) The petition shall be submitted to the Planning Commission and Board of Commissioners for preliminary evaluation prior to the scheduling of a public hearing on the petition. In this preliminary review, the Planning Commission shall consider whether the petition is consistent with the objectives and policies of the adopted "Generalized Land Plan" and any adopted district plan or area plan applicable to the affected property and shall deliver to the Board of Commissioners a report and recommendation for that body to:
  - (a) Authorize a public hearing on the petition;
  - (b) Issue a report containing recommendations and/or conditions for

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modification of the petition prior to authorizing scheduling a public hearing; or

- (c) Reject the petition.
- (2) The Board of Commissioners shall then determine whether or not to grant a public hearing for such a petition. Any hearing for such a petition shall be conducted in accordance with Section 6.111 at the earliest available date allowing adequate time for staff review under Section 6.107.

#### **Section 6.107. Staff review.**

- (1) The Planning Director shall review the proposed amendment.
- (2) The Planning Director shall deliver copies of the proposed amendment to other appropriate agencies including, but not limited to, the Building Standards Department, Engineering Department, Health Department, Department of Environmental Protection, Parks and Recreation Department, Utilities Department, Charlotte- Mecklenburg Schools Staff and Fire Marshal.
- (3) The Planning Director, based on the Planning Commission staff's review of the proposed amendment and incorporating or summarizing the reports of other agencies, shall deliver to the Planning Commission and Board of Commissioners, prior to the scheduled hearing, a written report and recommendation setting forth whether the amendment should be granted or denied and the reasons for such recommendation.

#### **Section 6.108. Withdrawal and amendment of petition.**

- (1) A petition filed under Section 6.105 may be withdrawn by the petitioner at any time up to adoption of a resolution by Board of Commissioners scheduling the date of the hearing for the petition. After that time, the petitioner may file a request to withdraw the petition with the Planning Director. The Board of Commissioners shall decide, on the date scheduled for the hearing, whether to allow the withdrawal.
- (2) It is generally not the intent of this section to permit the withdrawal of petitions after the resolution date scheduling the public hearing. The Board of Commissioners may approve a request for withdrawal after the resolution date only if it decides that there are substantial circumstances favoring the withdrawal and that the withdrawal will not be detrimental to the interests of

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citizens affected by the petition. Withdrawal is a matter of discretion with the Board of Commissioners and not a matter of right.

- (3) The petitioner shall not be allowed to amend the petition after a public hearing has been scheduled for the petition unless such an amendment to the petition is submitted to the Planning Director no later than three weeks prior to the scheduled public hearing. No changes to the petition shall be accepted in the intervening weeks prior to the hearing. Also, no changes to the petition shall be made at the hearing, although potential changes proposed by the petitioner, Planning Commission, Board of Commissioners, and other interested parties may be considered by the Board of Commissioners at the time of their hearing, if any changes are offered.
- (4) The Planning Commission, upon reviewing any proposed amendments after a public hearing, must first evaluate whether an amendment is substantial enough to require recommending another public hearing. The Board of Commissioners may, at its discretion, schedule the amended petition for a new public hearing, preceded by the notice required in Section 6.109.
- (5) If the Planning Commission deems any proposed amendment to be a change but not requiring another public hearing of the petition, it may defer action on the petition for at least 30 days in order for staff and other interested parties to have the opportunity to review and comment on the amendment to the petition. After the deferral or new public hearing, the Planning Commission may then consider the amended petition and forward its recommendation to the Board of Commissioners and other interested parties.

If the petitioner wishes to again amend the petition after the Planning Commission's recommendation and prior to a vote by the Board of Commissioners, then prior to the time of the vote, the Board shall refer the petition as amended by the petitioner to the Planning Commission for additional review unless the Board of Commissioners, by a three-fourths (3/4) vote of all members present except members properly excused from voting, determines that the nature of the modification is such that the Planning Commission review is not necessary.

#### **Section 6.109. Notice of hearing.**

Notice of all public hearings required under this Chapter shall be in accordance with the North Carolina General Statutes and rules and procedures adopted by the Board of County Commissioners.

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#### **Section 6.110. Hearing.**

- (1) No amendment shall be adopted until after the Board of Commissioners has held a public hearing on the proposed amendment.
- (2) The hearing shall be conducted in accordance with rules and procedures adopted by Board of Commissioners.
- (3) No proposed amendment shall be approved until the Planning Commission has made its recommendations, or 30 days after the public hearing, whichever shall first occur. If the Planning Commission does not make a recommendation within 30 days after the petition has been referred to it, then the Planning Commission shall be considered to have made a favorable recommendation, unless action was taken to defer.

#### **Section 6.111. Action by Board of Commissioners.**

- (1) The Board of Commissioners, after receiving the report and recommendation of the Planning Commission, shall consider the reports and recommendations of the Planning Commission, the Planning Commission staff, and other departments. Within a reasonable time the Board of Commissioners shall either reject the proposed amendment or adopt an ordinance enacting the proposed amendment with or without modifications.
- (2) [RESERVED]
- (3) In approving an amendment to reclassify property to a district other than a conditional zoning district, or with the consent of the petitioner in the reclassification to a conditional zoning district, the Board of Commissioners may change the existing classification of the property, or any part of the property covered by the petition, to the classification requested, to a classification or classifications between the existing and the requested classifications, or to any higher classification in the hierarchy of zoning districts established in Section 9.102. This action may occur without the withdrawal or modification of the petition or further public hearings.

In the case where a petitioner requests a text amendment, the Board of Commissioners may modify any proposed text amendment upon adoption of an ordinance enacting the amendment without the withdrawal or modification of the petition or further public hearings.

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#### **Section 6.112. Effect of denial of petition.**

- (1) A petition for the reclassification of property or amendments to the text of these regulations that has been denied in whole or in part, or approved to a classification other than the one originally requested, shall not be resubmitted within two years of the date of the Board of Commissioners' action on the original petition, except as permitted in subsection (2) below. However, nothing in this subsection can be deemed to preclude seeking a lower classification in the hierarchy of zoning districts established in Section 9.102 than the district previously requested. Further, this Section shall not apply to rezoning petitions initiated by someone other than the property owner or authorized agent.
- (2) The Board of Commissioners may allow resubmission of the petition within the two-year time frame if it determines that, since the date of action on the prior petition, one or more of the following guidelines have been met:
  - (a) There has been a similar or more intensive change in the zoning district classification of an adjacent property;
  - (b) The Board of Commissioners has adopted a public policy plan, including area plan, district plan or transportation plan that changes public policy regarding how the property affected by the amendment should be developed;
  - (c) Construction or expansion of a road, water line, sewer line, or other infrastructure has occurred to serve the property and which infrastructure can accommodate the intensity of development allowed under the proposed classification; or
  - (d) There has been some other substantial change in conditions or circumstances which justifies waiver of the two-year restriction on a new petition; this shall not include a change in the ownership of the subject property or, in the case of a petition for reclassification to a conditional zoning district, a change in the scale or features of the development proposed in the prior petition.
- (3) The Board of Commissioners shall receive a report from the Planning Commission containing its recommendations on resubmission of the petition.
- (4) Any petition allowed by the Board of Commissioners under subsection (2) above must be reviewed and approved in accordance with the procedures and standards required under this chapter for the review of proposed amendments.



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### PART 1: PROVISIONS OF GENERAL APPLICABILITY

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#### Section 6.113. [RESERVED]

### PART 2: CONDITIONAL ZONING DISTRICTS

#### Section 6.201. Purpose.

Conditional zoning districts are zoning districts in which the development and use of the property is subject to predetermined ordinance standards and the rules, regulations, and conditions imposed as part of the legislative decision creating the district and applying it to the particular property. The following zoning district categories are conditional zoning districts:

- (1) Parallel conditional zoning districts (A parallel conditional zoning district is a conditional zoning district in which the potential permitted use or uses are, except as limited by the conditions imposed on the district, of the same character or type as the use or uses permitted in a general district having a parallel designation or name.)
- (2) Conditional zoning districts identified in Chapter 11: Mixed Use Districts, Manufactured Housing, Commercial Center District, Neighborhood Services District, and Hazardous Waste District.

A conditional zoning district allows particular uses to be established only in accordance with specific standards and conditions pertaining to each individual development project. Some land uses are of such a nature or scale that they have significant impacts on both the immediately surrounding area and on the entire community, which cannot be predetermined and controlled by general district standards. There are also circumstances in which a general district designation allowing such a use by right would not be appropriate for a particular property even though the use itself could, if properly planned, be appropriate for the property consistent with the objectives of these regulations, the adopted "Generalized Land Plan", and adopted district and area plans. The review process established in this Part provides for the accommodation of such uses by a reclassification of property into a conditional zoning district, subject to specific conditions, which ensure compatibility of the use with the use and enjoyment of neighboring properties. A conditional zoning district is generally not intended for securing early zoning for a proposal, except when that proposal is consistent with an approved district or area plan or the proposal can demonstrate that public infrastructure needed to serve the development will be made available in a reasonable time period.

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### PART 2: CONDITIONAL ZONING DISTRICTS

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#### **Section 6.202. Plans and Other Information to Accompany Petition.**

- (1) Property may be rezoned to a conditional zoning district only in response to and consistent with a petition submitted by the owners of all of the property to be included in the district. A petition for conditional zoning must include a site plan, drawn to scale, and supporting information and text that specifies the actual use or uses intended for the property and any rules, regulations, and conditions that, in addition to all predetermined ordinance requirements, will govern the development and use of the property. The following information must be provided, if applicable:
  - (a) A boundary survey and vicinity map showing the property's total acreage, its zoning classification(s), the general location in relation to major streets, railroads, and/or waterways, the date, and north arrow;
  - (b) All existing easements, reservations, and rights-of-way;
  - (c) Areas in which structures will be located;
  - (d) Proposed use of all land and structures, including the number of residential units and the total square footage of any nonresidential development;
  - (e) All yards, buffers, screening, and landscaping required by these regulations or proposed by the petitioner;
  - (f) All existing and proposed points of access to public streets;
  - (g) Surface Water Improvement and Management ("SWIM") buffers and delineation of areas within the regulatory floodplain as shown on the Official Flood Hazard Boundary Maps for Mecklenburg County;
  - (h) Proposed phasing, if any;
  - (i) The location of existing and proposed storm drainage patterns and facilities intended to serve the proposed development;
  - (j) Generalized traffic, parking, and circulation plans; and

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### **PART 2: CONDITIONAL ZONING DISTRICTS**

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- (2) The Planning Director has the authority to waive any application requirement where the type of use or scale of proposal makes providing that information unnecessary or impractical.
- (3) In the course of evaluating the proposed use, the Planning Director, Planning Commission, or Board of Commissioners may request additional information from the petitioner. This information may include the following:
  - (a) Proposed number and general location of all structures;
  - (b) Proposed screening, buffers and landscaping over and above that required by these regulations, as well as proposed treatment of any existing natural features;
  - (c) Existing and general proposed topography, if available, at four-foot contour intervals or less;
  - (d) The location of significant trees on the subject property;
  - (e) Scale of buildings relative to abutting property;
  - (f) Height of structures;
  - (g) Exterior features of proposed development;
  - (h) Any other information needed to demonstrate compliance with these regulations; and
  - (i) Proposed number and location of signs.
- (4) The site plan and any supporting text shall constitute part of the petition for all purposes under this Chapter.
- (5) The Planning Director or his or her designee may require the petitioner to submit more than one copy of the petition and site plan in order to have enough copies available to circulate to other government agencies for review and comment.

#### **Section 6.203. Required Community Meeting Before Public Hearing.**

Before a public hearing may be held on a petition for a conditional zoning district, the petitioner must file in the Office of the County Clerk a written report of at least one

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### **PART 2: CONDITIONAL ZONING DISTRICTS**

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community meeting held by the petitioner. Notice of such a meeting shall be given to the property owners and organizations entitled to notice as determined by County policy. The report shall include, among other things, a listing of those persons and organizations contacted about the meeting and the manner and date of contact, the date, time and location of the meeting, a roster of the persons in attendance at the meeting, a summary of issues discussed at the meeting, and a description of any changes to the rezoning petition made by the petitioner as a result of the meeting. In the event the petitioner has not held at least one meeting pursuant to this subsection, the petitioner shall file a report documenting efforts that were made to arrange such a meeting and stating the reasons such a meeting was not held. The adequacy of a meeting held or report filed pursuant to this section shall be considered by the Board of Commissioners but shall not be subject to judicial review.

#### **Section 6.204. Approval of Conditional Zoning District.**

Conditional zoning district decisions are a legislative process subject to judicial review using the same procedures and standard of review as apply to general-use district zoning decisions. In considering any petition for a conditional zoning district, the Board of Commissioners shall act in accordance with Section 6.111, "Action by Board of Commissioners". Conditional zoning district decisions shall be made in consideration of identified relevant adopted land use plans for the area, including, but not limited to, comprehensive plans, strategic plans, district plans, area plans, neighborhood plans, corridor plans, and other land-use policy documents.

The Board of Commissioners may not vote to rezone property to a conditional zoning district during the time period beginning on the date of a county general election and concluding on the date immediately following the date on which the Board of Commissioners holds its organizational meeting following a county general election unless no person spoke against the rezoning at the public hearing.

#### **Section 6.205. Conditions to Approval of Petition.**

In approving a petition for the reclassification of property to a conditional zoning district, the Planning Commission may recommend, and the Board of Commissioners request, that reasonable and appropriate conditions be attached to approval of the petition. Any such conditions should relate to the relationship of the proposed use to surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, the timing of development, street and right-of-way improvements, water and sewer improvements, storm water drainage, the provision of open space, and other matters that the Board of Commissioners may find appropriate or the petitioner may propose. Such conditions to approval of the petition may include dedication to the County or State, as appropriate, of any rights-of-way or easements for streets, water, sewer, or other public utilities necessary to serve the proposed development. The petitioner

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### **PART 2: CONDITIONAL ZONING DISTRICTS**

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shall have a reasonable opportunity to consider and respond to any such conditions prior to final action by the Board of Commissioners.

#### **Section 6.206. Effect of Approval.**

- (1) If a petition for conditional zoning is approved, the development and use of the property shall be governed by the predetermined ordinance requirements applicable to the district's category, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district and are binding on the property as an amendment to these regulations and to the Zoning Maps.
- (2) If a petition is approved, the petitioner shall comply with all requirements established in Chapter 4 for obtaining a building permit and certificate of occupancy. Only those uses and structures indicated in the approved petition and site plan shall be allowed on the subject property.
- (3) Following the approval of the petition for a conditional zoning district, the subject property shall be identified on the Zoning Maps by the appropriate district designation. A parallel conditional zoning shall be identified by the same designation as the underlying general district followed by the letters "CD" (for example "0-1(CD)").
- (4) Any conditional zoning district approved on or after October 1, 1991, shall have vested rights pursuant to N.C.G.S. Section 153A-344.1 for the period of time established pursuant to Section 1.110 and 1.111 of this Zoning Ordinance, except as such vested rights may be altered as allowed by N.C.G.S. Section 153A-344.1(e). Vested rights shall remain effective beyond the end of the period of time established pursuant to Section 1.110 and 1.111 of this Ordinance for any buildings or uses for which a valid building permit had been issued during the vested rights period, so long as such building permit is valid. Notwithstanding, the foregoing, property governed by this subsection shall not include as a permitted use an adult establishment, unless the approved site plan explicitly provides that an adult establishment is a permitted use or the site meets the standards of Section 12.518.

#### **Section 6.207. Alterations to Approval.**

- (1) Except as provided in subsection two below, changes to an approved petition or to the conditions attached to the approved petition shall be treated the same as

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### PART 2: CONDITIONAL ZONING DISTRICTS

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amendments to these regulations or to the Zoning Maps and shall be processed in accordance with the procedures in this Chapter.

- (2) The Planning Director or designee shall have the delegated authority to approve an administrative amendment change to an approved site plan. The standard for approving or denying such a requested change shall be that the change does not significantly alter the site plan or its conditions and that the change does not have a significant impact upon abutting properties. Any decision must be in writing stating the grounds for approval or denial.

Any changes that increase the intensity of the development are limited for nonresidential development to 10% of the approved requirement or 1,000 square feet, whichever is less. For residential development, increases in density are limited to 10% of the development or no more than 5 dwelling units, whichever is less.

The Planning Director or designee, however, shall always have the discretion to decline to exercise the delegated authority either because the designee is uncertain about approval of the change pursuant to the standard or because a rezoning petition for a public hearing and Board of Commissioners consideration is deemed appropriate under the circumstances. If the Planning Director or designee declines to exercise this authority, then the applicant can only file a rezoning petition for a public hearing and Board decision.

Any request for an administrative amendment shall be pursuant to a written letter, signed by the property owner, to the Planning staff detailing the requested change. Upon request, the applicant must provide any additional information that is requested. Accompanying the letter shall be the applicable fee for administrative review. Upon an approval of an administrative amendment, the applicant must file a sufficient number of copies of a revised site plan as deemed necessary by the Planning Director.

If the Planning Director or designee denies approval of the requested amendment, then the applicant can appeal that decision to the appropriate committee of the Planning Commission for its review and decision, pursuant to the standard above. If appealed, this requires notification to adjacent property owners within fifteen days of the filed appeal. If the Planning Commission's Committee denies approval of the requested change, then the applicant must file a rezoning petition for an amendment to the site plan to receive further consideration. An adjacent property owner shall be entitled to appeal the approval of an administrative amendment change to the Planning Commission's Committee within fifteen days of knowledge of the approval. Even if an

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### **PART 2: CONDITIONAL ZONING DISTRICTS**

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adjacent property does not have knowledge of the approval, the approval shall be final after thirty days.

#### **Section 6.208. Review of Approval of a Conditional Zoning District.**

It is intended that property shall be reclassified to a conditional zoning district only in the event of firm plans to develop the property. Therefore, no sooner than three years after the date of approval of the petition, the Planning Commission may examine the progress made toward developing the property in accordance with the approved petition and any conditions attached to the approval. If the Planning Commission determines that progress has not been made in accordance with the approved petition and conditions, the Planning Commission shall forward to the Board of Commissioners a report, which may recommend that the property be classified to another district.





# MECKLENBURG CODE

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## CHAPTER 7:

### NONCONFORMITIES

#### **Section 7.101. Purpose; applicability.**

The purpose of this Chapter is to regulate and limit the continued existence of uses and structures lawfully established prior to the effective date of these regulations that do not conform to these regulations. Any nonconformity created by a change in the classification of property or the text of these regulations shall be regulated by the provisions of this Chapter, with the "effective date" referenced below being the date the text of these regulations or the Zoning Maps are amended to render a particular use, structure, or lot nonconforming.

#### **Section 7.102. Nonconforming uses.**

- (1) Nonconforming uses of land or structures, and nonconforming structures that contain nonconforming uses may continue only in accordance with the provisions of this Section.
- (2) Normal repair and maintenance may be performed to allow the continuation of a nonconforming use.
- (3) A nonconforming use shall not be expanded, nor shall a nonconforming use be enlarged by additions to the structure in which the nonconforming use is located or the occupation of additional lands.
- (4) A structure in which a nonconforming use is located shall not be moved unless the use thereafter shall conform to the standards of the zoning district or districts to which it is moved.
- (5) A nonconforming use of a structure may be changed to another nonconforming use of the same classification, a higher classification, or to a conforming use. The determination of the classification of the use is based on the district in which the use would be allowed by right under the ordinance. The change of a nonconforming use to another nonconforming use must not generate any more automobile or truck traffic, noise, vibration, smoke, dust, or fumes than the original nonconforming use. Once a nonconforming use is changed to a conforming use, the nonconforming use shall not be re-established.

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- (6) Where a nonconforming use is visibly discontinued for 12 consecutive months, then the use shall not be re-established or resumed, and any subsequent use of the land or structure shall conform to the requirements of these regulations.
- (7) Where a structure in which a nonconforming use is located is destroyed or damaged by fire, flood, wind, other act of God, the structure may be repaired or restored to its original dimensions and conditions as long as a building permit for the repair or restoration is issued within 12 months of the date of the damage.

### Section 7.103. Nonconforming structures.

- (1) A nonconforming structure devoted to a use permitted in the zoning district in which it is located may continue only in accordance with the provisions of this Section.
- (2) Normal repair and maintenance may be performed to allow the continuation of nonconforming structures.
- (3) Except as provided in subsections (4) and (5) below, a nonconforming structure shall not undergo a change of use, renovation or expansion.
- (4) A nonconforming structure may undergo a change of use or renovation without having to bring the structure into conformity with the requirements of these regulations, provided that:
  - (a) The change in use or renovation does not increase the floor area of the structure;
  - (b) The change in use is to a permitted use within the district; and
  - (c) The number of parking spaces provided for the use is in conformity with the requirements of these regulations.
- (5) A nonconforming structure may be expanded, without bringing the nonconforming structure into conformity with these regulations, only if the part of the structure to be expanded and the area of the lot into which the expansion is taking place are both brought into conformity with the requirements of these regulations.

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- (6) A nonconforming structure shall not be moved unless it thereafter conforms to the standards of the zoning district in which it is located.
- (7) Where a nonconforming structure is located is destroyed or damaged by fire, flood, wind, other act of God, the structure may be repaired or restored to its original dimensions and conditions as long as a building permit for the repair or restoration is issued within 12 months of the date of the damage.
- (8) An existing mobile home or manufactured home as a principal residential building on an individual lot or located in a nonconforming mobile home or manufactured housing park or subdivision in operation at the time of adoption of these regulations may be replaced with another mobile home or manufactured home provided the number of mobile home or manufactured home units may not be increased beyond the number available before replacement and the replacing mobile home must not create nonconforming yards, separation distances, or increase existing nonconforming yards or separation distances. A replacement mobile home or manufactured home on an individual lot or subdivision shall adhere to the standards of Section 10.403, except for subdivision (c), unless located in a R-MH district or mobile home park.

### **Section 7.104. Nonconforming accessory uses and accessory structures.**

- (1) No nonconforming accessory use or accessory structure shall continue after the principal use or structure is terminated by 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.
- (2) A nonconforming accessory use or accessory structure may be expanded only if the nonconforming features of that use or structure are not expanded so as to increase the degree of nonconformity.

### **Section 7.105. Nonconforming vacant lots.**

- (1) Except as provided below in subsection (2), a nonconforming vacant lot may be used for any of the uses permitted by these regulations in the zoning district in which it is located, provided that the use meets all limitations and minimum requirements for setback and yards, height, open space, buffers, screening, parking, and floor area required in these regulations for the zoning district in which the lot is located.

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- (2) A nonconforming vacant lot shall not be used if it could be combined with an adjoining lot owned by the same person on or after the effective date of these regulations in order to create a single lot. If the combination results in the creation of a single lot that is more than one-and-one-half times the width and area required in the zoning district, then the single lot may be divided into two lots of equal width and area without being further classified as nonconforming.

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## CHAPTER 8:

### ENFORCEMENT

#### **Section 8.101. Enforcement by Zoning Administrator.**

The provisions of these regulations shall be enforced by the Zoning Administrator.

#### **Section 8.102. Zoning Administrator procedures.**

- (1) It shall be the duty of the Zoning Administrator to initiate proceedings for the enforcement of these regulations.
- (2) If the Zoning Administrator discovers a violation of these regulations, the Zoning Administrator shall notify the violator and give the violator a specified time to correct the violation. If the violation continues or is not corrected, the Zoning Administrator shall initiate proceedings for enforcement as described in this Chapter.

#### **Section 8.103. General enforcement provisions.**

The provisions of this Chapter may be enforced by any one, all, or a combination of the remedies authorized and prescribed by this Chapter. If a person continues to fail to comply with a particular provision of these regulations after the imposition of any one type of penalty, the person shall continue to remain subject to the remedies prescribed by this Chapter for the continued violation of the particular provision of these regulations. The Zoning Administrator shall have the power to impose fines and penalties for violation of the Zoning Ordinance, as provided herein, and may secure injunctions and abatement orders to further ensure compliance with the Zoning Ordinance as provided for in this Chapter. Each day's continuing violation shall be a separate and distinct offense and may be subject to any one, all, or a combination of the remedies authorized and prescribed by this Chapter.

#### **Section 8.104. Criminal Penalties.**

Any person, firm or corporation who knowingly or willfully violates any provision of these regulations shall have committed a misdemeanor, and upon conviction thereof, shall be subject to a fine not exceeding \$500 or by imprisonment for a period not to exceed thirty (30) days.

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### Section 8.105. Citations.

- (1) The Zoning Administrator is empowered to issue citations to any person if there is a reasonable cause to believe that the person has violated any provision of these regulations. A violator shall be deemed to be the owner of the premises, the agent of the owner authorized to be responsible for the premises, or the occupant of the premises. Citations may be directly issued to the occupant, lessee, or person having immediate beneficial use of the property. The non-occupant owner or agent responsible for the premises each has a duty to maintain the premises in compliance with these regulations. A citation shall not be issued to a non-occupant owner, agent or occupant for those premises unless there has been written notice delivered to the owner, agent, or occupant, or mailed to the last known mailing address as shown by public records, or by making other reasonable efforts to communicate the existence of the violation to the owner, agent, or occupant.
- (2) The initial citation for each violation shall be \$50.00. The issuance of a second citation for any violation that has not been corrected shall be in an amount up to \$200.00 upon the day of issuance, up to \$500.00 for the third citation, and up to \$500.00 thereafter. Any unpaid citations and delinquency charges shall be cumulative and shall subject the violator to a possible civil penalty to be recovered in a civil action in the nature of debt. The citations may be delivered in person to the violator or, if the violator cannot be readily found, then the citation may be mailed.
- (3) The citation shall direct the violator to make payment at the Building Standards Department within fifteen (15) days of the date of the citation, or alternatively pay the citation by mail. If the violator does not make such payment or does not mail the citation and payment within fifteen (15) days of the issuance, a delinquency charge of ten dollars (\$10.00) shall be added to the amount shown on the citation. The citation shall inform the violator that a civil complaint or criminal summons may be filed if the citation and delinquency charge is not paid within fifteen (15) days from the date of delinquency. Further, the citation shall state that the violation is a continuing violation and additional citations may be issued with escalating amounts for a continuing violation.

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### Section 8.106. Civil judicial remedies.

- (1) If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure or land is used in violation of these regulations or other regulation made under authority conferred thereby, the County, in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate the violation, to prevent occupancy of the building, structure or land, or to prevent any illegal act, conduct, business or use in or about the premises. The General Court of Justice shall have jurisdiction to issue such orders as may be appropriate.
- (2) If the Zoning Ordinance makes unlawful a condition existing upon or use made of real property, then the Zoning Ordinance may be enforced by injunction and order of abatement and the General Court of Justice shall have jurisdiction to issue such orders. When a violation of such an ordinance occurs the County may apply to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction and order of abatement commending the defendant to correct the unlawful condition upon or cease the unlawful use of the property.
- (3) In addition to an injunction, the court may enter an order of abatement as a part of the judgment in the cause. An order of abatement may direct that buildings or other structures on the property be closed, demolished, or removed or that any other action be taken that is necessary to bring the property into compliance with the ordinance. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt, and the County may execute the order of abatement. The County shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and materialman's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the clerk of superior court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.





# MECKLENBURG CODE

## PART 1: TABLE OF USES AND HIERARCHY OF DISTRICTS

### CHAPTER 9:

#### GENERAL DISTRICTS

### PART 1: TABLE OF USES AND HIERARCHY OF DISTRICTS

#### Section 9.101. Table of uses.

The range of uses permitted by right and under prescribed conditions in each district established in this Chapter is summarized in Table 9.101. In the event of a conflict between Table 9.101 and the text of these regulations, the text shall control. Uses allowed in the Overlay Districts are set forth in Chapter 10, and uses allowed in the Conditional Zoning Districts are set forth in Chapter 11.

#### Section 9.102. Hierarchy of districts.

The districts established in this Chapter and in Chapter 11 are classified from "highest" to "lowest" in the following order:

("highest")	R-3	UR-1	NS
	R-4	R-43MF	B-1
	R-5	UR-2	MX-2
	R-6	UR-3	CC
	R-8	RE-1	MX-3
	MX-1	RE-2	B-2
	R-MH	INST	B-D
	R-8MF	O-1	BP
	R-12MF	O-2	I-1
	R-17MF	O-3	I-2 ("lowest")
	R-22MF	UR-C	

For any district where a conditional zoning district is permitted, the conditional zoning district shall have the same order as the general district for the purposes of determining its hierarchy under the table.

# MECKLENBURG CODE

## TABLE 9.101, PERMITTED USES, BY DISTRICT

### GENERAL ZONING DISTRICTS

#### RESIDENTIAL USES:

Bed & Breakfasts (B & B's)  
Boarding houses  
Dormitories  
Dwellings, attached (duplex only)  
Dwellings, attached (triplex and quadraplex only)  
Dwellings, detached  
Dwellings, duplex  
Dwellings, mixed use  
Dwellings, triplex and quadraplex  
Dwellings, attached and multifamily, up to 12 units in a building  
Dwellings, planned multi-family and attached or buildings with more than 12 units  
Equestrian oriented subdivisions  
Manufactured housing  
Manufactured housing parks

#### INSTITUTIONAL USES:

Adult care centers  
Adult care homes  
Armories  
Child care centers  
Child care homes  
Civic/social service/fraternal facilities

Single Family					Multi-Family					Urban Residential				Inst.	Research		Office			Business				Industrial	
R-3	R-4	R-5	R-6	R-8	R-8MF	R-12MF	R-17MF	R-22MF	R-43MF	UR-1	UR-2	UR-3	UR-C	INST	RE-1	RE-2	O-1	O-2	O-3	B-1	B-2	B-D	BP	I-1	I-2
PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC							PC	PC	PC	PC	PC				
PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC							PC	PC	PC	PC	PC				
					PC	PC	PC	PC	PC					PC			PC	PC	PC	PC	PC				
PC	PC	PC	PC	X	X	X	X	X	X								X	X	X	X	X				
				X	X	X	X	X	X								X	X	X	X	X				
X	X	X	X	X	X	X	X	X	X	X							X	X	X	X	X				
PC	PC	PC	PC	X	X	X	X	X	X	X	X	X	X				X	X	X	X	X				
											X	X					PC	PC	PC	PC	PC				
				X	X	X	X	X	X		X	X	X				X	X	X	X	X				
					X	X	X	X	X		X	X	X				X	X	X	X	X				
					PC	PC	PC	PC	PC		PC	PC	PC				PC	PC	PC	PC	PC				
PC	PC	PC	PC	PC	PC	PC	PC	PC	PC								PC	PC	PC	PC	PC				
O	O	O	O	O	O	O	O	O	O								O	O	O	O	O				
See Manufactured Housing District, Section 11.301.																									
					PC	PC	PC	PC	PC		PC	PC		PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC
PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC				PC	PC	PC	PC	PC				
																	X	X	X					X	X
					PC	PC	PC	PC	PC		PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC
PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC		PC	PC				PC	PC	PC	PC	PC				
					PC	PC	PC	PC	PC			PC	X	X	X	X	X	X	X	X	X			X	X

#### KEY:

- X - Uses permitted as of right
- PC - Uses permitted under prescribed conditions
- O - Uses permitted as an Overlay District in Chapter 10

# MECKLENBURG CODE

## TABLE 9.101, PERMITTED USES, BY DISTRICT

### GENERAL ZONING DISTRICTS

#### INSTITUTIONAL USES: (Continued)

Cultural facilities  
Elementary and secondary schools  
Government buildings,  
up to 12,500 square feet  
Government buildings,  
up to 100,000 square feet  
Government buildings,  
up to 300,000 square feet  
Government buildings,  
more than 300,000 square feet  
Group homes, up to 6 residents  
Group homes, 7 to 10 residents  
Group homes, more than 10 residents  
Health institutions  
Jails & Prisons  
Nursing homes, rest homes and  
homes for the aged  
Orphanages, children homes and  
similar non-profit institutions  
Religious institutions,  
up to 750 seats

Single Family					Multi-Family					Urban Residential				Inst.	Research		Office			Business				Industrial	
R-3	R-4	R-5	R-6	R-8	R-8MF	R-12MF	R-17MF	R-22MF	R-43MF	UR-1	UR-2	UR-3	UR-C	INST	RE-1	RE-2	O-1	O-2	O-3	B-1	B-2	B-D	BP	I-1	I-2
													PC	X	X	X	X	X	X	X	X		X		
PC	PC	PC	PC	PC	PC	PC	PC	PC	PC					X			X	X	X	X	X				
PC	PC	PC	PC	PC	PC	PC	PC	PC	PC					X	X	X	X	X	X	X	X	X	X	X	X
												X	X	X	X	X	X	X	X	X	X	X	X	X	X
														X	X	X	X	X	X		X	X	X	X	X
														X	PC	PC	PC	PC	PC		PC	PC	PC		
PC	PC	PC	PC	PC	X	X	X	X	X	X	X	X	X	X			X	X	X	X	X	X			
					X	X	X	X	X			X	X	X			X	X	X	X	X	X			
												X	X												
														PC			X	PC	X	X	X				
														PC			PC	PC	PC	PC	PC	PC	PC	PC	PC
					PC	PC	PC	PC	PC			PC	PC	PC			PC	PC	PC	PC	PC		PC		
					PC	PC	PC	PC	PC								PC	PC	PC	PC	PC				
PC	PC	PC	PC	PC	PC	PC	PC	PC	PC					X			X	X	X	X	X	X		X	X

#### KEY:

- X - Uses permitted as of right
- PC - Uses permitted under prescribed conditions
- O - Uses permitted as an Overlay District in Chapter 10

# MECKLENBURG CODE

## TABLE 9.101, PERMITTED USES, BY DISTRICT

### GENERAL ZONING DISTRICTS

#### INSTITUTIONAL USES: (Continued)

Religious institutions,  
750 to 1,200 seats  
Religious institutions,  
more than 1,200 seats  
Stadiums, up to 5,000 seats  
Stadiums, more than 5,000 seats  
Universities, colleges and  
junior colleges  
Vocational schools, within  
enclosed building  
Vocational schools

#### OFFICE & BUSINESS USES:

Amusement, commercial, outdoor  
Auction sales  
Automobile service stations  
Automobiles, truck and utility  
trailer rental  
Automotive repair garages  
Automotive sales and repairs

Single Family					Multi-Family					Urban Residential				Inst.	Research		Office			Business				Industrial	
R-3	R-4	R-5	R-6	R-8	R-8MF	R-12MF	R-17MF	R-22MF	R-43MF	UR-1	UR-2	UR-3	UR-C	INST	RE-1	RE-2	O-1	O-2	O-3	B-1	B-2	B-D	BP	I-1	I-2
					PC	PC	PC	PC	PC	PC	PC	PC	X	X			X	X	X	X	X			X	X
										PC	PC	PC	X	X			X	X	X	X	X			X	X
												PC	PC	PC	PC						PC			PC	PC
														PC											
PC	PC	PC	PC	PC	PC	PC	PC	PC	PC					X			X	X	X	X	X				
														X			X	X	X	X	X		X	X	X
																								X	X
																					X			X	X
															X	X					X			X	X
																					X			X	X
																					X			X	X
																					X			X	X

#### KEY:

- X - Uses permitted as of right
- PC - Uses permitted under prescribed conditions
- O - Uses permitted as an Overlay District in Chapter 10

# MECKLENBURG CODE

## TABLE 9.101, PERMITTED USES, BY DISTRICT

### GENERAL ZONING DISTRICTS

#### OFFICE & BUSINESS USES: (Continued)

Automotive sales and repair,  
including tractor-trucks and  
accompanying trailer units  
Bakeries, retail  
Bakeries, retail and wholesale,  
up to 5,000 square feet  
Bakeries, wholesale  
Barber & Beauty shops  
Boarding stables  
Boat and ship sales and repairs  
Building maintenance services  
Building material sales, retail  
Building material sales, wholesale  
Bus and train terminals  
Car washes  
Catalog and mail order houses  
Clinics, medical, dental & optical  
Clinics, veterinary  
Contractor offices and storage,  
excluding construction equipment  
Contractor offices and storage  
Distributive businesses

Single Family					Multi-Family					Urban Residential				Inst.	Research		Office			Business				Industrial	
R-3	R-4	R-5	R-6	R-8	R-8MF	R-12MF	R-17MF	R-22MF	R-43MF	UR-1	UR-2	UR-3	UR-C	INST	RE-1	RE-2	O-1	O-2	O-3	B-1	B-2	B-D	BP	I-1	I-2
																									X
											X	X								X	X		X	X	X
																					X		X	X	X
																						X		X	X
											X	X					X	X	X	X	X		X	X	X
																					PC				
																					X			X	
																					X			X	X
																					PC			X	X
																						PC		X	X
												X									X	X		X	X
											PC	PC									PC	X		X	X
																					X			X	X
											X	X		X	PC	PC	X	X	X	X	X	X		X	X
											X	X		X			X	X	X	X	X	X		X	X
																					X	X	X	X	X
																									X
																						X	X	X	X

#### KEY:

X - Uses permitted as of right

PC - Uses permitted under prescribed conditions

O - Uses permitted as an Overlay District in Chapter 10

# MECKLENBURG CODE

## TABLE 9.101, PERMITTED USES, BY DISTRICT

### GENERAL ZONING DISTRICTS

#### OFFICE & BUSINESS USES: (Continued)

Dry cleaning and laundry establishments, up to 4,500 square feet

Dry cleaning and laundry establishments, up to 10,000 square feet

Dry cleaning and laundry establishments

Engraving

Equipment rental and leasing

Equipment rental and leasing, within an enclosed building

Fabric sample assembly

Fences and fence materials, retail sales

Fences and fence material, retail sales within an enclosed building

Financial institutions, up to 25,000 square feet

Financial institutions, up to 70,000 square feet

Financial institutions, up to 100,000 square feet

Single Family					Multi-Family					Urban Residential				Inst.	Research		Office			Business				Industrial	
R-3	R-4	R-5	R-6	R-8	R-8MF	R-12MF	R-17MF	R-22MF	R-43MF	UR-1	UR-2	UR-3	UR-C	INST	RE-1	RE-2	O-1	O-2	O-3	B-1	B-2	B-D	BP	I-1	I-2
												X	X							X	X		X	X	X
																					X			X	X
																								X	X
																					X			X	X
																					X			X	X
												X	X								X	X		X	X
																					X			X	X
																					X	X		X	X
												X	X								X	X		X	X
																	X	X	X		X	X	X	X	
																	X	X	X		X	X	X	X	
																	X	X	X			X	X		

#### KEY:

- X - Uses permitted as of right
- PC - Uses permitted under prescribed conditions
- O - Uses permitted as an Overlay District in Chapter 10

# MECKLENBURG CODE

## TABLE 9.101, PERMITTED USES, BY DISTRICT

### GENERAL ZONING DISTRICTS

#### OFFICE & BUSINESS USES: (Continued)

Financial institutions, up  
to 300,000 square feet  
Financial institutions, more  
than 300,000 square feet  
Florists, retail  
Florists, wholesale  
Funeral homes, embalming and  
crematories  
Graphics research and  
production  
Hotels and motels  
Jewelers, retail  
Jewelers, wholesale  
Kennel, commercial  
Laboratories, applied and basic  
research  
Laboratories, optical, medical  
and dental  
Laboratories, testing  
Locksmiths and gunsmiths  
Manufactured housing sales  
Manufactured housing repairs

Single Family					Multi-Family					Urban Residential				Inst.	Research		Office			Business				Industrial	
R-3	R-4	R-5	R-6	R-8	R-8MF	R-12MF	R-17MF	R-22MF	R-43MF	UR-1	UR-2	UR-3	UR-C	INST	RE-1	RE-2	O-1	O-2	O-3	B-1	B-2	B-D	BP	I-1	I-2
																	X	X	X		X	X	X		
																	PC	PC	PC		PC	PC	PC		
											X	X								X	X		X		
																					X	X	X	X	X
											X	X					X	X	X	X	X				
															X	X							X	X	X
												X	X				PC	PC	PC		X	X	X	X	X
											X	X								X	X		X	X	X
																					PC			PC	PC
															X	X	X	X	X		X	X	X	X	X
											X	X			X	X	X	X	X	X	X	X	X	X	X
												X	X		X	X								X	X
											X	X								X	X		X	X	X
																				X				X	X
																				X				X	X

#### KEY:

- X - Uses permitted as of right
- PC - Uses permitted under prescribed conditions
- O - Uses permitted as an Overlay District in Chapter 10

# MECKLENBURG CODE

## TABLE 9.101, PERMITTED USES, BY DISTRICT

### GENERAL ZONING DISTRICTS

#### OFFICE & BUSINESS USES: (Continued)

Manufacturers representatives  
Marina, commercial  
Merchandise showrooms  
Nightclubs, bars and lounges  
Nurseries and greenhouses,  
retail and wholesale  
Offices, up to 10,000 square feet  
Offices, up to 100,000 square feet  
Offices, up to 300,000 square feet  
Offices, more than 300,000  
square feet  
Offices, up to 400,000 square feet  
Offices, more than 400,000  
square feet  
Orthotics - prosthetics facilities  
Overnight camping trailer parks  
Pest control and disinfecting  
services  
Post offices  
Printing and publishing,  
up to 5,000 square feet  
Printing and publishing,  
up to 100,000 square feet

Single Family					Multi-Family					Urban Residential				Inst.	Research		Office			Business				Industrial		
R-3	R-4	R-5	R-6	R-8	R-8MF	R-12MF	R-17MF	R-22MF	R-43MF	UR-1	UR-2	UR-3	UR-C	INST	RE-1	RE-2	O-1	O-2	O-3	B-1	B-2	B-D	BP	I-1	I-2	
																							X	X	X	
																				PC	PC					
																							X	X	X	
											PC	PC								PC	PC			PC	PC	
												X	X								X	X			X	X
					PC	PC	PC	PC	PC		X	X	X	PC	X	X	X	X	X	X	X	X	X	X	X	X
												X	X	PC	X	X	X	X	X	X	X	X	X	X	X	X
														PC	X	X	X	X	X		X	X	X		X	
														PC	PC	PC	PC	PC	PC		PC	PC	PC			
																									X	
																								PC		
																	PC	PC	PC	PC	PC			X	X	
																					PC					
																						X		X	X	
																	X	X	X	X	X	X	X	X	X	X
											PC	X									X	X	X	X	X	X
																						X	X	X	X	X

#### KEY:

- X - Uses permitted as of right
- PC - Uses permitted under prescribed conditions
- O - Uses permitted as an Overlay District in Chapter 10



# MECKLENBURG CODE

## TABLE 9.101, PERMITTED USES, BY DISTRICT

### GENERAL ZONING DISTRICTS

#### OFFICE & BUSINESS USES: (Continued)

Printing and publishing,  
more than 100,000 square feet  
Radio and television stations  
and/or offices  
Repair or servicing of any article,  
within an enclosed building which  
is sold within the district  
Repair or servicing of any article,  
which is sold in the district  
Restaurants  
Restaurants, drive-in service  
Retail and shopping centers,  
up to 10,000 square feet  
Retail and shopping centers,  
up to 25,000 square feet  
Retail and shopping centers  
up to 70,000 square feet  
Retail and shopping centers,  
up to 100,000 square feet  
Retail and shopping centers,  
more than 100,000 square feet  
Riding academies

Single Family					Multi-Family					Urban Residential				Inst.	Research		Office			Business				Industrial	
R-3	R-4	R-5	R-6	R-8	R-8MF	R-12MF	R-17MF	R-22MF	R-43MF	UR-1	UR-2	UR-3	UR-C	INST	RE-1	RE-2	O-1	O-2	O-3	B-1	B-2	B-D	BP	I-1	I-2
																							X	X	X
											X	X			X	X	X	X	X	X	X	X	X	X	X
											X	X								X	X	X	X	X	X
																					X		X	X	X
											X	X			PC	PC	PC	PC	PC	PC	X	X	X	X	X
																				X				X	X
											X	X			PC	PC	PC	PC	PC	PC	X	X		X	X
											X	X			PC	PC	PC	PC	PC	PC	X	X		X	X
											X	X			PC	PC	PC	PC	PC	PC	X	X		X	
															PC	PC	PC	PC	PC	PC		X			
See Commercial Center District, Section 11.401																									
																					PC				

#### KEY:

X - Uses permitted as of right

PC - Uses permitted under prescribed conditions

O - Uses permitted as an Overlay District in Chapter 10

# MECKLENBURG CODE

## TABLE 9.101, PERMITTED USES, BY DISTRICT

### GENERAL ZONING DISTRICTS

#### OFFICE & BUSINESS USES: (Continued)

Sign painting, exclusive of  
manufacture  
Sign painting and manufacturing  
Studios for artists, designers,  
photographers, etc.  
Subdivision sales offices  
Tire recapping and retreading  
Theaters, motion picture  
Theaters, motion picture, drive-in  
Wholesale sales  
Wholesale sales, within an  
enclosed building

#### INDUSTRIAL USES:

Abattoirs  
Agricultural industries  
Assembly or fabrication of  
previously manufactured parts  
Automotive sales and repair,  
including tractor-trucks and  
accompanying trailer units

Single Family					Multi-Family					Urban Residential				Inst.	Research		Office			Business				Industrial		
R-3	R-4	R-5	R-6	R-8	R-8MF	R-12MF	R-17MF	R-22MF	R-43MF	UR-1	UR-2	UR-3	UR-C	INST	RE-1	RE-2	O-1	O-2	O-3	B-1	B-2	B-D	BP	I-1	I-2	
																					X				X	X
																								X	X	
												X	X				X	X	X		X	X			X	X
PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	X	X	X	PC	X	X	X	X	X		X	X	X	X	X	X
																					X				X	X
																					X				X	
																										X
																								X	X	X
																					X	X	X		X	X
																										X
																										X
																							X	X	X	
																										X

#### KEY:

- X - Uses permitted as of right
- PC - Uses permitted under prescribed conditions
- O - Uses permitted as an Overlay District in Chapter 10

# MECKLENBURG CODE

## TABLE 9.101, PERMITTED USES, BY DISTRICT

### GENERAL ZONING DISTRICTS

#### INDUSTRIAL USES (Continued)

Foundries  
 Hazardous materials storage  
 and treatment  
 Hotel and motels, expansion of existing  
 nonconforming uses (I-2 only)  
 Junk yards  
 Lumber mills and storage yards  
 Manufacture (light) of:  
   Bakery products  
   Batteries  
   Beverages, excluding alcoholic  
   beverages  
   Boat and ship building  
   Brooms and brushes  
   Burial caskets  
   Candy and confectionery products  
   Cigarettes, cigars and  
   chewing tobacco  
   Communications equipment  
   Computer and office equipment  
   Costume jewelry and notions  
   Dairy products  
   Electrical lighting and  
   wiring equipment

Single Family				Multi-Family					Urban Residential				Inst.	Research		Office			Business				Industrial			
R-3	R-4	R-5	R-6	R-8	R-8MF	R-12MF	R-17MF	R-22MF	R-43MF	UR-1	UR-2	UR-3	UR-C	INST	RE-1	RE-2	O-1	O-2	O-3	B-1	B-2	B-D	BP	I-1	I-2	
																									X	
See Harzardous Waste District, Section 11.60																										
																									PC	
																									PC	
																									X	
																					X			X	X	
																								X	X	
																								X	X	
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																								X	X	
																								X	X	

#### KEY:

- X - Uses permitted as of right
- PC - Uses permitted under prescribed conditions
- O - Uses permitted as an Overlay District in Chapter 10

# MECKLENBURG CODE

## TABLE 9.101, PERMITTED USES, BY DISTRICT

### GENERAL ZONING DISTRICTS

#### INDUSTRIAL USES: (Continued)

Manufacture (light) of continued:

Electrical components and accessories

Electronic equipment

Fabricated metal products, excluding use of blast furnaces or drop forges

Grain mill products

Household appliances

Household audio and visual equipment

Ice

Jewelry, silverware and plated ware

Measuring and controlling devices

Meat products, excluding slaughtering and dressing

Medical instruments and supplies

Musical instruments

Ophthalmic goods

Pens, pencils, office and art supplies

Single Family					Multi-Family					Urban Residential				Inst.	Research		Office			Business				Industrial	
R-3	R-4	R-5	R-6	R-8	R-8MF	R-12MF	R-17MF	R-22MF	R-43MF	UR-1	UR-2	UR-3	UR-C	INST	RE-1	RE-2	O-1	O-2	O-3	B-1	B-2	B-D	BP	I-1	I-2
															X	X							X	X	X
															X	X							X	X	X
																								X	X
																						X		X	X
																							X	X	X
																							X	X	X
																								X	X
																								X	X
																								X	X
																								X	X
																								X	X
																								X	X
																								X	X
																								X	X
																								X	X
																								X	X

#### KEY:

X - Uses permitted as of right

PC - Uses permitted under prescribed conditions

O - Uses permitted as an Overlay District in Chapter 10

# MECKLENBURG CODE

## TABLE 9.101, PERMITTED USES, BY DISTRICT

### GENERAL ZONING DISTRICTS

	Single Family					Multi-Family					Urban Residential				Inst.	Research		Office			Business				Industrial	
	R-3	R-4	R-5	R-6	R-8	R-8MF	R-12MF	R-17MF	R-22MF	R-43MF	UR-1	UR-2	UR-3	UR-C	INST	RE-1	RE-2	O-1	O-2	O-3	B-1	B-2	B-D	BP	I-1	I-2
<b>INDUSTRIAL USES:</b>																										
(Continued)																										
Manufacture (light) of continued:																										
Pharmaceuticals																X	X							X	X	X
Preserved fruit and vegetable products																							X		X	X
Pumps																								X	X	X
Search and navigation equipment																								X	X	X
Signs																									X	X
Toys and sporting goods																								X	X	X
Watches, clocks, watch cases and parts																								X	X	X
Other similar uses																									X	X
Manufacture (heavy) of:																										
Abrasive and asbestos products																										X
Aircraft and parts																										X
Aircraft, component parts																										X
Agricultural chemicals																										X
Alcoholic beverages																										X
Asphalt paving and roofing materials																										X
Brick, tile and clay products																										X

#### KEY:

X - Uses permitted as of right

PC - Uses permitted under prescribed conditions

O - Uses permitted as an Overlay District in Chapter 10

## MECKLENBURG CODE

**TABLE 9.101, PERMITTED USES, BY DISTRICT**

## GENERAL ZONING DISTRICTS

**INDUSTRIAL USES:**  
(Continued)

Manufacture (heavy) of continued:

Chemical manufacture, refining  
and processing

### Concrete, gypsum and plaster products

Construction and related machinery

### Cut stone and stone products

## Electrical distribution equipment

Electrical industrial apparatus

## Engines and turbines

Fabricated metal products

## Farm and garden machinery

## Fats and oils processing

### Furniture and fixtures

## Glass and glassware

Guided missiles, space vehicles, etc.

Industrial machinery

## Leather tanning

Manufactured housing

[illegible]

**KEY:**

X - Uses permitted as of right

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MECKLENBURG CODE

**TABLE 9.101, PERMITTED USES, BY DISTRICT**

## GENERAL ZONING DISTRICTS

[illegible]

**KEY:**

X - Uses permitted as of right

PC - Uses permitted under prescribed conditions

O - Uses permitted as an Overlay District in Chapter 10

# MECKLENBURG CODE

## TABLE 9.101, PERMITTED USES, BY DISTRICT

### GENERAL ZONING DISTRICTS

#### INDUSTRIAL USES: (Continued)

Petroleum storage facilities,  
more than 200,000 gallons  
Plastic products, fabricated  
from previously prepared  
plastic materials  
Power generation plants  
Prototype production facilities and  
pilot plants  
Railroad freight yards, marshalling  
yards and repair shops  
Recycling centers  
Recycling centers, drop-off  
Research uses  
Solid waste transfer stations  
Truck stops  
Truck terminals  
Utility operations centers  
Warehousing, within an  
enclosed building  
Warehousing  
Waste incinerators, excluding  
medical waste incinerators

Single Family					Multi-Family					Urban Residential				Inst.	Research		Office			Business				Industrial	
R-3	R-4	R-5	R-6	R-8	R-8MF	R-12MF	R-17MF	R-22MF	R-43MF	UR-1	UR-2	UR-3	UR-C	INST	RE-1	RE-2	O-1	O-2	O-3	B-1	B-2	B-D	BP	I-1	I-2
																									PC
																								X	X
																									X
															X	X								X	X
																									X
																								X	X
											X	X								X	X	X	X	X	X
															X	X							X	X	X
																									PC
																									X
																									X
																									X
																								X	X
																							X		X
																									X

#### KEY:

X - Uses permitted as of right

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# MECKLENBURG CODE

## TABLE 9.101, PERMITTED USES, BY DISTRICT

### GENERAL ZONING DISTRICTS

#### OTHER USES:

Airports  
Beneficial fill site  
Bus stop shelters  
Cemeteries  
Construction & demolition landfill (C & D)  
Farms  
Heliports and helistops, unlimited  
Highway and railroad  
right-of-way  
Indoor recreation  
Land clearing and inert debris  
landfill (LCID): off-site  
Nonconforming structures and uses  
Off-Street parking  
Open space recreational uses  
Outdoor recreation  
Parks, greenways and  
arboretums  
Public utility structures  
Public utility transmission/  
distribution lines  
Quarries  
Raceways & dragstrips  
Radio, telephone, cellular telephone  
and telephone masts, towers,  
antennae and similar structures

Single Family					Multi-Family					Urban Residential				Inst.	Research		Office			Business				Industrial		
R-3	R-4	R-5	R-6	R-8	R-8MF	R-12MF	R-17MF	R-22MF	R-43MF	UR-1	UR-2	UR-3	UR-C	INST	RE-1	RE-2	O-1	O-2	O-3	B-1	B-2	B-D	BP	I-1	I-2	
																									X	
PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC
PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC
PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC			PC	PC	PC	PC	PC	PC	PC	PC	PC	PC
PC	PC	PC	PC	PC	PC	PC	PC	PC	PC					PC			PC	PC	PC	PC	PC	PC	PC	PC	PC	PC
X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
																									X	
X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X		X	X	
										X	X	X														
PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC			PC	PC	PC	PC	PC	PC	PC	PC	PC	PC
PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC
																	PC	PC	PC	PC	PC			PC	PC	
PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC
PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	X	X	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC
X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC
PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC
O	O	O	O	O	O	O	O	O	O					O	O	O	O	O	O	O	O	O	O	O	O	O
																									PC	PC
PC	PC	PC	PC	PC	PC	PC	PC	PC	PC					PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC

#### KEY:

- X - Uses permitted as of right
- PC - Uses permitted under prescribed conditions
- O - Uses permitted as an Overlay District in Chapter 10

# MECKLENBURG CODE

## TABLE 9.101, PERMITTED USES, BY DISTRICT

### GENERAL ZONING DISTRICTS

Single Family					Multi-Family					Urban Residential				Inst.	Research		Office			Business				Industrial			
R-3	R-4	R-5	R-6	R-8	R-8MF	R-12MF	R-17MF	R-22MF	R-43MF	UR-1	UR-2	UR-3	UR-C	INST	RE-1	RE-2	O-1	O-2	O-3	B-1	B-2	B-D	BP	I-1	I-2		
PC	PC	PC	PC	PC	PC	PC	PC	PC	PC					PC			PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	
															X	X	X	X	X	X	X	X	X	X	X	X	
PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	
PC	PC	PC	PC	PC	PC	PC	PC	PC	PC					PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	
See Section 12.414																											
PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC			PC	PC		
													PC							PC	X			X	X		
PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC				PC	PC	PC	PC	PC						
PC	PC	PC	PC	PC	PC	PC	PC	PC	PC			PC	PC	PC			PC	PC	PC	PC	PC						
														PC	PC	PC	PC	PC	PC	PC	PC		PC	PC	PC		
PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC		
PC	PC	PC	PC	PC	PC	PC	PC	PC	PC								PC	PC	PC	PC	PC						
PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	X	X	X	X	X	X	X	X	X	X	X	X		
PC	PC	PC	PC	PC	PC	PC	PC	PC	PC								PC	PC	PC	PC	PC						
														PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	X		

#### KEY:

X - Uses permitted as of right

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# MECKLENBURG CODE

## TABLE 9.101, PERMITTED USES, BY DISTRICT

### GENERAL ZONING DISTRICTS

#### ACCESSORY USES & STRUCTURES: (Continued)

Land clearing and inert landfill (LCID): on-site  
 Manager's residence quarters  
 Marinas, residential  
 Medical waste disposal facilities as an accessory use  
 Outdoor lighting  
 Petroleum storage  
 Private kennels  
 Private stables  
 Vending machines, outdoors  
 Vending machines, within an enclosed building  
 Wastewater treatment facilities  
 Other accessory uses and structures

Single Family					Multi-Family					Urban Residential				Inst.	Research		Office			Business				Industrial	
R-3	R-4	R-5	R-6	R-8	R-8MF	R-12MF	R-17MF	R-22MF	R-43MF	UR-1	UR-2	UR-3	UR-C	INST	RE-1	RE-2	O-1	O-2	O-3	B-1	B-2	B-D	BP	I-1	I-2
PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC
															PC	PC					PC	PC		PC	PC
PC	PC	PC	PC	PC	PC	PC	PC	PC	PC								PC	PC	PC	PC	PC				
														PC			PC	PC	PC	PC	PC	PC		PC	PC
PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC		PC	PC
PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC		PC	PC
PC	PC	PC	PC	PC	PC	PC	PC	PC	PC								PC	PC	PC	PC	PC			PC	PC
PC	PC	PC	PC	PC	PC	PC	PC	PC	PC								PC	PC	PC	PC	PC			PC	PC
																					X			X	X
X	X	X	X	X	X	X	X	X	X	PC	PC	PC	PC	X	X	X	X	X	X	X	X	X	X	X	X
PC	PC	PC	PC	PC	PC	PC	PC	PC	PC					PC	PC	PC	PC	PC	PC	PC	PC	PC		PC	PC
See Chapters 9, 11, and 12, Part 4																									
R-3	R-4	R-5	R-6	R-8	R-8MF	R-12MF	R-17MF	R-22MF	R-43MF	UR-1	UR-2	UR-3	UR-C	INST	RE-1	RE-2	O-1	O-2	O-3	B-1	B-2	B-D	BP	I-1	I-2

#### KEY:

- X - Uses permitted as of right
- PC - Uses permitted under prescribed conditions
- O - Uses permitted as an Overlay District in Chapter 10

## MECKLENBURG CODE

### **PART 2: SINGLE FAMILY DISTRICTS**

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#### **PART 2: SINGLE FAMILY DISTRICTS**

##### **Section 9.201. Single family districts established; purposes.**

The R-3, R-4, R-5, R-6 and R-8 districts are hereby established to protect and promote the development of single-family housing and a limited number of public and institutional uses. The standards for these districts are designed to maintain a suitable environment for family living at various densities to accommodate preferences for different housing types. The R-3 and R-4 districts are directed toward suburban single-family living. The R-5, R-6 and R-8 districts address urban single-family living. Densities of development are controlled by maximum number of units per acre requirements, which are different for each district and indicated by the numerical identification attached to each district.

##### **Section 9.202. Uses permitted by right.**

The following uses are permitted by right in the R-3, R-4, R-5, R-6 and R-8 districts, provided that they meet all requirements of this Part and all other requirements established in these regulations:

- (1) Dwellings, attached (duplex, triplex or quadraplex only) (R-8 only).
- (2) Dwellings, detached.
- (3) (R-8 only) Dwellings, duplex, triplex and quadraplex.
- (4) Farms, including retail sale of produce grown on the premises.
- (5) [RESERVED]
- (6) Highway and railroad rights-of-ways.
- (7) Parks, greenways and arboretums.

## MECKLENBURG CODE

### PART 2: SINGLE FAMILY DISTRICTS

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#### **Section 9.203. Uses permitted under prescribed conditions.**

The following uses shall be permitted in the R-3, R-4, R-5, R-6 and R-8 districts if they meet the standards established in this Section and all other requirements of these regulations:

- (1) Adult care homes, subject to the regulations of Section 12.502.
- (1.1) Bed and Breakfasts (B & B's), subject to regulations of Section 12.521.
- (1.2) Beneficial fill sites, subject to the regulations of Section 12.523.
- (1.3) Boarding houses, subject to regulations of Section 12.520.
- (2) Bus stop shelters, subject to the regulations of Section 12.513.
- (3) Cemeteries, subject to the regulations of Section 12.508.
- (4) Child care homes, subject to the regulations of Section 12.502.
- (5) Construction and demolition (C & D) landfills, subject to the regulations of Section 12.524.
- (5.1) Dwellings, attached (duplex only) (R-3, R-4, R-5, and R-6 only), provided that:
  - (a) The dwelling will be located on a corner lot;
  - (b) If more than one entrance, the entrances to each unit in the structure will face different streets; and
  - (c) The minimum setback requirement must be applied to each of the two different streets.
- (6) Dwellings, duplex (R-3, R-4, R-5, and R-6 only), provided that:
  - (a) The dwelling will be located on a corner lot;
  - (b) If more than one entrance, the entrances to each unit in the structure will face different streets; and
  - (c) The minimum setback requirement must be applied to each of the two different streets.

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- (7) Elementary and secondary schools, provided that:
- (a) All buildings, outdoor recreational facilities, and off-street parking and service areas will be separated by a Class C buffer for elementary and junior high schools and a Class B buffer for senior high schools from any abutting property located in a residential zoning district (See Section 12.302); except that buffers shall not be required to separate adjacent public elementary schools; junior high or middle schools; senior high schools; or public parks and greenways;
  - (b) The use will be on a lot which fronts a collector, minor thoroughfare or major thoroughfare for elementary schools and junior high schools, and on a minor thoroughfare or major thoroughfare for senior high schools; and
  - (c) Primary vehicular access to the use will not be provided by way of a residential local (Class VI) street.
  - (d) Subsection 7(b) and 7(c) of this Section shall not apply to the addition of mobile classrooms to any school that is nonconforming with respect to these provisions which was constructed, or where a building permit for the school was issued, prior to January 1, 1992. However, for such a nonconforming school the number of additional mobile classrooms may not exceed more than fifty percent of the school's total existing classrooms.
  - (e) The requirements of Section 12, Part 3: Buffers and Screening will not apply to the placement of mobile classrooms at any school for a period of one year from the date of the issuance of a certificate of occupancy for the mobile classrooms. However, after one year all applicable Buffer and Screening requirements must be fully complied with unless the subject mobile classrooms have been removed. A Letter of Compliance as required by Section 12.306 must be provided at the time of the issuance of the Certificate of Occupancy for the mobile classroom acknowledging this provision. Mobile classrooms may not be placed within any area which would be used to meet the buffer requirement.
  - (f) Except as modified by the requirements of sub-section (7(d) of this section, sub-sections 7(b) and 7(c) of this section shall not apply to additions, modifications, or improvements to any school that is nonconforming with respect to these provisions which was constructed, or where a building permit for the school was issued, prior to January 1, 1992.

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- (8) Equestrian oriented subdivisions, subject to regulations of Section 12.514.
- (9) Government buildings, up to 12,500 square feet, provided that:
  - (a) All buildings and off-street parking and service areas will be separated by a Class C buffer from abutting property located in a residential zoning district (See Section 12.302);
  - (b) The use will be located on a lot that fronts a collector, minor thoroughfare or major thoroughfare; and
  - (c) Primary vehicular access to the use will not be provided by way of a residential local (Class VI) street.
- (9.1) Group homes, for up to 6 clients subject to the regulations in Section 12.517.
- (10) Land clearing and inert debris landfills (LCID): off site, subject to the regulations of Section 12.503.
- (11) Nonconforming structures and uses, subject to the regulation of Chapter 7.
- (12) Open space recreational uses, subject to the regulations of Section 12.516.
- (13) Outdoor recreation, provided that:
  - (a) The use will be located on a lot that is at least two times the minimum lot area required in the district;
  - (b) Off-street parking and service areas and outdoor recreational facilities will be separated by a Class C buffer from any abutting property located in a residential zoning district (See Section 12.302). However, outdoor recreational facilities and associated parking located on a lot within a planned development shall provide a class C buffer only along the portion of the lot which forms part of the external boundary of the planned development;
  - (c) No outdoor recreation facilities, such as swimming pools, tennis courts, picnic shelters, etc. shall be located within 100 feet of any lot located in a residential zoning district. However, outdoor recreational facilities located on a lot within the interior portion of a planned development may be located a minimum of 20 feet from an adjacent lot within the planned development, but must maintain a 100 foot separation from the external

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project boundaries of the planned development when abutting a residential zoning district; and

- (d) Hours of operation will be no earlier than 6:00 a.m. and no later than 11:00 p.m. Eastern Standard Time.
- (13.1) Outdoor seasonal sales, subject to the regulations of Section 12.519.
- (14) Public utility structures, subject to regulations of Section 12.504.
- (15) Public utility transmission and distribution lines, subject to the regulations of Section 12.509.
- (16) Quarries, subject to the QUARRY OVERLAY district of CHAPTER 10, PART 8.
- (17) Radio, telephone, cellular telephone and television masts, towers, antennae and similar structures, subject to the regulations of subsection 12.108(7) or subsection 12.108(8).
- (18) Religious institutions, up to 750 seats, subject to regulations of Section 12.506.
- (19) Sanitary landfills, subject to the regulations of Section 12.507.
- (20) Subdivision sales offices, provided that:
  - (a) The use serves the subdivision in which it is located and abutting subdivision or subdivisions by the same developer or affiliate; and
  - (b) The use shall be terminated upon completion of the sale of 95 percent of the total number of homes and/or lots; provided however, that a model or demonstration home may be used for sales purposes until the last home or lot is sold.
- (21) Temporary buildings and storage of materials, provided that:

The use is in conjunction with the construction of a building on the same lot where construction is taking place or on an adjacent lot. Such temporary uses shall be terminated upon completion of construction.
- (22) Turkey shoots, subject to the regulations of Section 12.510.



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- (23) Universities, colleges and junior colleges, provided that:
- (a) All buildings, outdoor recreational facilities and off-street parking and service areas will be separated by a Class B buffer from any abutting property located in a residential zoning district (See Section 12.302);
  - (b) The use will be on a lot which fronts on a minor or major thoroughfare; and
  - (c) Primary vehicular access to the use will not be provided by way of a residential local (Class VI) street.

#### **Section 9.204. Permitted accessory uses and structures.**

The following uses shall be permitted in the R-3, R-4, R-5, R-6 and R-8 districts as accessory uses and structures, subject to the applicable criteria in this Part and in Chapter 12 of these regulations:

- (1) Accessory uses and structures, clearly incidental and related to the permitted principal use or structure on the lot.
- (2) Bookstores, offices, printing and distribution and similar uses as accessories to religious institutions located on the same lot and subject to the regulations of Section 12.506.
- (3) Customary home occupations, subject to the regulations of Section 12.408.
- (4) Dormitories, as an accessory use to a university, college or junior college located on the same lot.
- (5) Dumpsters, trash handling areas and service entrances, subject to the regulations of Section 12.403.
- (6) Elderly and disabled housing as an accessory to a single family detached dwelling, subject to the regulations of Section 12.407.
- (7) Fences and walls, subject to the regulations of Section 12.406.
- (8) Guest houses and employee quarters as an accessory to a single family detached dwelling, subject to the regulations of Section 12.412.

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- (8.1) Land clearing and inert debris landfill (LCID): on site, subject to the regulations of Section 12.405.
- (9) Marinas, subject to the regulations of Section 12.409.
- (10) Motor vehicles: The following provisions shall apply to unlicensed motor vehicles and the display for sale or trade of motor vehicles in residentially zoned districts:
  - (a) No more than two (2) motor vehicles that do not have a current, valid license plate and are not fully enclosed in a permanent structure shall be permitted outside on any premises provided such vehicles are registered to the occupant of the premises as the record title owner of the vehicles. These vehicles are not permitted to be located within any required setback contained in these regulations or any street right-of-way.
  - (b) No more than three (3) motor vehicles may be displayed for sale or trade on the premises within a one (1) year period provided no more than two (2) such motor vehicles may be displayed for sale or trade on the premises at any one time and provided no motor vehicle may be displayed for sale or trade for a period longer than three (3) months within a one (1) year period. A motor vehicle, licensed or unlicensed, displayed for sale or trade on the premises may be located in the setback, but not within the street right-of-way.
  - (c) All vehicles must comply with the amendment to the "Ordinance to Provide for the Removal and Disposal of Abandoned and Junked Motor Vehicles", which was adopted by the County Commission on January 7, 1991.
- (11) Outdoor lighting, subject to the regulations of Section 12.402.
- (12) Petroleum storage, accessory to a permitted principle use or building, subject to the Fire Prevention Code of the National Board of Fire Underwriters.
- (13) Private kennels, subject to the regulations of Section 12.410.
- (14) Private stables, subject to the regulations of Section 12.411.

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- (15) Vending machines for cigarettes, candy, soft drinks and similar items and coin-operated laundries located within an enclosed building as an accessory to the uses in the principal building or buildings.
- (16) Wastewater treatment facilities, subject to the regulations of Section 12.404.

#### **Section 9.205. Development standards for single-family districts.**

All uses and structures permitted in the R-3, R-4, R-5, R-6 and R-8 districts shall meet the applicable development standards established in this Section and all other requirements of these regulations:

(1) Area, yard and bulk regulations shall be as follows:

	<u>R-3</u>	<u>R-4</u>	<u>R-5</u>	<u>R-6</u>	<u>R-8</u>
(a) Maximum Residential Density (Dwelling units per acre) <sup>1</sup>	3.0	4.0	5.0	6.0	8.0
(b) Maximum floor area ratio for nonresidential buildings	.50	.50	.50	.50	.50
(c) Minimum lot area (square feet) <sup>2</sup>					
- Detached dwellings	10,000*	8,000*	6,000	4,500	3,500
- Duplex dwellings	16,000**	13,000**	10,000**	8,000**	6,500**
- Triplex dwellings					9,500**
- Quadraplex dwellings					11,500**
- Nonresidential buildings	12,000	12,000	12,000	12,000	12,000
(d) Minimum lot width (feet)					
- Residential dwellings	70	60	50	40	40
- Nonresidential buildings	70	70	70	70	70
(e) Minimum setback (feet) <sup>3</sup>	30	30	20	20	20
(f) Minimum side yard (feet) <sup>4</sup>	6	5	5	5	5
(g) Minimum rear yard (feet)	45	40	35	30	20
(h) Minimum open space (%) <sup>5</sup>	65	65	65	60	50
(i) Maximum height (feet) <sup>6</sup>	40	40	40	40	40

\*Also, see Section 9.205(2)

\*\*If land is sold with an attached dwelling, the minimum sub lot size must be sufficient to accommodate the dwelling unit and 400 square feet of private open space.

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#### FOOTNOTES TO CHART 9.205(1):

- <sup>1</sup> The maximum residential density number, when multiplied by the number of acres in a lot, controls the allowable number of dwelling units permitted on a lot. Density is calculated by multiplying the gross land area, minus any existing dedicated rights-of-way incorporated within the property, times the maximum density number established for the zoning district.
- <sup>2</sup> For residential subdivisions of 10 or more lots, the minimum lot size may be varied subject to the regulations of subsection (4) of this Section. For subdivisions of 5 acres or less, the requirements in subsection (2) of this Section shall apply.
- <sup>3</sup> For residential subdivisions of 10 or more lots, the minimum setback may be varied subject to the regulations of subsection (4) of this Section.
- <sup>4</sup> For subdivisions of 10 or more lots, minimum building separations or zero lot lines may be used in lieu of side yards specified subject to the regulations of subsection (4) of this Section.
- <sup>5</sup> Religious institutions may have a minimum open space of 25%.
- <sup>6</sup> A building in any of the designated districts may be erected to a height in excess of 40 feet, provided the minimum side yard is increased 1 foot for every 2 feet of building height in excess of 40 feet. However, a building which abuts a residential zoning district may not be erected to a height in excess of 40 feet unless the side and/or rear yard abutting the residential zoning district is increased 1 foot for every foot of building height in excess of 40 feet. Height requirements for other permitted structures are set forth in Section 12.108.

#### CROSS-REFERENCES:

Applicable buffer requirements may require a larger side or rear yard than the minimum in some districts. See Chapter 12, Part 3. Also, setbacks and yards, which are larger than the minimum, may be required along certain streets subject to the regulations in Section 12.103. For properties bordering Lake Norman, Lake Wylie, Mountain Island Lake and the Catawba River, see Section 12.515 for piers and other water-related facilities development.

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- (2) Small Subdivisions. Subdivisions of 5 acres or less shall adhere to the following minimum lot area requirements in the R-3 and R-4 districts only:

	<u>R-3</u>	<u>R-4</u>
(a) Minimum lot area (square feet)		
- Detached dwelling	12,000	9,000

- (3) Buffers and Screening. Nonresidential development in the single-family residential districts shall comply with applicable buffer and screening requirements in Chapter 12, Part 3.

- (4) Special subdivision lot and yard requirements. The following provisions apply to any residential subdivision of 10 or more lots approved on or after the effective date of these regulations:

- (a) The minimum lot size of any lots within a subdivision may be reduced by 10%, provided that the average size of all lots is at least equal to the minimum lot size for the zoning district, and the total number of lots does not exceed the number that would be allowed if all lots were the minimum size for the zoning district. Other lot size reductions may be applicable, subject to Section 12.105 and subsection (5) of this Section;
- (b) Development on each lot need not meet the minimum setback requirement for the district in which such lot is located, if the average setback of all lots along a street within a subdivision meet the minimum setback requirement for the district. In no event, shall a structure be located any closer than 20 feet to the right-of-way. The setback for each lot shall be shown on the final plat;
- (c) The minimum side yard may be reduced for a principal building or structure to 5 feet, provided a minimum building separation is maintained between the principal buildings or structures on adjoining lots that is equal to at least two times the minimum side yard required for the district;
- (d) A zero lot line, z-lots, and angled z-lots may be permitted where the building line is on one side of the lot line in a residential district used for single family detached dwellings, provided that:

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- i. Any wall constructed on the side lot line must be a solid windowless wall. If there is an offset of the wall from the lot line of more than 6 inches, the offset must be at least 6 feet;
  - ii. The minimum building separation between the sides of adjacent dwellings shall be at least two times the minimum side yard required for the district;
  - iii. A 5-foot maintenance easement and a maximum eave encroachment of 2 feet within the maintenance easement must be established in the deed restrictions and covenants of the adjoining lot. This will provide ready access to the lot line wall at reasonable periods of the day for normal maintenance;
  - iv. Preliminary subdivision plans submitted to the Planning Commission must indicate the proposed location and configuration of dwellings, driveways and parking arrangements for each lot. A draft of the proposed encroachment and maintenance easements must be submitted for review;
  - v. Zero side yards established under these standards must be continuous along the length of the building. There must be either the lot line wall or a solid wall or fence at least 6 feet high along the lot line adjacent to the building between the established setback and the established rear yard. The wall or fence is used in those cases where the building may be offset as allowed under these standards; and
- (e) Notwithstanding Subdivisions (a), (b), (c), or (d) above, any development on a lot that abuts a street defining the outer boundary of the subdivision, or that abuts a lot which is not within the subdivision, shall meet the minimum yard requirements of the zoning district in relation to that street or abutting lot.

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- (5) Cluster Development. Cluster Development, as defined in Section 2.201(C6), is permitted in all single-family residential districts, except the R-8, in accordance with the following regulations:
- (a) A cluster development need not meet the minimum lot area and lot width requirements set out in subsection 9.205(1), provided that the development does not exceed the maximum residential density for the district, and provided that each lot meets the minimum lot area and lot width requirements set forth in Table 9.205(5);

Table 9.205(5)

Zoning Districts	Maximum Dwelling Units Per Acre	Minimum Lot Area (Square feet)	Minimum Lot Width (Feet)	Minimum Rear Yard (Ft.) Interior Lots*
R-3	3.0	8,000	60	30
R-4	4.0	6,000	50	30
R-5	5.0	4,500	40	20
R-6	6.0	3,500	40	20

\*Minimum rear yards forming the outer boundary of a cluster must conform to the minimum of subsection 9.205(1)(g) for the district in which the development is located.

- (b) Development qualifying under this subsection need not meet the minimum yard requirements of subsection 9.205(1) if it complies with the requirements of subsection (4) above;
- (c) Cluster development shall have common open space set aside in accordance with the following requirements:
- i. At least 10 percent of the total area of the development shall be set aside as common open space;

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- ii. All common open space shall be set aside and improved no later than the date on which certificates of occupancy are issued for the first 75 percent of the total number of dwelling units to be constructed within the project area;
- iii. No more than 50 percent of the required common open space shall be covered by water;
- iv. Any structures located in any common open space shall be accessory to the recreational use of the space;
- v. The required common open space shall be planned and improved so that it is accessible and usable by persons living in the project area. However, common open space containing natural features worthy of preservation may be left unimproved;
- vi. All of the common open space required under this Section shall be either conveyed to Mecklenburg County, if the County agrees to accept ownership of and to maintain the space, or conveyed to one or more homeowner associations created for the development, or with respect to outdoor recreation facilities to the owner or operator, thereof; and
- vii. Any conveyance to a homeowners association shall be subject to restrictive covenants and easements reviewed by the Planning Director and recorded and filed at the time the subdivision plat for the project area is recorded. The covenants and easements shall provide for the establishment of a homeowner's association before any homes are sold, where membership is mandatory for each home buyer and any successive buyer, the association is responsible for liability insurance and local, taxes on common open space and recreational facilities owned by it, and any fees levied by the association that remain unpaid will become a lien on the individual property in accordance with procedures established under the dedication or organization document. The covenants and easements shall also prohibit future development of any common open space, for other than open space or recreational purposes, and shall provide for continued maintenance of any common open space and recreational facilities.



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- (6) Signs. Signs are permitted in all single family residential districts in accordance with Chapter 13.
- (7) Parking and Loading. Development of any use in a single family residential district must conform to the parking and loading standards in Chapter 12, Part 2.

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### PART 3: MULTI-FAMILY DISTRICTS

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#### PART 3: MULTI-FAMILY DISTRICTS

##### Section 9.301. Multi-family districts established; purposes.

The R-8MF, R-12MF, R-17MF, R-22MF and R-43MF districts are hereby established to protect and promote the development of a variety of housing types, including apartments, condominiums, and other forms of attached housing. These districts allow for housing to be developed at a full range of densities from high densities accommodating smaller residential units appropriate to individuals and couples without children to the lower densities allowed in single family residential districts. It is intended that these districts, and especially the R-43MF district, be located near employment centers, shopping facilities, and roads capable of handling the traffic generated by higher-density development. These districts may also accommodate limited institutional, public, and commercial uses appropriate within a residential environment. Densities of development are controlled by maximum number of dwelling units per acre requirements, which are different for each district and indicated by the numerical identification attached to each district.

##### Section 9.302. Uses permitted by right.

The following uses are permitted by right in the R-8MF, R-12MF, R-17MF, R-22MF and R-43MF districts, provided that they meet all requirements of this Part, and all other requirements established in these regulations:

- (1) [RESERVED]
- (2) Dwellings, detached.
- (3) Dwellings, duplex.
- (4) Dwellings, triplex.
- (5) Dwellings, quadraplex.
- (6) Dwellings, attached and multi-family up to 12 units in a building.
- (7) Farms, including retail sale of produce grown on the premises.
- (8) Group homes, for up to 10 residents.
- (9) Highway and railroad rights-of-way.

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- (10) Parks, greenways and arboretums.

#### Section 9.303. Uses permitted under prescribed conditions.

The following uses shall be permitted in the R-8MF, R-12MF, R-17MF, R-22MF and R-43MF districts if they meet the standards established in this Section and all other requirements of these regulations:

- (1) Adult care centers, subject to the regulations of Section 12.502.
- (2) Adult care homes, subject to the regulations of Section 12.502.
- (2.1) Bed and Breakfasts (B & B's), subject to regulations of Section 12.521.
- (2.2) Beneficial fill sites, subject to the regulations of Section 12.523.
- (2.3) Boarding houses, subject to regulations of Section 12.520.
- (3) Bus stop shelters, subject to the regulations of Section 12.513.
- (4) Cemeteries, subject to the regulations of Section 12.508.
- (5) Child care centers, subject to the regulations of Section 12.502.
- (6) Child care homes, subject to the regulations of Section 12.502.
- (7) Civic, social service and fraternal facilities, provided that:
  - (a) All buildings, off-street parking and service areas will be separated by a Class C buffer from any abutting property located in a residential zoning district (See Section 12.302);
  - (b) The use will be located on a lot that fronts a collector, minor thoroughfare or major thoroughfare; and
  - (c) Primary vehicular access to the use will not be provided by way of a residential local (Class VI) street.
- (8) Construction and demolition (C & D) landfills, subject to the regulations of Section 12.524.
- (9) Dormitories, provided that:

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- (a) The dormitory will be located within one-half mile of the institutional use it is designed to serve;
  - (b) Building walls over 200 square feet and facing a public-right-of way shall require a minimum of one large maturing tree per 30 linear feet of wall or one small maturing tree per 20 linear feet of wall no closer than 15 feet to the wall; and
  - (c) If there are more than 12 living units in a single dormitory or more than one dormitory on the same lot, it shall be reviewed and approved in accordance with the regulations for planned multi-family or attached development in subsection 9.303(19) of this Section.
- (10) Elementary and secondary schools, provided that:
- (a) All buildings, outdoor recreational facilities and off-street parking and service areas will be separated by a Class C buffer for elementary schools and junior high schools and a Class B buffer for senior high schools from any abutting residential zoning district (See Section 12.302); except that buffers shall not be required to separate adjacent public elementary schools; junior high or middle schools; senior high schools; or public parks and greenways;
  - (b) The use will be on a lot which fronts a collector, minor thoroughfare or major thoroughfare for elementary schools and junior high schools and for senior high schools, a lot shall front on a minor thoroughfare or major thoroughfare; and
  - (c) Primary vehicular access to the use will not be provided by way of a residential local (Class VI) street.
  - (d) Subsection 10(b) and 10(c) of this Section shall not apply to the addition of mobile classrooms to any school that is nonconforming with respect to these provisions which was constructed, or where a building permit for the school was issued, prior to January 1, 1992. However, for such a nonconforming school the number of additional mobile classrooms may not exceed more than fifty percent of the school's total existing classrooms.
  - (e) The requirements of Section 12, Part 3: Buffers and Screening will not apply to the placement of mobile classrooms at any school for a period

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of one year from the date of the issuance of a certificate of occupancy for the mobile classrooms. However, after one year all applicable Buffer and Screening requirements must be fully complied with unless the subject mobile classrooms have been removed. A Letter of Compliance as required by Section 12.306 must be provided at the time of the issuance of the Certificate of Occupancy for the mobile classroom acknowledging this provision. Mobile classrooms may not be placed within any area, which would be used to meet the buffer requirement.

- (f) Except as modified by the requirements of subsection 10(d) of this section, subsections 10(b) and 10(c) of this section shall not apply to additions, modifications, or improvements to any school that is non-conforming with respect to these provisions which was constructed, or where a building permit for the school was issued, prior to January 1, 1992.
- (11) Equestrian oriented subdivision, subject to regulations of Section 12.514.
- (12) Government buildings, up to 12,500 square feet, provided that:
  - (a) All buildings, off-street parking and service areas will be separated by a Class C buffer from any abutting property located in a residential zoning district (See Section 12.302);
  - (b) The use will be located on a lot that fronts a collector, minor thoroughfare or major thoroughfare; and
  - (c) Primary vehicular access to the use will not be provided by way of a residential local (Class VI) street.
- (13) Land clearing and inert debris landfills (LCID): off site, subject to the regulations of Section 12.503.
- (14) Nonconforming structures and uses, subject to the regulations of Chapter 7.
- (15) Nursing homes, rest homes, homes for the aged, elderly and disabled housing, provided that:
  - (a) The maximum number of units or beds permitted is as established in the chart below:

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<u>District</u>	<u>Independent Living Units per Acre</u>	<u>Dependent Living Beds per Acre</u>
R-8MF	8	16
R-12MF	12	25
R-17MF	17	40
R-22MF	22	50
R-43MF	43	100

- (b) If any nursing home, rest home or home for the aged has more than 12 living units in a single building or if there is more than one building on the lot, it shall be reviewed and approved in accordance with the regulations for planned multi-family or attached development in subsection 9.303(19) of this Section.
- (16) Open space recreational uses, subject to the regulations of Section 12.516.
- (17) Orphanages, children's homes and similar nonprofit institutions providing domiciliary care for children, provided that:
- (a) Building walls over 200 square feet and facing a public right-of-way shall require a minimum of one large maturing tree per 30 linear feet of wall or one small maturing tree per 20 linear feet of wall no closer than 15 feet to the wall; and
- (b) If an orphanage, children's home or similar institution has more than 12 living units or if there is more than one building on the same lot, it must be reviewed and approved in accordance with the regulations for planned multi-family or attached development in subsection 9.303(19) of this Section.
- (18) Outdoor recreation, provided that:
- (a) The use will be located on a lot that is at least two times the minimum lot area required in the district;
- (b) Off-street parking and service areas and outdoor recreational facilities will be separated by a Class C buffer from any abutting property located in a residential zoning district (See Section 12.302). However, outdoor recreational facilities and associated parking located on a lot within a planned development shall provide a Class C buffer only along the portion of the lot which forms part of the external boundary of the planned development;

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- (c) No outdoor recreational facilities, such as swimming pools, tennis courts, picnic shelters, etc. shall be located within 100 feet of any lot located in a residential zoning district. However, outdoor recreational facilities located on a lot within the interior portion of a planned development may be located a minimum of 20 feet from an adjacent lot within the planned development, but must maintain a 100 feet separation from the external project boundaries of the planned development when abutting a residential zoning district; and
- (d) Hours of operation will be no earlier than 6:00 a.m. and no later than 11:00 p.m. Eastern Standard Time.

(18.1) Outdoor seasonal sales, subject to the regulations of Section 12.519.

(19) Planned multi-family and attached developments, a single multi-family or attached building on a lot with more than 12 units in a building, provided that:

- (a) The site plan must be designed giving adequate consideration to the following factors:
  - i. The size and shape of the tract.
  - ii. The topography and necessary grading.
  - iii. The reasonable preservation of the natural features of the land and vegetation.
  - iv. The size and relationship of buildings.
  - v. The character of/or relationship to adjoining properties.

Building arrangement should discourage the creation of long alleyways between the rears of buildings and should discourage the orientation of the front entrance of a residential building toward the rear entrance of another residential building. Consideration should be given to the location and arrangement of recreation and parking areas, the nature and extent of screening, and the design and utilization of streets and open spaces.

- (b) Every residential building on the site will be separated on every side from any other building by at least 16 feet;
- (c) All portions of every residential building will be located within 400 feet

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of a public street or private street that furnishes direct access to a residential building. Determination of whether interior roads will be public streets or private streets, or a combination of public streets and private streets will be made by the Planning Director in consultation with the Mecklenburg County Engineering Department. In reaching that decision, consideration should be given to the following:

- i. Adopted thoroughfare plan;
- ii. Existing and proposed neighborhood streets and circulation needs;
- iii. The relationship of the site to adjoining lands;
- iv. The size and shape of the tract to be developed;
- v. The number of dwelling units to ultimately be constructed on the tract and on adjoining lands; and
- vi. Anticipated traffic volumes.

The determination of whether interior roads will be public or private will consider only the minimum needs of the public for public streets and will recognize the privacy, security and safety advantages of private streets;

- (d) Private streets are interior circulation roads designed and constructed to carry vehicular traffic from public streets within or adjoining the site to parking and service areas. The design and arrangement of private streets will be subject to review and approval by the Planning Director in consultation with the Mecklenburg County Engineering Department.

- i. Construction standards for private streets regarding paving, cross sections, curb and gutter and storm drainage will be as specified in the Charlotte-Mecklenburg Land Development Standards Manual. No specific minimum standards related to radii, vertical curves and longitudinal grades will be stated except that such designs will insure safe, convenient access and circulation for emergency and service vehicles. It will be an objective in the design and review of private streets and parking areas to provide for a residential environment where access and circulation ways are configured for slow speeds and to do minimum disturbance to topography and tree cover.



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- ii. Angled parking areas directly adjoining private streets will be permitted on one side of the street. Such parking areas may be alternated from one side of the street to the other. The combined length of such parking areas may not exceed 50 percent of the length of the adjoining roadway. All other angled parking areas must be clearly separated from the private street by at least a barrier island.
  - iii. Permanent street names approved by the Planning Director will be assigned to each private street. Street name signs approved by the Mecklenburg County Engineering Department must be posted. The assignment of building identification numbers will utilize the approved private street names;
- (e) Private streets and surface parking areas on the site will be no closer than 15 feet to any side of a residential building used for entry into the building and will be no closer than 5 feet to any other face of a building. Architectural features such as stairs, chimneys, bay windows, and roof overhangs may extend into this 15-foot area, but in no case may they be closer than 5 feet to the private street and surface parking area;
  - (f) All structures and off-street parking and service areas will be separated by a Class C buffer along the side or rear yard from any abutting lot located in a single family residential zoning district (See Section 12.302);
  - (g) Building wall areas over 200 square feet and facing the public right-of-way shall require a minimum of one large maturing tree per 30 feet of linear wall or one small maturing tree per 20 feet of linear wall no closer than 15 feet to the wall; and
  - (h) No building permit for construction of a planned multi-family or attached development will be issued until a preliminary plan has been approved by the Planning Director in accordance with the requirements of these regulations. After the Planning Director has approved the preliminary plan, the planned multi-family or attached development must proceed through the normal approval process to obtain a building permit.
- (20) Public utility structures, subject to the regulations of Section 12.504.

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- (21) Public utility transmission and distribution lines, subject to the regulations of Section 12.509.
- (22) Quarries, subject to the QUARRY OVERLAY district of CHAPTER 10, PART 8.
- (23) Radio, telephone, cellular telephone and television masts, towers, antennae, and similar structures, subject to the regulations of subsection 12.108(7) or subsection 12.108(8).
- (24) Religious institutions, up to 1,200 seats, subject to the regulations of Section 12.506.
- (25) Retail and office establishments, restaurants & indoor recreation, provided that:
  - (a) The establishment will be located within a building that contains at least 50 dwelling units;
  - (b) The establishment will occupy no more than 25 square feet per dwelling unit in the building up to a maximum of 10,000 square feet;
  - (c) The establishment will have no direct public entrance from the outside of the building; and
  - (d) No merchandise or display of merchandise will be visible from outside the building.
- (26) Sanitary landfills, subject to the regulations of Section 12.507.
- (27) Subdivision sales office, provided that:
  - (a) The use serves the subdivision in which it is located and adjoining subdivision or subdivisions by the same developer or affiliate; and
  - (b) The use shall be terminated upon the completion of the sale of 95 percent of the total number of homes and/or lots; provided, however, that a model or demonstration home may be used for sales purposes until the last home or lot is sold.
- (28) Temporary buildings and storage of materials, provided that:

The use is in conjunction with the construction of a building on the same lot

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where construction is taking place or on an adjacent lot. Such temporary uses shall be terminated upon completion of construction.

- (29) Turkey shoots, subject to the regulations of Section 12.510.
- (30) Universities, colleges and junior colleges, provided that:
  - (a) All buildings, outdoor recreation facilities and off-street parking and service areas will be separated by a Class B buffer from any residential zoning district (See Section 12.302).
- (31) [RESERVED]

#### **Section 9.304. Permitted accessory uses and structures.**

The following uses shall be permitted in the R-8MF, R-12MF, R-17MF, R-22MF and R-43MF districts as accessory uses and structures, subject to the applicable criteria in this Part and in Chapter 12 of these regulations:

- (1) Accessory uses and structures, clearly incidental and related to the permitted principal use or structure on the lot.
- (2) Bookstores, offices, printing and distribution and similar uses as accessories to religious institutions located on the same lot and subject to the regulations of Section 12.506.
- (3) Customary home occupations, subject to the regulations of Section 12.408.
- (4) Dumpsters, trash handling areas and service entrances, subject to the regulations of Section 12.403.
- (5) Elderly and disabled housing as an accessory to a single family detached dwelling, subject to the regulations of Section 12.407.
- (6) Fences and walls, subject to the regulations of Section 12.406.
- (7) Guest houses and employee quarters as an accessory to a single family detached dwelling, subject to the regulations of Section 12.412.
- (7.1) Land clearing and inert debris landfill (LCID): on site, subject to the regulations of Section 12.405.

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- (8) Marinas, subject to the regulations of Section 12.409.
- (9) Motor vehicles: The following provisions shall apply to unlicensed motor vehicles and the display for sale or trade of motor vehicles in residentially zoned districts:
  - (a) No more than two (2) motor vehicles that do not have a current, valid license plate and are not fully enclosed in a permanent structure shall be permitted outside on any premises provided such vehicles are registered to the occupant of the premises as the record title owner of the vehicles. These vehicles are not permitted to be located within any required setback contained in these regulations or any street right-of-way.
  - (b) No more than three (3) motor vehicles may be displayed for sale or trade on the premises within a one (1) year period provided no more than two (2) such motor vehicles may be displayed for sale or trade on the premises at any one time and provided no motor vehicle may be displayed for sale or trade for a period longer than three (3) months within a one (1) year period. A motor vehicle, licensed or unlicensed, displayed for sale or trade on the premises may be located in the setback, but not within the street right-of-way.
  - (c) All vehicles must comply with the amendment to the "Ordinance to Provide for the Removal and Disposal of Abandoned and Junked Motor Vehicles", which was adopted by the County Commission on January 7, 1991.
- (10) Outdoor lighting, subject to the regulations of Section 12.402.
- (11) Petroleum storage, accessory to a permitted principal use or building, subject to the Fire Prevention Code of the National Board of Fire Underwriters.
- (12) Private kennels, subject to the regulations of Section 12.410.
- (13) Private stables, subject to the regulations of Section 12.411.
- (14) Vending machines for cigarettes, candy, soft drinks and similar items and coin-operated laundries located within an enclosed building as an accessory to the uses in the principal building or buildings.
- (15) Wastewater treatment facilities, subject to the regulations of Section 12.404.

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### Section 9.305. Development standards for multi-family districts.

All uses and structures permitted in the R-8MF, R-12MF, R-17MF, R-22MF, and R-43MF districts shall meet the applicable development standards established in this Section and all other requirements of these regulations:

(1) Area, yard and bulk regulations shall be as follows:

	<u>R-8MF</u>	<u>R-12MF</u>	<u>R-17MF</u>	<u>R-22MF</u>	<u>R-43MF</u>
(a) Maximum Residential Density (Dwelling units per acre) <sup>1</sup>	8.0	12.0	17.0	22.0	43.0
(b) Maximum floor area ratio for nonresidential buildings	.50	.50	.50	.50	.50
(c) Minimum lot area (square feet) <sup>2</sup>					
- Detached dwellings	3,500	3,500	3,500	3,500	3,500
- Duplex dwellings*	6,500	6,500	6,500	6,500	6,500
- Triplex dwellings*	9,500	9,500	9,500	9,500	9,500
- Quadraplex dwellings*	11,500	11,500	11,500	11,500	11,500
- Multi-family dwellings*	11,500	11,500	11,500	11,500	11,500
- All Other buildings	12,000	12,000	12,000	12,000	12,000
(d) Minimum lot width (feet)					
- Detached dwellings	40	40	40	40	40
- Duplex, triplex and quadraplex dwellings	55	55	55	55	55
- Multi-family dwellings	55	55	55	55	55
- All other buildings	80	80	80	80	80
(e) Minimum setback (feet) <sup>3</sup>					
- Detached, duplex, triplex and quadraplex dwellings	20	20	20	20	20
- All other buildings, including planned multi-family developments	30	30	30	30	30
(f) Minimum side yard (feet) <sup>4</sup>					
- Detached, duplex, triplex and quadraplex dwellings	5	5	5	5	5
- All other buildings, including planned multi-family developments (except as required below)	10	10	10	5	5
- Planned multi-family developments adjoining single family developed or zoned land <sup>5</sup>	20	20	10	10	10

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	<u>R-8MF</u>	<u>R-12MF</u>	<u>R-17MF</u>	<u>R-22MF</u>	<u>R-43MF</u>
(g) Minimum rear yard (feet)					
- Detached, duplex, triplex and quadraplex dwellings	20	20	20	20	20
- All other buildings, including planned multi-family developments (except as required below)	40	40	40	40	40
- Planned multi-family developments adjoining single family developed or zoned land <sup>5</sup>	50	50	50	40	40
(h) Minimum open space (%) <sup>6</sup>	50	50	45	40	30
(i) Maximum height (feet) <sup>7</sup>	40	40	40	40	40

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\* If land is sold with an attached unit, the minimum subplot size must be sufficient to accommodate the dwelling unit and 400 feet of private open space.

#### FOOTNOTES TO CHART 9.305(1):

- <sup>1</sup> The maximum residential density number, when multiplied by the number of acres in a lot, controls the allowable number of dwelling units permitted on a lot. Density is calculated by multiplying the gross land area, minus any existing dedicated rights-of-way incorporated within the property, times the maximum density number established for the zoning district.
- <sup>2</sup> For residential subdivisions of 10 or more lots, the minimum lot size may be varied subject to the regulations of subsection 9.205(4).
- <sup>3</sup> For residential subdivisions of 10 or more lots, the minimum setback may be varied subject to the regulations of subsection 9.205(4).
- <sup>4</sup> For residential subdivisions of 10 or more lots, minimum building separations or zero lot lines may be used in lieu of side yards specified, subject to the regulations of subsection 9.205(4).
- <sup>5</sup> Side and rear yards determinations in planned multi-family developments will be based on the orientation of each proposed building to the adjoining project property line, except in a single building planned multi-family development where side and rear yards will be determined based upon the configuration of the lot. If the angle formed by the property line and the front or rear facade of the building is greater than 45 degrees, the area between the building and the property line will be treated as a side yard.

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- <sup>6</sup> Religious institutions may have a minimum open space of 25%.
- <sup>7</sup> A building in any of the designated districts may be erected to a height in excess of 40 feet, provided the minimum side yard is increased 1 foot for every 2 feet in building height in excess of 40 feet. If, a building abuts a single family residential zoning district, it may not be erected to a height in excess of 40 feet unless the side and/or rear yard abutting the single family zoning district is increased 1 foot for every foot of building height in excess of 40 feet. However, any building over 60 feet in height and abutting a single family residential zoning district must increase any side and/or rear yard upon which a building shadow is cast 1½ feet for each foot above 60 feet. Height requirements for other permitted structures are set forth in Section 12.108.

#### CROSS-REFERENCES:

Applicable buffer requirements may require a larger side or rear yard than the minimum in some districts. See Chapter 12, Part 3. Also, larger setback and yard requirements may be required along certain streets subject to the regulations of Section 12.103. For properties bordering Lake Norman, Lake Wylie, Mountain Island Lake and the Catawba River, see Section 12.515 for piers and other water-related facilities development.

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- (2) Buffers and Screening. Development of any use in a multi-family residential district must conform to applicable buffer and screening requirements in Chapter 12, Part 3.
- (3) Signs. Signs are permitted in all multi-family residential districts in accordance with Chapter 13.
- (4) Parking and Loading. Development of any use in a multi-family residential district must conform to the parking and loading standards in Chapter 12, Part 2.
- (5) Special subdivision lot and yard requirements. Special lot and yard requirements apply to residential subdivisions of 10 lots or more in accordance with subsection 9.205(4).

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### **PART 4: URBAN RESIDENTIAL DISTRICTS**

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#### **PART 4: URBAN RESIDENTIAL DISTRICTS**

##### **Section 9.401. Urban Residential districts; location; purposes.**

- (1) Urban areas are recognized as unique areas with many assets and opportunities. In order to foster the urban characteristics of these areas, development here should promote an environment of diverse uses at higher than normal density which encourages pedestrian activities, needs and movement, while at the same time recognizing the limited supply of urban land. As such this requires special zoning classifications in order to implement the goals and objectives of these vital areas of the community. Further it is necessary and desirable to promote the residential nature of these areas through zoning classifications, which are intended to realize the growing opportunities for new infill development and redevelopment. Such residential development, properly located and developed, can enhance and support the overall mix of uses characteristic of urban areas. Therefore, the purpose of this Section is to establish the urban residential districts.
- (2) Urban residential districts are intended for use in special areas of the community and thus may be considered for limited application. Generally, special plans or policy guides will be used to determine applicability. The official Zoning Map of the Mecklenburg County will designate urban residential district boundaries.
- (3) These districts are designed to provide standards and incentives, which will promote the development or redevelopment of urban areas that contain a mix of land uses with a predominantly residential character. Emphasis is given to provisions, which will provide opportunities for imaginative new urban development compatible with the development objectives of these areas. Accordingly, the development objectives are:
  - (a) To maximize residential development potentials in urban areas;
  - (b) To establish a predominantly residential character with residential neighborhoods;
  - (c) To provide for sufficient local retail and office uses to support residential areas;
  - (d) To protect all residential areas from inappropriate and intrusive uses;
  - (e) To maximize open space and other amenities within residential areas;



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- (f) To protect and enhance existing single-family residential areas from uses which by their scale and characteristics may be inappropriate;
- (g) To provide for the efficient utilization of scarce urban land; and
- (h) To reward development projects through a density bonus system for including specific development features which significantly further the overall goals for these areas and which enhance the urban residential environment.

#### **Section 9.402. Urban Residential districts; established.**

In order to provide densities and other development standards, which are compatible with urban characteristics, the following zoning classifications are established:

- (1) Urban Residential-1 district (UR-1): The intent of this district is to protect and enhance designated single-family areas and to encourage appropriate infill development within these areas.
- (2) Urban Residential-2 district (UR-2): The intent of this district is to promote maximum opportunities for moderate density residential development. This district functions as both a transition between lower and higher density and as the predominant residential district throughout much of the fringe of the uptown area.
- (3) Urban Residential-3 district (UR-3): The intent of this district is to provide for high density residential development. This district is located nearer the employment core and in areas identified for their special adaptability and appropriateness for this type of housing.
- (4) Urban Residential-Commercial district (UR-C): The intent of the UR-C district is to promote a diversity of residential, retail, office, recreational and cultural uses in a mixed use, higher density pattern. This district is restricted in location to the periphery of an employment core or to areas designated as community or neighborhood centers where a high level of commercial or other services are desired.

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#### Section 9.403. Urban Residential districts; uses permitted by right.

- (1) UR-1: Uses permitted by right within the UR-1 district are detached, duplex, attached dwellings and group homes for up to 6 residents.
- (2) UR-2: Uses permitted by right within the UR-2 district are detached, duplex, triplex, quadraplex, attached, multi-family dwellings and group homes for up to 10 residents. The following nonresidential uses are also permitted provided that the gross floor area of these uses does not exceed 50 percent of the ground floor area of the dwelling unit in which they are located. There is no restriction as to where within the structures these uses may be located.
  - Handcraft shops
  - Book shops
  - Antique shops
  - Tea rooms
  - Studios
  - Museums
  - Offices
- (3) UR-3: Uses permitted by right within the UR-3 district are detached, duplex, triplex, quadraplex, attached, multi-family dwellings and group homes for up to 10 residents. Business or office uses limited to those permitted in B-1 neighborhood business districts are also allowed, except that no drive-in windows or automotive sales, service or repair is permitted. Any such commercial uses will be limited in floor area to two times the size of the building footprint, but there are no requirements as to where within the structure the uses may be located. Business or office uses are not permitted as freestanding uses but may be combined with residential uses in the same structure.
- (4) UR-C: Uses permitted by right within the UR-C district are detached, duplex, triplex, quadraplex, attached, multi-family dwellings and freestanding nonresidential structures and group homes for up to 10 residents. Freestanding nonresidential structures and multi-family structures may contain commercial and office uses that are permitted in B-1 neighborhood business districts, except that no drive-in windows or automotive sales, service, or repair will be permitted.

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#### **Section 9.404. Urban Residential districts; uses permitted under prescribed conditions.**

- (1) Bed and Breakfasts (B & B's) (UR-1 only), subject to regulations of Section 12.521.
  - (1.1) Beneficial fill sites, subject to the regulations of Section 12.523.
  - (1.2) Boarding houses (UR-1 only), subject to regulations of Section 12.520.
  - (1.3) Buildings for dramatic, musical, or cultural activities with less than 1,000 seats and stadiums and coliseums with less than 5,000 seats (UR-C only), provided that:
    - (a) The perimeter of the parking areas, exclusive of access driveways, will have a planting strip of at least 5 feet in width, and at least 1 tree 2 inches in caliper for each 25 linear feet of parking area perimeter shall be planted;
    - (b) Parking areas will have interior planting areas amounting to at least 10 percent of the paved area in excess of one acre;
    - (c) Access for the development site will be provided from nonresidential streets and shall not require the use of any residential collector (Class V) or residential local (Class VI) streets;
    - (d) The private living areas and associated open spaces of all abutting residential properties are effectively screened from parking and service areas, as well as from any other portion of the development site which is actively used;
    - (e) No direct beams or rays of light from exterior lighting fixtures, signs or vehicles maneuvering on the development site will shine into the private living areas and associated open spaces of adjacent residential properties;
    - (f) The use will not generate light of such an intensity or brilliance as to cause glare or to impair the vision of drivers;
    - (g) The use will be designated to allow direct access for transit service;
    - (h) The use will not cause or intensify off-site drainage problems; and
    - (i) The use will not be contradictory to the objectives of any approved plans for the area.

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- (2) Customary home occupations. Home occupations are allowed in all urban residential districts in accordance with the requirements of Section 12.408.
- (2.1) Land clearing and inert debris landfills (LCID): off-site, subject to the regulations of Section 12.503.
- (3) Off-street parking as a separate use (UR-C only). This parking must be provided with a 5-foot wide landscaped area along all property lines. The landscaped areas may include materials such as grass, planted ground cover, shrubs, vines, hedges, trees or similar materials.
- (4) Planned multi-family and attached dwellings (UR-2, UR-3, UR-C only). Residential uses, subject to the provisions of Section 9.303(19), Planned Multi-family and Attached dwellings in residential districts shall be reviewed and approved in accordance with the provision of that Section, except dimensional requirements of that Section do not apply.
- (5) Religious institutions. Religious institutions are permitted subject to the regulations of Section 12.506.
- (6) Uses normally permitted in residential districts. Institutional, nonresidential, accessory or complimentary uses normally permitted in other residential districts are permitted.
- (7) Yard Reduction. Reduction of any required yard by up to 25 percent, provided that the reduction will result in more efficient use of the site, preserve natural features or will not unduly diminish the provision of light, air and privacy to abutting properties.

#### **Section 9.405. Urban Residential districts; accessory structures.**

Accessory structures are allowed in all urban residential districts in accordance with Section 12.106. However, accessory structures are exempted from Section 12.106 with respect to shared property lines when a joint application is made by adjoining property owners.

Land clearing and inert landfills (LCID): on-site, are permitted subject to the regulations of Section 12.405.

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#### Section 9.406. Urban Residential districts; area, yard and height regulations.

- (1) UR-1: Dimensional requirements for the UR-1 district are listed below:

Minimum lot area (square feet)	3,000
Minimum side yard (feet)	5
Minimum setback (feet)	5
Minimum rear yard (feet)	10
Maximum floor area ratio	0.25*
Maximum height (feet)**	40
Minimum lot width (feet)	20

\* The maximum floor area ratio does not apply to either a one-family, two-family or three-family structure located on a single lot. Also, parking facilities are exempt from maximum floor area ratio limitations.

\*\* Maximum height may be increased above 40 feet provided all required side and rear yards are increased 1 foot for every 10 feet of building height over 40 feet.

- (2) UR-2: Dimensional requirements for the UR-2 district are listed below:

Minimum lot area (square feet)**	3,000
Minimum side yard (feet)	5
Minimum setback (feet)	5
Minimum rear yard (feet)	10
Maximum floor area ratio	1.0
Maximum height (feet)*	40
Minimum lot width (feet)	20

\* Maximum height may be increased above 40 feet provided all required side and rear yards are increased 1 foot for every 10 feet of building height over 40 feet.

\*\* Where the sale of individual dwelling units within a single family attached structure is to include a certain amount of land directly associated with the unit, a subplot having less than 3,000 square feet may be created. In such cases, all land associated with the overall development must be either divided into the individual sublots or held in

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common ownership by an association of homeowners. For purposes of this Section a "sublot" is a platted parcel of land, which is a divided unit of a lot for which zoning approval has been granted for the development of a single family, attached structure with the intention of sale of individual units and associated land. Sublots must include a minimum of 400 square feet of private open space. Sublots do not have to meet the minimum lot width requirement.

- (3) UR-3: Dimensional requirements for the UR-3 district are listed below:

Minimum lot area (square feet)**	3,000
Minimum side yard (feet)	5
Minimum setback (feet)	5
Minimum rear yard (feet)	20
Maximum floor area ratio	2.0
Maximum height (feet)	60*
Minimum lot width (feet)	20

\* Maximum height may be increased above 60 feet provided all required side and rear yards are increased 1 foot for every 10 feet of building height over 40 feet.

\*\* Where the sale of individual dwelling units within a single family attached structure is to include a certain amount of land directly associated with the unit, a sublot having less than 3,000 square feet may be created. In such cases, all land associated with the overall development must be either divided into the individual sublots or held in common ownership by an association of homeowners. For purposes of this Section a "sublot" is a platted parcel of land which is a divided unit of a lot for which zoning approval has been granted for the development of a single family attached structure with the intention of sale of individual units and associated land. Sublots must include a minimum of 400 square feet of private open space. Sublots do not have to meet the minimum lot width requirement.

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- (4) UR-C: Dimensional requirements for the UR-C district are as follows:

Minimum lot area (square feet)	3,000
Minimum side yard (feet)	5
Minimum setback (feet)	5
Minimum rear yard (feet)	20
Maximum floor area ratio	3.0**
Maximum height (feet)	60*
Minimum lot width (feet)	20

\* Maximum height may be increased above 60 feet provided all required side and rear yards are increased 1 foot for every 10 feet of building height over 40 feet.

\*\* No more than 1.5 floor area ratio may be devoted to nonresidential and/or institutional purposes in mixed use structures.

- (5) Building separation. The minimum building separation between buildings on a multiple building site in any UR district is 10 feet.

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#### **Section 9.407. Urban Residential districts; development standards for various uses.**

(1) Density bonus provisions.

(a) Objectives. Density bonus provisions are designed to achieve the following specific objectives:

- i. To enhance and extend public amenities such as parks and public pedestrian ways.
- ii. To create additional open space for public or semipublic use.
- iii. To improve the overall quality of life within the larger residential area.
- iv. To further the land use policies of the city including more effective utilization of urban land, increased uptown residential population, and encouragement of evening activities in the uptown area.

(b) Bonus limits. Because the sensitivity to increased densities of UR districts will vary with the base floor area ratio, the following upper limits on bonus accumulation are established:

- i. For UR-1 and UR-2 districts a maximum bonus accumulation of 10 percent of the base floor area ratio.
- ii. For UR-3 and UR-C districts, a maximum bonus accumulation of 50 percent of the base floor area ratio.
- iii. For nonresidential uses in the UR-C districts, a maximum bonus accumulation of 25 percent of the base floor area ratio.
- iv. For development projects located in more than one UR district, the total percent of increase in the base floor area ratio permitted will be the sum of the maximum allowed increase in each zoning district, but there is no prohibition as to where on the parcel the increase may be located.

Any bonus, which may be granted, applies to the base floor area ratio for each urban residential district.



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- (c) Bonus permitted. The following density bonuses are established for the provision of the following features:
- i. For projects adjacent to a public park or cemetery a density bonus of 10 percent of the base floor area ratio shall apply, but not less than 8 dwelling units, will be granted.
  - ii. For the creation of permanent public open space devoted to passive or active recreational use a density bonus equal to the area of the site devoted to such use is granted, but not less than 4 dwelling units. Open space required in the base zoning regulations is not to be included as public open space. Public open space means open space at grade which is accessible to and serves a public purpose for a group of persons beyond the residents of the building with which it is associated. Such space may be designed for active or passive use. It may not include any motorized vehicular circulation or parking facilities but may include structures related to the purpose of the open space as long as the dominant character of the area is open.
  - iii. For the creation of areas and paths (other than those already required) devoted to pedestrians and bicyclists which functionally extend adjacent areawide pedestrian ways or which create convenient access to public open space for residents or visitors, a density bonus of 10 percent of the base floor area ratio, but not less than 8 dwelling units, is granted.
  - iv. For the use of fountains, reflecting pools and similar features in design a density bonus of 5 percent of the base floor area ratio, but not less than 4 dwelling units, is granted.
  - v. For the preservation of a structure and/or land which has been designated as a historic property pursuant to G.S. 160A-399 and for which a certificate of appropriateness has been secured, or for the preservation of a property listed in the National Register of Historic Places preserved in accordance with the Secretary of the Interior's standards for historic preservation projects, a floor area bonus of 5 percent of the base floor area ratio, but not less than 4 dwelling units shall be granted. For the preservation of only a building facade or a group or series of facades of a structure or structures which have been designated as a historic property as listed above, a floor area bonus of 2 percent of the

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base floor area ratio but not less than 2 dwelling units, is granted.

- vi. For the provision of permitted retail uses in the UR-C districts, a density bonus equal to the amount of square footage devoted to such uses up to a maximum of a 15 percent increase in residential density, but not less than 12 dwelling units, is granted.
  - vii. For the provision of roof areas designed as open and/or recreation space, a density bonus equal to the amount of square footage devoted to such open and/or recreation space is granted.
  - viii. For the development of residential or mixed-use structures, which contain more than 5 stories, a density bonus of 10 percent of the base floor area ratio, but not less than 4 dwelling units, is granted.
  - ix. For projects, which combine 3 or more parcels into a single lot for development, a density bonus of 5 percent of the base floor area ratio, but not less than 4 dwelling units, is granted.
- (2) Bonus parking. Any density bonus that may be granted for a particular development project does not require any increase to the minimum parking requirements as set forth in Section 9.408. Additional parking may be provided.
- (3) Screening. Screening shall be provided in accordance with the requirements of Section 12.303, of these regulations.
- (4) Streetscape improvements. All development in the UR districts must conform to any adopted streetscape plan for the streets, which the project abuts. Improvements relating to sidewalks, tree planting and landscaping as specified by the streetscape plan must be installed during the development process. Setbacks prescribed in the streetscape plan supersede those listed as minimums for the district when the plan specifies a greater setback than the minimum for the district. Developers are strongly encouraged to work with the appropriate utility companies to relocate overhead utilities underground during the development of the site. If the utilities are not relocated at the time the site is developed, the design of the site must provide for the eventual placement of utilities underground, and appropriate easements must be set aside accordingly.

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- (5) Signs. Signs within urban residential districts are permitted in accordance with Chapter 13 as modified by the following provisions:

- (a) Signs on the premises of single family, detached or attached dwellings.

Types of signs permitted:	Identification.
Permitted number of signs:	One per dwelling unit.
Maximum area of signs:	1.5 square feet.
Permitted illumination:	Lighted, but not flashing. Signs must be motionless
Permitted location:	Behind the street right-of-way line and not more than 8 feet above the floor level at the dwelling unit entry if attached to structure, or not more than 5 feet above grade if not attached to the structure.

- (b) Signs on the premises of multi-family dwellings or planned multi-family developments.

Types of signs permitted:	Identification.
Permitted number of signs:	One per street front.
Maximum area of signs:	6 square feet.
Permitted illumination:	Lighted, but not flashing. Signs must be motionless.
Permitted location:	Behind the street right-of-way line and not more than 8 feet above grade if attached to the structure, or not more than 5 feet above grade if not attached to the structure. Attached signs

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may not project more than 6 inches from the structure.

- (c) Signs on the premises of a freestanding nonresidential use.

Types of Signs permitted: Business.

Permitted number of signs: One per use.

Maximum area of signs: 8 square feet if projection from the structure is less than 6 inches, or 6 square feet if detached or if detached from the structure is more than 6 inches.

Permitted Illumination: Lighted, but not flashing. Signs must be motionless.

Permitted location: Behind the street right-of-way line and not more than 10 feet above grade if attached to the structure, or more than 5 feet above grade if not attached to the structure.

- (d) Signs on the premises of a group of 3 or more nonresidential uses within a dwelling structure.

Types of signs permitted: Identification.

Permitted number of signs: One per street front.

Maximum area of signs: 8 square feet.

Permitted illumination: Lighted, but not flashing. Signs must be motionless.

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Permitted location: Behind the street right-of-way line and not more than 10 feet above grade if attached to the structure, or more than 5 feet above if not attached.

- (e) Signs or bulletin boards providing historical information, information of noncommercial activities, or space for free use by the general public.

Types of signs permitted: Bulletin board.

Permitted number of signs: One per structure.

Maximum area of signs: 12 square feet except for a kiosk. A kiosk may be erected to a maximum height of 10 feet and a maximum diameter of 4 feet excluding canopies, eaves and the like.

Permitted illumination: Lighted, but not flashing.  
Signs must be motionless.

Permitted location: Behind the street right-of-way line and not more than 10 feet above grade.

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#### Section 9.408. Urban Residential districts; off-street parking and loading standards.

Requirements for off-street parking and loading are listed below:

- (1) Number of spaces per dwelling unit.

<u>Type of structure</u>	<u>Minimum</u>	<u>Maximum</u>
Detached	1	2
Bed and Breakfast (B & B)	2	4
Boarding house	2	4
Attached	1	2
Multi-family	1	2
Multi-family (elderly)	.25	.50
Nonresidential use in UR-C	1/1000 gross square feet	1/500 gross square feet
Nonresidential use in UR-2 and UR-3	0	1/500 gross square feet

- (2) Size of parking spaces. Parking spaces intended for use by small or compact vehicles may comprise 25 percent of the total parking spaces required. Such parking spaces must not be less than 7-1/2 feet in width and 14 feet in length.

- (3) Off-street service/delivery spaces. Buildings and structures within UR-C districts must provide the minimum number of off-street service/delivery parking spaces specified below:

<u>Use or building</u>	<u>Off-street service/delivery parking spaces</u>
Multi-family and attached dwellings, 1-24 units	0
Multi-family and attached dwellings, 25-74 units	2
Multi-family and attached dwellings, 75 units or more	1
Nonresidential uses	1

- (4) Grade level parking. Grade level parking is allowed in the setback of multi-family and single family attached housing.

- (5) Underground parking structures. Underground parking structures are permitted in accordance with Section 12.213. Any pedestrian decks, which are constructed in conjunction with underground parking structures, may be classified as open space.

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### PART 5: INSTITUTIONAL DISTRICT

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#### PART 5: INSTITUTIONAL DISTRICT

##### Section 9.501. Institutional district established; purpose.

The INST district is intended to recognize and permit the creation of defined areas for the unified and orderly development of major cultural, educational, medical, governmental, religious, athletic and other institutions in order to support and enhance their benefit to the community in a manner which protects adjacent residential uses.

##### Section 9.502. Uses permitted by right.

The following uses shall be permitted by right in the INST district provided that they meet all requirements of this Part and all other requirements established in these regulations:

- (1) Clinics and offices, medical, dental, and optical.
- (2) Clinics, veterinary.
- (3) Civic, social service and fraternal facilities.
- (4) Cultural facilities.
- (5) Elementary and secondary schools.
- (6) Farms, including retail sale of produce grown on the premises.
- (7) Government buildings.
- (8) Group homes, for up to 10 residents.
- (9) Indoor recreation.
- (10) Highway and railroad rights-of-way.
- (11) Parks, greenways and arboretums.
- (12) Religious institutions, any size.
- (13) Universities, colleges, and junior colleges.
- (14) Vocational schools, within an enclosed building.

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- (15) Outdoor seasonal sales.

#### **Section 9.503. Uses permitted under prescribed conditions.**

The following uses shall be permitted in the INST district if they meet the standards established in this Section and all other requirements of these regulations:

- (1) Adult care centers, subject to the regulations of Section 12.502.
- (1.2) Beneficial fill sites, subject to the regulations of Section 12.523.
- (2) Bus stop shelters, subject to the regulations of Section 12.513.
- (3) Cemeteries, subject to the regulations of Section 12.508.
- (4) Child care centers, subject to regulations of Section 12.502.
- (5) Construction and demolition (C & D) landfills, subject to the regulations of Section 12.524.
- (6) Dormitories, provided that:
  - (a) The dormitory will be located within one-half mile of the institutional use it is designed to serve;
  - (b) Building walls over 200 square feet and facing a public right-of-way shall require a minimum of one large maturing tree per 30 linear feet of wall or one small maturing tree per 20 linear feet of wall no closer than 15 feet to the wall; and
  - (c) If there are more than 12 living units in a single dormitory or more than one dormitory on the same lot, the development shall be reviewed and approved in accordance with the planned multi-family or attached development standards for the R-22MF district in subsection 9.303(19).
- (7) Health institutions, provided that:
  - (a) The maximum floor area ratio is 3.0;
  - (b) Primary vehicular access to the use will not be by way of a residential local (Class VI) street; and



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- (c) The use will be separated by a Class B buffer from any abutting property located in a residential zoning district (See Section 12.302).
- (8) Jails and prisons uses, provided that:
  - (a) The minimum lot size shall be as follows:
    - i. Jails within completely enclosed structures - 2 acres
    - ii. Jails with open exercise yards or other unenclosed facilities - 5 acres
    - iii. Prisons - 50 acres;
  - (b) The use and structures shall be separated from the nearest residentially zoned or residentially used property by the following minimum distances:
    - i. any portion of the principal structure - 100 feet
    - ii. any security fence attendant to the principal use - 50 feet
    - iii. any accessory use associated with the principal use - 50 feet;
  - (c) No portion of the principal use or any accessory use may exceed 40 feet in height if located within 100 feet of any residentially zoned or residentially used property;
  - (d) Fencing materials such as barbed wire, razor wire, or electrical fences may not be used when adjacent to residentially zoned or residentially used properties. This standard applies to those fences which are located along or parallel to the property boundary which is nearest to the residential areas. This standard does not apply to fences which are located more than 60 feet from the property line; and
  - (e) All lighting for the facility must be oriented so that direct beams of light shine away from all adjoining properties and into the property so used.
- (8.1) Land clearing and inert debris landfills (LCID): off site, subject to the regulations of Section 12.503.
- (9) Nonconforming structures and uses, subject to the regulations of Chapter 7.

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- (10) Nursing homes, rest homes, homes for the aged, elderly and disabled housing, provided that:
  - (a) Maximum number of independent units is 43 units per acre and maximum number of dependent living units is 100 beds per acre; and
  - (b) If any nursing home, rest home or home for the aged has more than 12 living units in a single building or there is more than one principle building on a lot, it shall be received and approved in accordance with the regulations for planned multi-family and attached development in subsection 9.303(19).
- (11) [RESERVED]
- (12) Open space recreational uses, subject to the regulations of Section 12.516.
- (13) Outdoor recreation, provided that:
  - (a) Off-street parking and service areas and outdoor recreational equipment facilities will be separated by a Class C buffer from any abutting property located in a residential zoning district (See Section 12.302); and
  - (b) No outdoor recreational facilities, such as swimming pools, tennis courts, picnic shelters, etc. shall be located within 100 feet of any lot located in a residential zoning district.
- (14) Public utility structures, subject to regulations of Section 12.504.
- (15) Public utility transmission and distribution lines, subject to the regulations of Section 12.509.
- (16) Quarries, subject to the QUARRY OVERLAY district of CHAPTER 10, PART 8.
- (17) Radio, telephone, cellular telephone and television masts, towers, antennae and similar structures, subject to the regulations of subsection 12.108(7) or subsection 12.108(8).
- (18) Retail establishments, offices, and restaurants, provided that:
  - (a) The principal use of the lot is institutional;

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- (b) The principal use of the lot occupies at least 30,000 square feet of floor area;
  - (c) Retail establishments, and restaurants, will occupy no more than 10 percent of the gross floor area of all buildings on the lot, and under no circumstances will such uses exceed 25% of the ground floor area;
  - (d) The proposed use must be located within the same building as the principal use, and there will be no direct public entrance to the proposed use from outside the building, except for a restaurant use;
  - (e) No merchandise or display of merchandise will be visible from outside the building housing the proposed use; and
  - (f) One wall sign is permitted to identify all internal uses provided that it is no larger than 16 square feet.
- (19) Sanitary landfills, subject to the regulations of Section 12.507.
- (20) Stadiums and arenas, provided that:
- (a) Primary vehicular access to the use will not be provided by way of a residential local (Class VI) street;
  - (b) No direct beams of light from outdoor lighting fixtures, signs, or vehicles maneuvering on the site will shine into any abutting property located in a residential zoning district;
  - (c) All buildings and structures and off-street parking and service areas will be separated by a Class B buffer from any abutting property in a residential zoning district (See Section 12.302);
  - (d) Off-street parking areas and accessways will be designed to allow direct public transit service to the use; and
  - (e) Stadiums and arenas shall be located a minimum of 100 feet from all exterior property lines.
- (21) Subdivision sales office, provided that:
- (a) The use serves the subdivision in which it is located and adjoining subdivision or subdivisions by the same developer or affiliate; and

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- (b) The use shall be terminated upon the completion of the sale of 95 percent of the total number of homes and/or lots; provided, however, that a model or demonstration unit may be used for sales purposes until the last unit or lot is sold.
- (22) Temporary buildings and storage of materials, provided that:  
  
The use is in conjunction with the construction of a building on the same lot where construction is taking place or on an adjacent lot. Such temporary uses shall be terminated upon completion of construction.
- (23) Turkey shoots, subject to the regulations of Section 12.510.

#### **Section 9.504. Permitted accessory uses and structures.**

The following uses shall be permitted in the INST district as accessory uses and structures, subject to the applicable criteria in this Part and Chapter 12 of these regulations:

- (1) Accessory uses and structures, clearly incidental and related to the permitted principal use or structure on the lot.
- (2) Drive-in service windows as a accessory to the principal use, subject to the regulations of Section 12.414.
- (3) Dumpsters, trash handling areas and service entrances, subject to the regulations of Section 12.403.
- (4) Fences and walls.
- (5) Helistops, limited, subject to the regulations of Section 12.415.
- (5.1) Land clearing and inert debris landfill (LCID): on site, subject to the regulations of Section 12.405.
- (6) Medical waste disposal facilities as an accessory use to be permitted principal use, subject to a Major Special Use under Section 14.202.
- (7) [RESERVED]
- (8) Outdoor lighting, subject to the regulations of Section 12.402.

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- (9) Petroleum storage, accessory to a permitted principal use or building, subject to the Fire Protection Code of the National Board of Fire Underwriters.
- (10) Vending machines for cigarettes, candy, soft drinks and similar items and coin-operated laundries within an enclosed building as an accessory to the use in the principal building or buildings.
- (11) Wastewater treatment facilities, subject to the regulations of Section 12.404.

#### **Section 9.505. Development standards for the institutional district.**

All uses and structures permitted in the INST district shall meet the applicable development standards established in this Section and other requirements of these regulations:

- (1) Area, yard and bulk regulations shall be as follows:

	<u>INST</u>
(a) Maximum floor area ratio <sup>1</sup>	.50
(b) Minimum lot area (square feet)	15,000
(c) Minimum lot width (feet)	80
(d) Minimum setback (feet)	40
(e) Minimum side yard (feet)	20
(f) Minimum rear yard (feet)	20
(g) Maximum height (feet) <sup>2</sup>	40

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#### FOOTNOTES TO CHART 9.505(1):

<sup>1</sup> If a parking deck is constructed as part of a building, the allowable F.A.R. may be increased by 50 percent.

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- <sup>2</sup> A building in a district may be erected to a height in excess of 40 feet, provided the minimum side yard is increased 1 foot for every 2 feet in building height in excess of 40 feet. If a building abuts a residential zoning district, it may not be constructed above the 40-foot limit unless the side and/or rear yard which abuts the residential zoning district is increased 1 foot for each foot in building height in excess of 40 feet. Height requirements for other permitted structures are in Section 12.108.

#### CROSS REFERENCES:

Applicable buffer requirements may require a larger side or rear yard than the minimum. See Chapter 12, Part 3. Also, larger setback and yard regulations may be required along certain streets subject to the regulations of Section 12.103. Larger than minimum setback may be required where a nonresidential use abuts a lot in a residential zoning district. See subsection 12.102(1). For properties bordering Lake Norman, Lake Wylie, Mountain Island Lake and the Catawba River, see Section 12.515 for piers and other water-related facilities development.

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- (2) Buffers and Screening. Development of any use in the INST district must conform to the buffer and screening requirements in Chapter 12, Part 3.
- (3) Signs. Signs are permitted in the INST district in accordance with Chapter 13.
- (4) Parking and Loading. Development of any use in the INST district must conform to the parking and loading standards in Chapter 12, Part 2.

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### PART 6: RESEARCH DISTRICTS

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#### PART 6: RESEARCH DISTRICTS

##### **Section 9.601. Research districts established; purposes.**

The RE-1 and RE-2 Districts are designed to provide areas in which research and related operations may be established and may be given assurance of wholesome surroundings in the future. The standards established for these districts are designed to promote sound, permanent research installations and also to protect nearby residential areas from undesirable aspects of research operations. Research districts are heavily oriented toward research, development and high technology manufacturing operations and similar uses that are characterized by a high degree of scientific and technical input, and the employment of professional, technical or kindred workers. Development within these districts should be characterized by spacious and extensively landscaped settings with emphasis on aesthetic and environmental considerations. While permitted uses are similar in both districts, RE-1 is designed to attract supporting facilities through less stringent lot dimensions.

##### **Section 9.602. Uses permitted by right.**

The following uses shall be permitted by right in the RE-1 and RE-2 districts provided that they meet all requirements of this Part and all other requirements established in these regulations:

- (1) Applied and basic research laboratories.
- (2) Auction sale of real property and such personal property as is normally located thereon for the purpose of liquidating assets.
- (3) Civic, social service and fraternal facilities.
  - (3.1) Conference, training, and meeting facilities.
- (4) Cultural facilities.
- (5) Farms, including retail sale of produce grown on the premise.
  - (5.1) Financial institutions.
- (6) Government buildings, up to 300,000 square feet.
- (7) Graphics research and production facilities.

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- (8) [RESERVED]
- (9) Highway and railroad rights-of-ways.
- (10) [RESERVED]
- (11) Indoor recreation.
- (12) Laboratories for testing products and materials.
- (13) Manufacture of electronic, computing and communications equipment and related devices.
- (14) Manufacture or assembly of:
  - Electronic, computing and communications equipment and related devices
  - Household audio and visual equipment
  - Measuring and controlling devices
  - Medical instruments and devices
  - Search and navigational equipment
  - Dry product coating materials or similar products produced in an environmentally controlled and fully enclosed facility so long as the products so produced are not applied to other products within the facility which are then sold and shipped to third parties outside the facility. The products so manufactured may, however, be applied for research or testing purposes so long as such activities take place within the fully enclosed facility.
- (15) [RESERVED]
- (16) [RESERVED]
- (17) [RESERVED]
- (18) Optical, dental and medical laboratories and clinics.
- (19) Offices, up to 300,000 square feet.
- (20) Parks, greenways and arboretums.
- (21) Pharmaceutical preparations and production facilities.
- (22) [RESERVED]



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### **PART 6: RESEARCH DISTRICTS**

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- (23) Prototype production facilities and pilot plants.
- (24) Radio and television stations and/or offices.
- (25) Research uses.
- (26) [RESERVED]
- (27) Subdivision sales offices.
- (28) Telephone booths.
- (29) Uses similar to those listed above.
- (30) Outdoor seasonal sales.

#### **Section 9.603. Uses permitted under prescribed conditions.**

The following uses shall be permitted in the RE-1 and RE-2 districts if they meet the standards established in this Section and all other requirements of these regulations:

- (1) Adult care center, subject to the regulations of Section 12.502.
- (1.2) Beneficial fill sites, subject to the regulations of Section 12.523.
- (2) Bus stop shelters, subject to the regulations of Section 12.513.
- (3) Child care centers, subject to the regulations of Section 12.502.
- (4) [RESERVED]
- (4.1) [RESERVED]
- (4.2) [RESERVED]
- (5) Nonconforming structures and uses, subject to the regulations of Chapter 7.
- (6) Offices and government buildings, over 300,000 square feet, provided that:
  - (a) Primary vehicular access to the use will not be by way of a residential local (Class VI) street; and

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### PART 6: RESEARCH DISTRICTS

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- (b) The use will be separated by a buffer from any abutting property located in a residential zoning district (See subsection 9.605(5)).
- (7) Open space recreational uses, subject to the regulations of Section 12.516.
- (8) Outdoor recreation, provided that:
  - (a) Off-street parking and service areas and outdoor recreational facilities will be separated by a buffer from any abutting property located in a residential zoning district (See subsection 9.605(5)); and
  - (b) No outdoor recreational facilities, such as swimming pools, tennis courts, picnic shelter, etc. shall be located within 100 feet of any lot located in a residential district.
- (9) [RESERVED]
- (10) Public utility structures, subject to the regulations of Section 12.504.
- (11) Public utility transmission and distribution lines, subject to the regulations of Section 12.509.
- (12) Quarries, subject to the QUARRY OVERLAY district of CHAPTER 10, PART 8.
- (13) Radio, telephone, cellular telephone and television masts, towers, antennae and similar structures, subject to the regulations of subsection 12.108(7) or subsection 12.108(8).
- (14) Retail establishments and restaurants provided that:
  - (a) The principal use of the lot is for offices, research laboratories, pilot plants, prototype production plants, or other production facilities;
  - (b) The principal use of the lot occupies at least 30,000 square feet of floor area;
  - (c) Retail establishments and restaurants will occupy no more than 10 percent of the gross floor area of all buildings on the lot and under no circumstances exceed 25 percent of the ground floor area, except a restaurant use may occupy up to 50 percent of the ground floor;

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- (d) If the proposed use is to be located within the same building as the principal use, then there will be no direct public entrance to the proposed use from outside the building except for a restaurant use;
  - (e) If the proposed use is to be located in a building separate from the principal use, then the proposed use will be designed and intended primarily for the use of persons who are employed by the principal use;
  - (f) No merchandise or display of merchandise will be visible from outside the building housing the proposed use; and
  - (g) One wall sign is permitted to identify all internal commercial uses, provided that it is no larger than 16 square feet.
- (15) [RESERVED]
- (16) Stadiums and arenas of no more than 5,000 seats, provided that:
- (a) All parking areas will meet the landscaping standards set out in Chapter 12, Part 2;
  - (b) Primary vehicular access to the use will not be provided by way of a residential local (Class VI) street;
  - (c) No direct beams of light from outdoor lighting fixtures, signs, or vehicles maneuvering on the site will shine into any abutting property located in a residential zoning district;
  - (d) Off-street parking areas and accessways will be designed to allow direct public transit service to the use;
  - (e) All building and off-street parking areas and service areas will be separated by a buffer from any abutting property in a residential zoning district (See subsection 9.605); and
  - (f) Stadiums and arenas shall be located a minimum of 100 feet from any exterior property lines.

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- (17) Temporary buildings and storage of materials, provided that:

The use is in conjunction with construction of a building on the same lot where construction is taking place or on adjacent lots. Such temporary uses are to be terminated upon completion of construction.

- (18) Turkey shoots, subject to the regulations of Section 12.510.

#### **Section 9.604. Permitted accessory uses and structures.**

The following uses shall be permitted in the RE-1 and RE-2 districts as accessory uses and structures, subject to the applicable criteria in this Part and Chapter 12 of these regulations:

- (1) Accessory uses and structures clearly incidental and related to the permitted principal use or structure on the lot.
  - (1.1) Conference, training, and meeting facilities.
- (2) Drive-in windows as an accessory to the principal use, subject to the regulations of Section 12.414.
- (3) Dumpsters, trash handling areas and service entrances, subject to the regulations of Section 12.403.
- (4) Fences and walls.
- (5) Helistops, limited, subject to regulations of Section 12.415.
- (6) Land clearing and inert debris landfill (LCID): on site, subject to the regulations of Section 12.405.
- (7) Manager's residence quarters, one dwelling unit/development or project, limited to 1,200 heated square feet.
- (8) Outdoor lighting, subject to the regulations of Section 12.402.
- (9) Petroleum storage, accessory to a permitted principal use or building, subject to the Fire Prevention Code of the National Board of Fire Underwriters.
- (10) Satellite dishes and towers, subject to the regulations of subsection 9.605(4).
- (11) Vending machines for cigarettes, candy, soft drinks and similar items, and coin-

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operated laundries located within an enclosed building as an accessory to the uses in the principal building or buildings.

- (12) Wastewater treatment facilities, subject to the regulations of Section 12.404.

#### Section 9.605. Development standards for research districts.

All uses and structures permitted in the RE-1 and RE-2 districts shall meet the applicable development standards established in this Section and other requirements of these regulations:

- (1) Area, yard and bulk regulations shall be as follows:

	<u>RE-1</u>	<u>RE-2</u>
(a) Maximum floor area ratio (%) <sup>1</sup>	.60	.60
(b) Minimum lot area (acres)	2 acres	4 acres
(c) Minimum lot width (feet)	200*	400*
(d) Minimum setbacks (feet)		
- Lots between 2 and less than 4 acres	40**	N.A.
- Lots between 4 and less than 15 acres	40**	100
- Lots between 15 and less than 20 acres	100	125
- Lots 20 acres or greater	100	150
(e) Minimum side and rear yards (feet)		
- Lots between 2 and less than 4 acres	25***	N.A.
- Lots between 4 and less than 15 acres	25***	35
- Lots between 15 and less than 20 acres	25***	40
- Lots 20 acres or greater	25***	50
(f) Minimum street side yard on corner lots (feet)		
- Lots between 2 and less than 4 acres	40	N.A.
- Lots between 4 to less than 15 acres	40	75
- Lots between 15 and less than 20 acres	40	85
- Lots between 20 acres or greater	40	100
(g) Maximum height (feet) <sup>2</sup>	40	40

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\* Lots having any part of their frontage on the circular portion of a cul-de-sac right-of-way may use 100 feet in RE-1 and 200 feet in RE-2 as the minimum lot width.

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\*\* Minimum setback shall be 100 feet on thoroughfares and collectors.

\*\*\* Minimum side yard shall be 35 feet when abutting a residential district.

N.A. - Not Applicable

#### FOOTNOTES TO CHART 9.605(1):

- <sup>1</sup> If a parking deck is constructed as part of a building, the allowable F.A.R. may be increased by 100%.
- <sup>2</sup> A building in a designated district may be erected to a height in excess of 40 feet, provided the minimum side yard is increased 1 foot for every 2 feet in building height in excess of 40 feet. If a building abuts a residential zoning district, it may not be constructed above the 40 feet unless the side and/or rear yard which adjoins the residential zoning district is increased 1 foot for each foot in building height in excess of 40 feet. Height requirements for other permitted structures are set forth in Section 12.108.

#### CROSS-REFERENCES:

Applicable buffer requirements may require a larger side or rear yard than minimum. See subsection 9.605(5). Also, larger setback and yard requirements may be required along certain streets subject to the requirements of Section 12.103. Larger than minimum setback standard may be required where a nonresidential use abuts a lot in a residential zoning district. See subsection 12.102(1). For properties bordering Lake Norman, Lake Wylie, Mountain Island Lake and the Catawba River, see Section 12.515 for piers and other water-related facilities development.

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- (2) Outside Storage. Outside storage of any materials, supplies or products shall not be permitted in the research districts.
- (3) Security gate or station. A gate or security station may be located in a required yard or setback.
- (4) Satellite dishes and towers. Satellite dishes and towers are permitted as an accessory use provided that:
  - (a) They are a necessary part of a permitted use utilizing such equipment as part of its normal operation;

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### PART 6: RESEARCH DISTRICTS

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- (b) Such dishes and towers may not be located within the setback area of any lot or within the street side yard of a corner lot; and
  - (c) Screening shall be installed on the exterior sides of such dishes and towers in accordance with Section 12.303. If walls are chosen for this screening, materials must be compatible with the exterior of other buildings on the site.
- (5) Buffers and Screening. Buffers and screening are required for all uses in accordance with the following:
  - (a) At least one-half of the depth of the setback, side and rear yards, except where driveways access or utility easements are required, must be maintained with existing vegetation and natural features. Under certain circumstances the retention of existing vegetation or natural features may be inappropriate or ineffective. In such cases, an alternative landscaping and screening plan may be submitted to the Planning Director for consideration and approval. These plans must contain sufficient information to indicate why maintenance of existing conditions would be inappropriate or ineffective due to site design, topography, unique relationships to other properties, absence or type of natural vegetation or other special considerations. Details of the proposed landscaping treatment shall indicate topographic changes as well as number, type and size of plant material. Within 20 days the Planning Director shall advise the applicant of the disposition of the alternate proposal. If no specific alternative plan can be approved the maintenance of existing features must be observed. It should be understood that the alternative plan procedure is strictly voluntary and that requirements other than those set forth in Section 12.303 may be imposed in order to insure that the intent of this subsection is met; and
- (5.1) [RESERVED]
- (6) Signs. Signs are permitted in the Research districts in accordance with Chapter 13 except that:
  - (a) Signs in the districts may be luminous; and
  - (b) Signs lighted internally must be contained within an opaque background with only letters, numbers and symbols being translucent. The intent of this requirement is to provide signs which consist of lighted letters, numbers and symbols on an opaque background.

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### PART 6: RESEARCH DISTRICTS

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- (7) Parking and Loading. Development of any use in the research districts must conform to the parking and loading standards in Chapter 12, Part 2 except that:
- (a) Parking of motor vehicles is not permitted in any required setback or in the front one-half of any required exterior side yard of a corner lot or in the exterior one-half of any interior lot line, except that on through lots adjacent to an Interstate Highway, parking is permitted in the setback to within 50 feet of the Interstate right-of-way. The parking area must be paved with a dust-free, all-weather surface and must be properly drained and landscaped. The space within the required setback must not be used as a maneuvering space for the parking of vehicles, except that driveways providing access to the parking area may be installed across the setback area.
  - (b) Underground parking structures are permitted in accordance with Section 12.213.



## MECKLENBURG CODE

### PART 7: OFFICE DISTRICTS

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#### PART 7: OFFICE DISTRICTS

##### Section 9.701. Office districts established; purposes.

The O-1, O-2 and O-3 districts are hereby established to provide areas, which are conducive to the establishment and operation of offices, institutions, and commercial activities not involving the sale of merchandise. Standards are designed so that these districts, in some instances, may serve as transitional uses between residential districts and other commercial districts.

##### Section 9.702. Uses permitted by right.

The following uses are permitted by right in the O-1, O-2 and O-3 districts, provided they meet all requirements of this Part and all other requirements established in these regulations:

- (1) Armories for meetings and training of military organizations.
- (2) Barber and beauty shops.
- (3) [RESERVED]
- (4) Civic, social service and fraternal facilities.
- (5) Clinics, medical, dental and optical.
- (6) Clinics, veterinary.
- (7) Cultural facilities.
- (8) Dwellings, detached, duplex, triplex or quadraplex.
- (9) Dwellings, attached and multi-family up to 12 units in a building.
- (10) Elementary and secondary schools.
- (11) Farms, including retail sale of produce grown on premises.
- (12) Financial institutions, up to 300,000 square feet.
- (13) Funeral homes, embalming and crematories.

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- (14) Government buildings, up to 300,000 square feet.
- (15) Group homes, for up to 10 residents.
- (16) Health institutions (O-1 and O-3 only).
- (17) Highway and railroad rights-of-way.
- (18) Indoor recreation.
- (19) Laboratories, within an enclosed building for basic and applied research.
- (20) Laboratories, medical, dental and optical.
- (21) Offices, up to 300,000 square feet.
- (22) Parks, greenways and arboretums.
- (23) Post offices.
- (24) Radio and television stations and/or offices.
- (25) Religious institutions.
- (26) Studios for artists, designers, photographers, musicians, sculptors, gymnasts, potters, wood and leather craftsmen, glass blowers, weavers, silversmiths, and designers of ornamental and precious jewelry.
- (27) Subdivision sales offices.
- (28) Telephone booths.
- (29) Universities, colleges and junior colleges.
- (30) Vocational schools, within enclosed buildings.
- (31) Outdoor seasonal sales.

#### **Section 9.703. Uses permitted under prescribed conditions.**

The following uses shall be permitted in the O-1, O-2 and O-3 districts if they meet the standards established in this Section and all other requirements of these regulations:

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- (1) Adult care center, subject to the regulations of Section 12.502.
- (2) Adult care home, subject to the regulations of Section 12.502.
- (2.1) Bed and Breakfasts (B & B's), subject to regulations of Section 12.521.
- (2.2) Beneficial fill sites, subject to the regulations of Section 12.523.
- (2.3) Boarding houses, subject to regulations of Section 12.520.
- (3) Bus stop shelters, subject to the regulations of Section 12.513.
- (4) Cemeteries, subject to the regulations of Section 12.508.
- (5) Child care centers, subject to the regulations of Section 12.502.
- (6) Child care homes, subject to the regulations of Section 12.502.
- (7) Construction and demolition (C & D) landfills, subject to the regulations of Section 12.524.
- (8) Dormitories, provided that:
  - (a) Dormitory will be located within one half mile of the institutional use it is designed to serve;
  - (b) Building wall areas over 200 square feet and facing the public right-of-way shall require a minimum of one large maturing tree for each 30 feet of linear wall or one small maturing tree for each 20 feet of linear wall no closer than 15 feet to the wall; and
  - (c) If there are more than 12 living units in a single dormitory or more than one dormitory on the same lot, the development must be reviewed and approved in accordance with the regulations for planned multi-family and attached development in subsection 9.303(19).
- (9) Dwelling, mixed use, provided that:
  - (a) The dwelling units will be located in the same building as an office use permitted in the district;
  - (b) The dwelling units will occupy no more than 75 percent of the total floor area of buildings on the lot;

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- (c) The minimum lot and yard requirements for a building with dwelling units shall be the same as required for the office use; and
  - (d) Development density shall be controlled by the floor area ratio in the district.
- (10) Equestrian oriented subdivisions, subject to the regulations of Section 12.514.
- (11) Health institutions (O-2 only), provided that:
  - (a) The maximum floor area ratio is 3.0;
  - (b) Primary vehicular access to the use will not be by way of a residential local (Class VI) street; and
  - (c) The use will be separated by a Class B buffer from any abutting property located in a residential zoning district.
- (12) Hotels and motels, provided that:
  - (a) All buildings, off-street parking and service areas will be separated by a Class B buffer from any abutting property located in a residential zoning district (See Section 12.302);
  - (b) Retail, nightclubs, bars, lounges and restaurants as accessory uses may be located in a hotel or motel having a minimum of 75 rental units.
  - (c) Gross floor area for retail, entertainment and restaurant purposes will be limited to 75 square feet per rental unit. Ballrooms, conference rooms, meeting rooms and similar assembly facilities will not be included in determining gross floor area used for commercial purposes;
  - (d) No merchandise or merchandise display window may be visible from outside the building;
  - (e) No outside storage or display of merchandise will be permitted; and
  - (f) One wall sign is permitted to identify all internal commercial uses, provided that the sign is no larger than 16 square feet.

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- (13) Jails and prisons, provided that:
- (a) The minimum lot size shall be as follows:
    - i. Jails within completely enclosed structures - 2 acres
    - ii. Jails with open exercise yards or other unenclosed facilities - 5 acres
    - iii. Prisons - 50 acres;
  - (b) The use and structures shall be separated from the nearest residentially zoned or residentially used property by the following minimum distances:
    - i. any portion of the principal structure - 100 feet
    - ii. any security fence attendant to the principal use - 50 feet
    - iii. any accessory use associated with the principal use - 50 feet;
  - (c) No portion of the principal use or any accessory use may exceed 40 feet in height if located within 100 feet of any residentially zoned or residentially used property;
  - (d) Fencing materials such as barbed wire, razor wire, or electrical fences may not be used when adjacent to residentially zoned or residentially used properties. This standard applies to those fences which are located along or parallel to the property boundary which is nearest to the residential areas. This standard does not apply to fences which are located more than 60 feet from the property line; and
  - (e) All lighting for the facility must be oriented so that direct beams of light shine away from all adjoining properties and into the property so used.
- (14) Land clearing and inert debris landfills (LCID): off site, subject to the regulations of Section 12.503.
- (15) Nonconforming structures and uses, subject to the regulations of Chapter 7.
- (16) Nursing homes, rest homes, homes for the aged, elderly and disabled housing, provided that:

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### PART 7: OFFICE DISTRICTS

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- (a) The maximum number of units or beds permitted is as established in the table below:

<u>District</u>	<u>Independent Living Units per Acre</u>	<u>Dependent Living Beds per Acre</u>
O-1	12	40
O-2	22	70
O-3	43	130

- (b) If any nursing home, rest home or home for the aged has more than 12 living units in a single building or there is more than one principal building on the same lot, it shall be reviewed in accordance with the regulations for planned multi-family and attached development in subsection 9.303(19).
- (17) Offices, financial institutions and government buildings, over 300,000 square feet, provided that:
- (a) Primary vehicular access to the use will not be by way of a residential local (Class VI) street; and
- (b) The use will be separated by a Class B buffer from any abutting property located in a residential zoning district (See Section 12.302).
- (18) Off-street parking for offices, business and industrial uses, subject to the regulations of Chapter 12, Part 2.
- (19) Open space recreational uses, subject to the regulations of Section 12.516.
- (20) Orphanages, children's homes and similar nonprofit institutions providing domiciliary care for children, provided that:
- (a) Building walls over 200 square feet and facing a public right of way shall require a minimum of one large maturing tree per 30 linear feet of wall or one small maturing tree per 20 linear feet of wall no closer than 15 feet to the wall; and
- (b) If an orphanage, children's home or similar institution has more than 12 living units or if there is more than one building on the same lot, it must be reviewed and approved in accordance with the regulations for planned multi-family and attached development in subsection 9.303(19).

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(20.1) Orthotics - Prosthetics Facilities, provided that:

- (a) Not more than 50% of space be allotted to the fabrication of orthotics and prosthetics.
- (b) The overall purpose of the facility be patient oriented. No less than 50% of the facility be dedicated to patient services.
- (c) The fabrication of orthotics and prosthetics in no more than 50% of the floor area of any medical office is restricted to a maximum of 4,000 square feet.

(21) Outdoor recreation, provided that:

- (a) Off-street parking and service areas and outdoor recreational facilities will be separated by a Class C buffer from any abutting property located in a residential zoning district (See Section 12.302). However, outdoor recreational facilities and associated parking located on a lot within a planned development shall provide a Class C buffer only along the portion of the lot which forms part of the external boundary of the planned development; and
- (b) No outdoor recreational facilities, such as swimming pools, tennis courts, picnic shelter, etc. shall be located within 100 feet of any lot located in a residential district. However, outdoor recreational facilities located on a lot within the interior portion of a planned development may be located a minimum of 20 feet from an adjacent lot within the planned development, but must maintain a 100 feet separation from the external project boundaries of the planned development when abutting a residential zoning district.

(22) Planned multi-family and attached developments, subject to subsection 9.303(19) and the regulations of this Part.

(23) Public utility structures, subject to the regulations of Section 12.504.

(24) Public utility transmission and distribution lines, subject to the regulations of Section 12.509.

(25) Quarries, subject to the QUARRY OVERLAY district of CHAPTER 10, PART 8.

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### PART 7: OFFICE DISTRICTS

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- (26) Radio, telephone, cellular telephone and television masts, towers, antennae and similar structures, subject to the regulations of subsection 12.108(7) or subsection 12.108(8).
- (27) Retail and office establishments, restaurants and indoor recreation in multi-family buildings, subject to the regulations of subsection 9.303(25).
- (28) Retail establishments and restaurants in office buildings, provided that:
  - (a) The principal use of the lot is for offices;
  - (b) The principal use of the lot occupies at least 30,000 square feet of floor area;
  - (c) Retail establishments and restaurants, will occupy no more than 10 percent of the gross floor area of all buildings on the lot and under no circumstances shall exceed 25% of the ground floor area except a restaurant use may occupy up to 50% of the ground floor area;
  - (d) The proposed use must be located within the same building as the principal use, and there will be no direct public entrance to the proposed use from outside the building, except for a restaurant use;
  - (e) No merchandise or display of merchandise will be visible from outside the building housing the proposed use; and
  - (f) One wall sign is permitted to identify internal commercial uses, provided that the sign is no larger than 16 square feet.
- (29) Sanitary landfills, subject to the regulations of Section 12.507.
- (30) Temporary buildings and storage of materials, provided that:

The use is in conjunction with the construction of a building on the same lot where construction is taking place or on an adjacent lot. Such temporary uses shall be terminated upon completion of construction.
- (31) Turkey shoots, subject to the regulations of Section 12.510.
- (32) [RESERVED]



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### **PART 7: OFFICE DISTRICTS**

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#### **Section 9.704. Permitted accessory uses and structures.**

The following uses shall be permitted in the O-1, O-2 and O-3 districts as accessory uses and structures, subject to applicable criteria in Chapter 12 of these regulations:

- (1) Accessory uses and structures clearly incidental and related to the permitted principal use or structure on the lot.
- (2) Customary home occupations, subject to the regulations of Section 12.408.
- (3) Drive-in windows as an accessory to the principal use, subject to the regulations of Section 12.413.
- (4) Dumpsters, trash handling areas and service entrances, subject to the regulations of Section 12.403.
- (5) Elderly and disabled housing as an accessory to a single family dwelling unit, subject to the regulations of Section 12.407.
- (6) Fences and walls.
- (7) Guest houses and employee quarters as an accessory to a single family detached dwelling, subject to the regulations of Section 12.412.
- (8) Helistops, limited, subject to the regulations of Section 12.415.
- (8.1) Land clearing and inert debris landfill (LCID): on site, subject to the regulations of Section 12.405.
- (9) Marinas, subject to the regulations of Section 12.409.
- (10) Medical waste disposal facilities as an accessory use to a permitted principal use, subject to Section 12.525.
- (11) [RESERVED]
- (12) Outdoors lighting, subject to the regulations of Section 12.402.
- (13) Petroleum storage, accessory to a permitted principal use or structure, subject to the Fire Prevention Code of the National Board of Fire Underwriters.
- (14) Private kennels, subject to the regulations of Section 12.410.

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### PART 7: OFFICE DISTRICTS

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- (15) Private stables, subject to the regulations of Section 12.411.
- (16) Vending machines for cigarettes, candy, soft drinks and coin-operated laundries located within an enclosed building as an accessory to the use in the principal building or buildings.
- (17) Wastewater treatment facilities, subject to the regulations of Section 12.404.

#### Section 9.705. Development standards for office districts.

All uses and structures permitted in the O-1, O-2 and O-3 districts shall meet the applicable development standards established in this Section and all other requirements of these regulations:

- (1) Areas, yard and bulk regulations shall be as follows:

	<u>O-1</u>	<u>O-2</u>	<u>O-3</u>
(a) Maximum Residential Density (Dwelling units per acre) <sup>1</sup>	12.0	22.0	43.0
(b) Maximum floor area ratio for nonresidential uses <sup>2</sup>	.60	1.0	3.0
(c) Minimum lot area (square feet) <sup>3</sup>			
- Detached dwellings	3,500	3,500	3,500
- Duplex dwellings*	6,500	6,500	6,500
- Triplex dwellings*	9,500	9,500	9,500
- Quadraplex dwellings*	11,500	11,500	11,500
- Multi-family dwellings and all other residential buildings*	11,500	11,500	11,500
- Nonresidential buildings	15,000	6,000	6,000
(d) Minimum lot width (feet)			
- Detached dwellings	40	40	40
- Duplex, triplex & quadraplex dwellings	55	55	55
- Multi-family dwellings and all other residential buildings	55	55	55
- Nonresidential buildings	80	50	50
(e) Minimum setback (feet) (See Section 12.102(1) if abutting a lot in a residential zoning district.)	20	20	20

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### PART 7: OFFICE DISTRICTS

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	<u>O-1</u>	<u>O-2</u>	<u>O-3</u>
(f) Minimum side yard (feet) <sup>4</sup>			
- Detached dwellings	5	5	5
- Other residential dwelling(s) or buildings (except as provided below)	10	5	5
- Planned multi-family development adjoining single family developed or zoned land <sup>5</sup>	20	10	10
- Nonresidential development	10	5	5
(g) Minimum rear yard (feet)			
- Detached dwellings	20	20	20
- Other residential dwelling(s) or buildings (except as provided below)	30	20	20
- Planned multi-family development adjoining single family developed or zoned land <sup>5</sup>	50	40	40
- Nonresidential development	20	20	20
(h) Minimum open space for residential development (%)	50	40	30
(i) Maximum height (feet) <sup>6</sup>	40	40	40

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\*If land is sold with an attached unit, the minimum subplot size can be sufficient to accommodate dwelling unit and 400 square feet of private open space.

#### FOOTNOTES TO CHART 9.705(1):

- <sup>1</sup> The maximum residential density number, when multiplied by the number of acres in a lot, controls the allowable number of dwelling units permitted on a lot. Density is calculated by multiplying the gross land area, minus any existing dedicated rights-of-way incorporated within the property, times the maximum density number established for the zoning district.
- <sup>2</sup> If a parking deck is constructed as part of a nonresidential building, the allowable floor area ratio may be increased by 50 percent.
- <sup>3</sup> For residential subdivisions of 10 or more lots, the minimum lot size may be varied subject to the regulations of subsection 9.205(4).
- <sup>4</sup> For residential subdivisions of 10 or more lots, minimum building separations or zero lot lines may be used subject to subsection 9.205(4).

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### PART 7: OFFICE DISTRICTS

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- <sup>5</sup> Side and rear yards determinations in planned multi-family developments will be based on the orientation of each proposed building to the adjoining project property line, except in a single building planned multi-family development where side and rear yards will be determined based upon the configuration of the lot. If the angle formed by the property line and the front or rear facade of the building is greater than 45 degrees, the area between the building and the property line will be treated as a side yard.
- <sup>6</sup> A building in a designated district may be erected to a height in excess of 40 feet, provided the minimum side yard is increased 1 foot for every 2 feet in building height in excess of 40 feet. If a building abuts a residential zoning district, it may not be constructed above the 40-foot limit unless the side and/or rear yard which abuts the residential zoning district is increased 1 foot for each foot in building height in excess of 40 feet. Height requirements for other permitted structures are set forth in Section 12.108.

#### CROSS-REFERENCES:

Applicable buffer requirement may require a larger side and rear yard than the minimum. See Chapter 12, Part 3. Also, larger setback and yard requirements may be required along certain streets, subject to the regulations of Section 12.103. Larger than minimum setback standard may be required where a nonresidential use abuts a lot in a residential zoning district. See subsection 12.102(1). For properties bordering Lake Norman, Lake Wylie, Mountain Island Lake and the Catawba River, see Section 12.515 for piers and other water-related facilities development.

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- (2) Buffer and Screening. Development of any use in the O-1, O-2 and O-3 districts must comply with the applicable buffer and screening requirements in Chapter 12, Part 3.
- (3) Signs. Signs are permitted in the O-1, O-2 and O-3 districts in accordance with Chapter 13.
- (4) Parking and Loading. Development of any use in the O-1, O-2 and O-3 districts must conform to the parking and loading standards in Chapter 12, Part 2.
- (5) Outdoor storage. Outdoor storage is not permitted in the office districts.

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### PART 8: BUSINESS DISTRICTS

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#### PART 8: BUSINESS DISTRICTS

##### Section 9.801. Business districts established; purposes.

- (1) The purpose of the B-1 (Neighborhood Business) district is to create and protect business centers for the retailing of merchandise such as groceries, drugs and household items and the provision of professional services for the convenience of dwellers of nearby residential areas. Standards are designed so that uses within this district may be soundly and permanently developed and maintained in such a way as to be compatible with adjacent residential properties.
- (2) The purpose of the B-2 (General Business) district is to create and protect business areas for the retailing of merchandise, the provision of professional and business services and, in some cases, wholesaling services to serve a large population. This district will generally be located adjacent to major thoroughfares, because establishments within this district are more likely to serve a larger trade area than establishments within the B-1 district.
- (3) The purpose of the B-D (Distributive Business) district is to provide areas in which distributive uses, such as warehousing, office and wholesaling concerns, plus other complementary uses may be established and given assurance of wholesome surroundings in the future. The development standards for this district are designed also to aid in preventing the creation of traffic congestion and traffic hazards on streets and to aid in protecting nearby residential areas from the detrimental aspects of uses permitted within the district.
- (4) The purpose of the BP (Business Park) district is to provide for a mixture of employment uses of varying types in a single coordinated development. The district might include mixtures of office, retail, distribution, warehouse, manufacturing, and related service uses. It is not intended that this district be used to accommodate single use developments, which can be located in other zoning classifications. Development within the district is expected to be of high quality design for buildings, site arrangement, and site amenities. Development will be expected to conform to higher levels of performance standards, which are designed to protect adjacent areas, especially residential areas, as well as enhance development within the district. Further, this district provides for substantial flexibility in the internal arrangement of uses on the site while assuring a satisfactory integration of the district into the surrounding area. Emphasis will be placed on the project's relationship to existing and future public facilities such as roads and greenways. In order to assure that any proposal for a BP district can fulfill the objectives of this ordinance and to

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### **PART 8: BUSINESS DISTRICTS**

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encourage well planned, mixed use developments, the minimum area necessary to be considered for the BP district is 20 acres.

The BP district is intended for application in select locations throughout the urban and urbanizing area. It's principal use will be for new development on previously undeveloped land, but it may also be applied to areas which are appropriate for redevelopment or conversion and in which all of the regulation standards may be fulfilled.

In order to assure that areas to be considered for a BP district can accommodate the increased activity which can be expected, the following criteria will be used to establish the district:

- (a) Direct access to at least one major thoroughfare (Class III or above). Access to a second major thoroughfare is highly desirable. Direct access includes connections directly to the thoroughfare along the boundary of the project, and location along limited access thoroughfares with access provided by intersecting thoroughfares; and
- (b) Availability of adequate water and sewer service, or executed contracts to provide such services to the site. The provision of water and sewer may be by any means which are permitted or accepted by the Charlotte Mecklenburg Utility Department.

#### **Section 9.802. Uses permitted by right.**

The following uses shall be permitted by right in the B-1, B-2, B-D and BP districts, provided that they meet the requirements below in addition to all other provisions established in these regulations:

- (1) Amusement, commercial, outdoor (B-2 only).
- (2) Armories for meetings and training of military organizations (B-2 only).
- (3) Auction sales (B-2 only).
- (4) Automobiles, truck and utility trailer rental (B-2 only).
- (5) Automotive repair garages including engine overhaul, body and paint shops and similar operations (B-2 only).

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- (6) Automotive sales and repair including tractor-trucks, but not accompanying trailer units (B-2 only).
- (7) Automotive service stations, including minor adjustments, repairs and lubrication (B-1, B-2 and BP only).
- (8) Bakeries, retail, including manufacturing of goods for sale on premises (B-1, B-2 and BP only).
- (9) Bakeries, wholesale, including manufacturing on the premises, up to 5,000 square feet (B-2 and BP only).
- (10) Bakeries, wholesale (B-D and BP only).
- (11) Barber and beauty shops (B-1, B-2 and BP only).
- (12) [RESERVED]
- (13) Boat and ship sales and repair (B-2 only).
- (14) Building maintenance services (B-2 only).
- (15) Bus and train terminals (B-1 and B-2 only).
- (15.1) Car washes (B-2 only).
- (16) Catalog and mail order houses (B-2 only).
- (17) Civic, social service or fraternal facilities (B-1 and B-2 only).
- (18) Clinics, medical, dental and optical (B-1, B-2 and BP only).
- (19) Clinics, veterinary (B-1 and B-2 only).
- (20) Contractor offices and accessory storage, excluding the storage of general construction equipment and vehicles (B-2, B-D and BP).
- (21) Cultural facilities (B-1, B-2 and BP only).
- (22) Distributive businesses, including warehousing in a single building (B-D and BP only).

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- (23) Dry cleaning and laundry establishments, up to 4,500 square feet on a lot (B-1, B-2 and BP only).
- (24) Dry cleaning and laundry establishments, up to 10,000 square feet (B-2 only).
- (25) Dwellings, detached, duplex, triplex or quadraplex (B-1 and B-2 only).
- (26) Dwellings, multi-family and attached up to 12 units in a building (B-1 and B-2 only).
- (27) Elementary and secondary schools (B-1 and B-2 only).
- (28) Engraving (B-2 only).
- (29) Equipment rental and leasing (B-2 only).
- (30) Equipment rental and leasing, within an enclosed building (B-1 and B-2 only).
- (31) Fabric sample assembly (B-2 only).
- (32) Farms, including retail sale of products grown on premises.
- (33) Fences and fence material, retail sales (B-2 only).
- (34) Fences and fence material, retail sales within an enclosed building (B-1 and B-2 only).
- (35) Financial institutions, up to 70,000 square feet (B-1 only).
- (36) Financial institutions, up to 300,000 square feet on a lot (B-2, B-D and BP only).
- (37) Florist, retail (B-1, B-2 and BP only).
- (38) Florist, wholesale (B-2, B-D and BP only).
- (39) Funeral homes, embalming and crematories (B-1 and B-2 only).
- (40) Government buildings, up to 100,000 square feet.
- (41) Government buildings, up to 300,000 square feet on a lot (B-2, B-D and BP only).



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- (42) Graphic research and production facilities (BP only).
- (43) Group homes, for up to 10 residents (B-1 and B-2 only).
- (44) Health institutions (B-1 and B-2 only).
- (45) Highway and railroad rights-of-way.
- (46) Hotels and motels (B-2, B-D and BP only).
- (47) Indoor recreation (B-1, B-2 and BP only).
- (48) Jewelers, retail (B-1 and B-2 only).
- (49) Jewelers, wholesale (B-2, B-D and BP only).
- (50) Laboratories, dental, medical and optical.
- (51) Laboratories within an enclosed building for applied and basic research (B-2, B-D and BP only).
- (52) Locksmiths and gunsmiths (B-1, B-2 and BP only).
- (53) Manufacture of: (B-D only)
  - Bakery products
  - Beverages, excluding alcoholic beverages
  - Candy and confectionery products
  - Dairy products
  - Grain Mill products
  - Meat products, excluding poultry and animal slaughtering and dressing
  - Preserved fruits and vegetables products
- (54) Manufacture or assembly of: (BP only).
  - Communications equipment
  - Component parts of aircraft
  - Computer and office equipment
  - Electrical lighting and wiring equipment
  - Electrical components and accessories
  - Electronic equipment
  - Furniture and fixtures
  - Household audio and visual equipment
  - Household appliances

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Industrial machinery  
Measuring and controlling devices  
Medical instruments  
Musical instruments  
Ophthalmic goods  
Pens, pencils, office and art supplies  
Pharmaceuticals  
Pumps  
Search and navigational equipment  
Toys and sport goods  
Watches, clocks, watch cases and parts  
Wire products  
Other similar uses

- (55) Manufactured housing sales and repairs (B-2 only).
- (56) Manufacturer's representatives, including offices and repair and service facilities (BP only).
- (57) Merchandise showrooms, including warehousing in a single building (BP only).
- (58) [RESERVED]
- (59) Nurseries and greenhouses, retail and wholesale (B-1 and B-2 only).
- (60) Offices, up to 100,000 square feet.
- (61) Offices, up to 300,000 square feet (B-2, B-D and BP only).
- (62) Outdoor seasonal sales.
- (63) Parks, greenways and arboretums.
- (64) Pest control and disinfecting services (B-2 only).
- (65) Post Offices.
- (66) Printing and publishing, up to 5,000 square feet.
- (67) Printing and publishing, up to 100,000 square feet (B-2, B-D and BP only).
- (68) Printing and publishing, more than 100,000 square feet (BP only).

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- (69) Radio and television stations and/or offices.
- (70) Recycling centers, drop-off.
- (71) Religious institutions (B-1 and B-2 only).
- (72) Repair or servicing of any article, within an enclosed building, the sale of which is permitted in the district.
- (73) Repair or servicing of any article, the sale of which is permitted in the district (B-2 only).
- (74) Research uses, within an enclosed building (BP only).
- (75) Restaurants.
- (76) Restaurants, drive-in service (B-2 only).
- (77) Retail establishments and business, personal and recreation services, up to 10,000 square feet (B-1, B-2 and BP only).
- (78) Retail establishments, shopping centers and business, personal and recreation services, except for uses permitted only in the B-2 district, up to 100,000 square feet (B-1 and B-2 only).
- (79) Retail establishments, shopping centers and business, personal and recreation services, up to 100,000 square feet on a lot (B-2 only).
- (80) Sign painting, exclusive of manufacture (B-2 only).
- (81) Studios for artists, designers, photographers, musicians, sculptors, gymnasts, potters, wood and leather craftsmen, glass blowers, weavers, silversmiths, and designers of ornamental and precious jewelry (B-1 and B-2 only).
- (82) Subdivision sales offices.
- (83) Telephone booths.
- (84) Theaters, motion picture (B-2 only).
- (85) Tire recapping and retreading (B-2 only).

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- (86) Universities, colleges and junior colleges (B-1 and B-2 only).
- (87) Vocational schools, within an enclosed building (B-1, B-2 and BP only).
- (88) Warehousing, within the enclosed building (B-D only).
- (89) Warehousing, excluding "mini warehousing" (BP only).
- (90) Wholesale sales with related storage and warehousing entirely within an enclosed building, excluding truck terminals (B-2, B-D and BP only).

#### **Section 9.803. Uses permitted under prescribed conditions.**

The following uses shall be permitted in the B-1, B-2, B-D and BP districts if they meet the standards established in this Section and all other requirements of these regulations:

- (1) Adult care centers, subject to the regulations of Section 12.502.
- (2) Adult care homes (B-1 and B-2 only), subject to the regulations of Section 12.502.
  - (2.1) Adult establishments, B-2 only, subject to the regulations of Section 12.518.
  - (2.2) Bed and Breakfasts (B & B's)(B-1 and B-2 only), subject to regulations of Section 12.521.
  - (2.3) Beneficial fill sites, subject to the regulations of Section 12.523.
  - (2.4) Boarding houses B-1 and B-2 only, subject to regulations of Section 12.520.
- (3) Boarding stables (B-2 only), subject to the regulations of Section 12.512.
- (4) Building material sales, (B-2 only), provided that:
  - (a) No outside storage shall be located within the required setback or within any required side yard.
  - (b) Any outside storage shall be screened from abutting properties and from public view along a public street in accordance with the standards of Section 12.303.

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- (c) Within any outside storage area material shall be stacked no higher than the height of the screening.
- (5) Building material sales, wholesale (B-D only), provided that:  
  
All portions of the building including storage of all materials must be housed within a completely enclosed building.
- (6) Bus stop shelters, subject to the regulations of Section 12.513.
- (7) Car washes (B-1 only), provided that:
  - (a) All washing facilities must be within an enclosed building. Vacuuming facilities may be outside of the building but may not be located in any required yard or buffer;
  - (b) A high-volume facility utilizing a conveyer or chain drag system for moving automobiles through the washing area is not permitted.
  - (c) At least one attendant must be present whenever the business is open but no more than three attendants may be on duty at the same time. These attendant requirements do not apply where the laundry facility is an integral and accessory part of a service station operation and attendants serve both facilities.
- (8) Cemeteries (B-1, B-2 and B-D), subject to the regulations of Section 12.508.
- (9) Child care center, subject to the regulations of Section 12.502.
- (10) Child care homes (B-1 and B-2 only), subject to the regulations of Section 12.502.
- (11) Construction and demolition (C & D) landfills, subject to the regulations of Section 12.524.
- (12) Dormitories (B-1 and B-2 only), provided that:
  - (a) Dormitory will be located within one half mile of the institutional use it is designed to serve;
  - (b) Building wall areas over 200 square feet and facing a public right-of-way shall require a minimum of one large maturing tree for each 30 feet of

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linear wall or one small maturing tree for each 20 feet of linear wall no more than 15 feet from the wall; and

- (c) If there are more than 12 living units in a single dormitory or there is more than one dormitory on the same lot, the development shall be reviewed and approved in accordance with the regulations for planned multi-family and attached developments in subsection 9.303(19).

(13) Dwellings, mixed use (B-1 and B-2 only), provided that:

- (a) The dwelling units will be located in the same building as a commercial use permitted in the district;
- (b) Dwellings will occupy no more than 75 percent of the total floor area of buildings on the lot;
- (c) Minimum lot and yard requirements for a building with dwelling units shall be the same as required for the business use; and
- (d) Development density shall be governed by the floor area ratio in the district.

(14) Equestrian oriented subdivisions, subject to the regulations of Section 12.514.

(15) Jails and prisons, provided that:

- (a) The minimum lot size shall be as follows:
  - i. Jails within completely enclosed structures - 2 acres
  - ii. Jails with open exercise yards or other unenclosed facilities - 5 acres
  - iii. Prisons - 50 acres
- (b) The use and structures shall be separated from the nearest residentially zoned or residentially used property by the following minimum distances:
  - i. any portion of the principal structure - 100 feet
  - ii. any security fence attendant to the principal use - 50 feet

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- iii. any accessory use associated with the principal use - 50 feet
  - (c) No portion of the principal use or any accessory use may exceed 40 feet in height if located within 100 feet of any residentially zoned or residentially used property;
  - (d) Fencing materials such as barbed wire, razor wire, or electrical fences may not be used when adjacent to residentially zoned or residentially used properties. This standard applies to those fences which are located along or parallel to the property boundary which is nearest to the residential areas. This standard does not apply to fences which are located more than 60 feet from the property line; and
  - (e) All lighting for the facility must be oriented so that direct beams of light shine away from all abutting properties and into the property so used.
- (16) Kennels, commercial (B-2 only), provided that:
- The use is located at least 300 feet from a residential zoning district.
- (16.1) Land clearing and inert debris landfills (LCID): off site, subject to the regulations of Section 12.503.
- (17) Marinas, commercial (B-1 and B-2 only), provided that:
- (a) All buildings and off-street parking and service areas will be separated by a Class B buffer from abutting property in a residential zoning district (See Section 12.302); and
  - (b) Piers, moorings, floats and other water related facilities shall be developed in accordance with the requirements of Section 12.515, however, piers may extend from the shore line to a water depth of 15 feet, but no greater than 180 feet in length.
- (18) [RESERVED]
- (19) Nightclubs, bars and lounges (B-1 and B-2 only), provided that:
- Any structure in which a nightclub, bar or lounge is the principal use shall be located at least 400 feet from a residential district.
- (20) Nonconforming structures and uses, subject to the regulations of Chapter 7.

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- (21) Nursing homes, rest home and homes for the aged (B-1, B-2 and BP only), provided that:

- (a) The maximum number of units or beds permitted is as established in the table below.

<u>District</u>	<u>Independent Living Units per Acre</u>	<u>Dependent Living Beds per Acre</u>
B-1, B-2 & BP	22	70

- (b) If any nursing home, rest home or home for the aged has more than 12 living units in a single building or there is more than one principal building on the same lot, the development shall be reviewed and approved in accordance with the regulations for planned multi-family and attached developments in subsection 9.303(19).

- (22) Offices, financial institutions and government buildings, over 300,000 square feet (B-2, B-D and BP only), provided that:

- (a) Primary vehicular access to the use will not be by way of a residential local (Class VI) street; and
- (b) The use will be separated by a Class B buffer from any abutting property located in a residential zoning district (See Section 12.302);

- (23) Off-street parking (B-1 and B-2 only), subject to the regulations of Chapter 12, Part 2.

- (24) Open space recreational uses, subject to the regulations of Section 12.516.

- (25) Orphanages, children's homes and similar nonprofit institutions providing domiciliary care for children (B-1 and B-2 only), provided that:

- (a) Building walls over 200 square feet and facing a public right of way shall require a minimum of one large maturing tree per 30 linear feet of wall or one small maturing tree per 20 linear feet of wall no closer than 15 feet to the wall; and
- (b) If an orphanage, children's home or similar institution has more than 12 living units or if there is more than one building on the same lot, the development must be reviewed and approved in accordance with the regulations for planned multi-family or attached development in subsection 9.303(19).



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(25.1) Orthotics - Prosthetics Facilities, provided that:

- (a) Not more than 50% of space be allotted to the fabrication of orthotics and prosthetics.
- (b) The overall purpose of the facility be patient oriented. No less than 50% of the facility be dedicated to patient services.
- (c) The fabrication of orthotics and prosthetics in no more than 50% of the floor area of any medical office is restricted to a maximum of 4,000 square feet.

(26) Outdoor recreation, provided that:

- (a) Off-street parking and service areas and outdoor recreational facilities will be separated by a Class C buffer from any abutting property located in a residential zoning district (See Section 12.302). However, outdoor recreational facilities and associated parking located on a lot within a planned development shall provide a Class C buffer only along the portion of the lot which forms part of the external boundary of the planned development; and
- (b) No outdoor recreational facilities, such as swimming pools, tennis courts, picnic shelter, etc. shall be located within 100 feet of any lot located in a residential zoning district. However, outdoor recreational facilities located on a lot within the interior portion of a planned development may be located a minimum of 20 feet from an adjacent lot within the planned development, but must maintain a 100 feet separation from the external project boundaries of the planned development when abutting a residential zoning district.

(26.1) Overnight camping trailer parks (B-2 only), subject to the regulations of Section 12.511.

(27) Planned multi-family and attached development (B-1 and B-2 only), subject to subsection 9.303(19) and the regulations of Section 9.805.

(28) Public utility structures, subject to regulations of Section 12.504.

(29) Public utility transmission and distribution lines, subject to the regulations of Section 12.509.

(30) Quarries, subject to the QUARRY OVERLAY district of CHAPTER 10, PART 8.

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- (31) Radio, telephone, cellular telephone and television masts, towers, antennae and similar structures, subject to the regulations of subsection 12.108(7) or subsection 12.108(8).
- (32) Riding academies (B-2 only), subject to the regulations of Section 12.512.
- (33) Sanitary landfills, subject to the regulations of Section 12.507.
- (34) Stadiums and arenas of no more than 5,000 seats (B-2 only), provided that:
  - (a) All parking areas will meet the landscaping standards set out in Section 12.208;
  - (b) Primary vehicular access to the use will not be provided by way of a residential local (Class VI) street;
  - (c) No direct beams of light from outdoor lighting fixtures, signs, or vehicles maneuvering on the site will shine into any abutting property located in a residential zoning district;
  - (d) Off-street parking areas and accessways will be designed to allow direct public transit service to the use;
  - (e) All buildings and off-street parking areas and service areas will be separated by a Class B buffer from any abutting property in a residential zoning district (See Section 12.302); and
  - (f) Stadiums and arena buildings shall be located a minimum of 100 feet from any exterior property lines.
- (35) Temporary buildings and storage of materials, provided that:

The use is in conjunction with the construction of a building on the same lot where construction is taking place or on an adjacent lot. Such temporary uses shall be terminated upon completion of construction.
- (36) [RESERVED]
- (37) Turkey shoots, subject to the regulations of Section 12.510.
- (38) [RESERVED]

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#### **Section 9.804. Permitted accessory uses and structures.**

The following uses shall be permitted in the B-1, B-2, B-D and BP districts as accessory uses and structures, subject to applicable criteria in Chapter 12 of these regulations:

- (1) Accessory uses and structures clearly incidental and related to the permitted principal use or structure on the lot.
- (2) Customary home occupations, subject to the regulations of Section 12.408 (B-1 and B-2 only).
- (3) Drive-in windows as an accessory to the principal use, subject to the regulations of Section 12.413 (B-1, B-2 and BP only).
- (4) Dumpsters, trash handling areas and service entrances, subject to the regulations of Section 12.403.
- (5) Elderly and disabled housing as an accessory to a single family dwelling unit, subject to the regulations of Section 12.407. (B-1 and B-2 only)
- (6) Fences and walls.
- (7) Guest houses and employee quarters as an accessory to a single family dwelling unit, subject to the regulations of Section 12.412. (B-1 and B-2 only)
- (8) Helistops, limited, subject to the regulations of Section 12.415.
- (8.1) Land clearing and inert debris landfill (LCID): on site, subject to the regulations of Section 12.405.
- (8.2) Manager's residence quarters, one dwelling unit/development or project, limited to 1,200 heated square feet, (B-D and BP only).
- (9) Marinas as an accessory to a residential use, subject to the regulations of Section 12.409.
- (10) Medical waste disposal facilities as an accessory use to a permitted principal use, subject to Section 12.525.

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- (11) [RESERVED]
- (12) Outdoor lighting, subject to the regulations of Section 12.402.
- (13) Outdoor storage of any materials, stocks or equipment subject to the regulations of Section 12.303.
- (14) Petroleum storage, accessory to a permitted use or structure, subject to the Fire Prevention Code of the National Board of Underwriters.
- (15) Petroleum storage, underground, accessory to permitted automotive service stations, subject to the Fire Prevention Code of the National Board of Underwriters.
- (16) Private kennel, subject to the regulations of Section 12.410.
- (17) Private stables, subject to the regulations of Section 12.411.
- (18) Vending machines for cigarettes, candy, soft drinks and coin-operated laundries located within an enclosed building as an accessory to the uses in the principal building.
- (19) Vending machines, out of doors, subject to yard and setback requirements of the respective district (B-2 only).
- (20) Wastewater treatment facilities, subject to the regulations of Section 12.404.

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### Section 9.805. Development standards for business districts.

All uses and structures permitted in the B-1, B-2, B-D, and BP districts shall meet the applicable development standards established in this Section and all other requirements of these regulations.

(1) Areas, yard and bulk regulations shall be as follows:

	<u>B-1</u>	<u>B-2</u>	<u>B-D</u>	<u>BP</u>
(a) Minimum project area (acres)	--	--	--	20
(b) Maximum Residential Density (Dwelling units per acre) <sup>1</sup>	22.0	22.0	--	--
(c) Maximum floor area ratio for nonresidential development <sup>2</sup>	.50	1.0	.70	.80
(d) Minimum lot area (square feet) <sup>3</sup>				
- Detached dwelling	3,500	3,500	--	--
- Duplex dwelling*	6,500	6,500	--	--
- Triplex dwelling*	9,500	9,500	--	--
- Quadraplex dwelling*	11,500	11,500	--	--
- Multi-family dwellings and all other residential buildings*	11,500	11,500	--	--
- Nonresidential buildings	8,000	8,000	8,000	43,560
(e) Minimum lot width (feet)				
- Detached dwellings	40	40	--	--
- Duplex, triplex & quadraplex	50	50	--	--
- Multi-family dwellings and all other residential buildings	50	50	--	--
- Nonresidential buildings	50	50	50	--
(f) Minimum project street frontage	--	--	--	100
(g) Minimum setback (feet) (See Section 12.102(1) if abutting a lot in a residential zoning district)	20	20	20	40
(h) Minimum side yard (feet) <sup>4</sup>				
- Residential buildings (except as provided below)	5	5	--	--
- Planned multi-family developments adjoining single family developed or zoned land <sup>5</sup>	10	10	--	--
- Nonresidential building	None**	None**	10	20

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		<u>B-1</u>	<u>B-2</u>	<u>B-D</u>	<u>BP</u>
(i)	Minimum rear yard (feet)				
	- Residential buildings (except as provided below)	20	20	--	--
	- Planned multi-family developments adjoining single family developed or zoned land <sup>5</sup>	40	40	--	--
	- Nonresidential building	10	10	10	20
(j)	Minimum project edge <sup>6</sup>	--	--	--	100
(k)	Minimum open space for residential development (%)	40	40	--	--
(l)	Maximum height (feet) <sup>7</sup>	40	40	40	None***

\* If land is sold with an attached unit, the minimum subplot size must be sufficient to accommodate a dwelling unit and 400 square feet of private open space for each unit.

\*\* In B-1 and B-2 districts, no side yard is required, but if they are provided, the first one must be a minimum of 8 feet and if a second one is provided, it must be a minimum of 4 feet. However, in any combination, there shall be a minimum of 8 feet building separation at the side yard.

\*\*\* Except no structure may exceed 40 feet in height if located within 200 feet of a residential zoning district.

### FOOTNOTES TO CHART 9.805(1)

<sup>1</sup> The maximum residential density number, when multiplied by the number of acres in a lot, controls the allowable number of dwelling units permitted on a lot. Density is calculated by multiplying the gross land area, minus any existing dedicated rights-of-way incorporated within the property, times the maximum density number established for the zoning district.

<sup>2</sup> If a parking deck is constructed as part of a nonresidential building, the allowable floor area ratio may be increased by 50 percent.

<sup>3</sup> For residential subdivisions of 10 or more lots, the minimum lot size may be varied subject to the regulations of subsection 9.205(4).

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- <sup>4</sup> For residential subdivisions, minimum building separations and zero lot lines may be used subject to subsection 9.205(5).
- <sup>5</sup> Side and rear yards determinations in planned multi-family developments will be based on the orientation of each proposed building to the adjoining project property line, except in a single building planned multi-family development where side and rear yards will be determined based upon the configuration of the lot. If the angle formed by the property line and the front or rear facade of the building is greater than 45 degrees, the area between the building and the property line will be treated as a side yard.
- <sup>6</sup> Except as provided for in subsection 9.805(6).
- <sup>7</sup> A building in a district may be erected to a height in excess of 40 feet, provided the minimum side yard is increased 1 foot for every 2 feet in building height in excess of 40 feet. If a building abuts a residential zoning district, it may not be constructed above the 40-foot limit unless the side and/or rear yard which abuts the residential zoning district is increased 1 foot for each foot in building height in excess of 40 feet. Height requirements for other permitted structures are set forth in Section 12.108. Special height requirements for the Business Park District are set forth in subsection 9.805(6).

#### CROSS-REFERENCES:

Applicable buffer requirements may require a larger side or rear yard than the minimum. Also, larger setback and yard requirements may be required along certain streets subject to the regulations of Section 12.103. Larger than minimum setbacks may be required where a nonresidential use abuts a lot in a residential zoning district. See subsection 12.102(1). For properties bordering Lake Norman, Lake Wylie, Mountain Island Lake and the Catawba River, see Section 12.515 for piers and other water-related facilities development.

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- (2) Maximum floor area. In the B-1 district, no retail establishment or shopping center may exceed 70,000 square feet in floor area and no office establishment may exceed 100,000 square feet in floor area on a lot. In the B-2 and B-D districts, no retail establishment or shopping center may exceed 100,000 square feet in floor area, except in a Commercial Center District as in Chapter 11, Part 4. In the BP district, no retail establishment or shopping center may exceed 10,000 square feet on a lot.
- (3) Buffer and Screening. Development of any use in the B-1, B-2, B-D and BP districts must comply with the applicable buffer and screening requirements in Chapter 12, Part 3.

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- (4) Signs. Signs are permitted in the B-1, B-2, B-D and BP districts in accordance with Chapter 13.
- (5) Parking and Loading. Development of any use in the B-1, B-2 and B-D and BP districts must conform to the parking and loading standards in Chapter 12, Part 2.
- (6) Outside Storage. Outdoor storage of any material, stocks or equipment, accessory to a principal use on any lot in a business district must be screened from the public right-of-way and adjoining property in accordance with Section 12.303. The street right-of-way screening requirement does not apply to the storage of new and used vehicles which are offered or intended for sale.
- (7) Special Development Requirements for the BP district. Additional development requirements for the BP district are specified below:
  - (a) Minimum required open space. At least 20 percent of every project in the business park district must be devoted to permanent open space. This area must be used for landscaping, lawns, screening, or buffer areas. It may not contain any parking or loading areas, outdoor storage, trash handling, or utility or service areas. The area devoted to the minimum project edge requirement may be counted toward this requirement.
  - (b) Utility lines underground. All utility lines such as electric, telephone, CATV, or other similar lines must be installed underground. This requirement applies to lines serving individual sites as well as to security and street lighting within the project. However, distribution lines, which serve the entire site, may be located above ground. All utility boxes, transformers, meters, and similar structures must be screened from public view.
  - (c) Outdoor storage is permitted. Outdoor storage is permitted as an accessory use on any individual lot. Any such storage must be completely screened from adjoining development within and without the site as well as from the general public. The screening must be effective at the time that it is installed, even if plant materials are used for all or part of the screening. Access through the screening for vehicles is permitted, but is limited to one 30-foot wide location per-street frontage. All setbacks and yards must be observed for outside storage areas. In no case may the amount of land area devoted to outside storage exceed 20 percent of the lot area.



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- (d) Covenants required. The developer of any business park project must establish restrictive covenants for the entire project area. The restrictive covenants must be submitted to show compliance, but will not be reviewed as to form, legality, or methods of enforcement. Those covenants must, at a minimum, accomplish the following objectives:
- i. Create a property owners association;
  - ii. Provide for maintenance of individual sites, common areas, open spaces, and private streets; and
  - iii. Provide for minimum development and operational standards for each site which require adherence to local ordinances and establish uniform landscaping, signage, site design, parking, and loading standards. The covenants may include additional restrictions or requirements at the discretion of the developer. However, the minimum standards of this ordinance must always be met.
- (e) Project edge. The protection of the project edge is essential to the proper integration of a business park development into the community, especially when adjoining residential areas. The objective of the standards for the project edge is to provide the appropriate separation, screening, landscaping and transition between the development and the adjoining properties.
- i. The minimum project edge required around the perimeter of the site is 100 feet. However, if the abutting land is zoned and used for business, business park, research or industrial purposes, or if the project adjoins the right-of-way of a railroad, a Class I thoroughfare, or a Class II thoroughfare, the minimum edge for that part of the project boundary may be reduced to 50 feet.
  - ii. If the project edge does not contain sufficient vegetation to screen and buffer adequately, it must be revegetated or screened according to a Class B buffer as per Table 12.302(b). Project identification signs may be permitted in the project edge pursuant to specific site plan approval.
  - iii. In those areas of the project edge which are not covered by a grading and clearing plan described in subsection (v) below, vines, underbrush and small under story trees (less than 2 inches in caliper) may be removed by hand, the area beneath the trees

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may be mulched and grass may be planted outside of the existing tree areas for purposes of improving the overall appearance of the naturally vegetated areas. The minimum project edge must otherwise remain undisturbed unless permission is obtained through the process described under subsection (v) below.

- iv. Utility lines, streets and driveways, may be installed in this area pursuant to a specific site plan approval.
- v. In cases where vegetation within the project edge along Class I, Class II, Class III and Class IIIC thoroughfares is sparse and unattractive or where the project edge is unsightly by reasons of roadway grading which has taken place along the edge, an owner, as a part of the parallel conditional rezoning process, may propose a detailed plan providing for the grading and clearing of all or certain portions of that part of the project edge. If the rezoning petition is approved and as a part of that approval a grading and clearing plan is also approved, then grading and clearing may take place within those portions of the project edge covered by the plan strictly in accordance with the specifications of the plan. At a minimum, a plan must satisfy the following requirements:
  - (1) Shrubs and trees which are on the approved plant list in Appendix 1 and which otherwise satisfy the standards set forth under Section 12.302(9) and (10) shall be planted within any part of a project edge so disturbed at the following rate:

12 trees per 100 linear feet and 40 shrubs per 100 linear feet in areas where the project edge is 50 feet wide; and  
18 trees per 100 linear feet and 60 shrubs per 100 linear feet in areas where the project edge is 100 feet wide.
  - (2) In addition to the planting of trees and shrubs, all disturbed areas of the project edge must be planted with grass or mulched so as to establish a pleasing streetscape.
  - (3) In order for the project edge to fulfill the purpose for which it was established, the plan must provide for proper maintenance of the area included in the plan.

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- (f) Street trees. Street trees must be planted along all public and private streets within and abutting any business park development in accordance with the standards and specifications of the Charlotte Street Tree Planting program and the Charlotte Tree Ordinance (City Code Chapter 21), which are adopted herein by reference.
- (g) Project entrance. The entrance or entrances to the project should receive special emphasis in design and construction. It should set the tone for the development within and should create an identity for the project at the public street frontage. Special attention should be paid to signage, landscaping, street configuration, future transit potential, and traffic circulation. At a minimum, a divided street entrance must be used at the principal entrance to the site. Where internal streets are provided within a BP district, individual development sites shall be accessed only from internal streets unless other access is recommended by Mecklenburg County Engineering as an improvement to traffic flow.
- (h) Parking and loading standards. Development of any use in the business park district must conform to the parking and loading standards of Chapter 12, Part 2 and with the following additional requirements:
  - i. Parking in the setback is permitted if located at least 20 feet from the curb line and is visually separated from the street with landscaping and tree plantings;
  - ii. An area equal to at least 10 percent of the paved surface of any parking area containing more than 20 spaces must be landscaped with plantings and trees; This requirement is in addition to any perimeter and/or screening requirements for the parking areas and must be placed in the interior of the lot.
  - iii. The minimum width of landscaped islands or planting strips where provided is 8 feet. If a sidewalk is included in the planting strip, the landscaped area may be reduced to 6 feet. Landscaped islands or planting strips may be used to fulfill the 10 percent landscaping requirement in (ii). above. Tree planting and necessary plant areas must be in accordance with the standards and specifications of the Charlotte-Mecklenburg Land Development Standards Manual and Section 12.209; and
  - iv. All sidewalks, where provided, must be at least 4 feet wide. Where head-in parking abuts a sidewalk, either bumper curbs placed at least 2 feet from the nearest edge of the sidewalk, or an

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extra 2 feet of sidewalk width must be provided so that automobile overhang will not intrude on the pedestrian space.

- (8) Administrative site plan approval required for BP district. Once the BP district has been established all development in the business park district must be built in accordance with an administratively approved site plan. Site planning in proposed developments must provide protection of the development from adverse surrounding influences and protection of surrounding areas from adverse influences within the development. The site plan must be designed giving adequate consideration to the minimum standards of these regulations and to the following factors: the size and shape of the tract; the topography and necessary grading, the reasonable preservation of the natural features of the land and vegetation; the size and relationship of buildings; and the character of relationship to adjoining properties. Consideration should be given to the location and arrangement of parking areas, the nature and extent of screening, the design of and utilization of streets and open spaces. The site plan must be prepared by a registered professional land planner licensed to practice in North Carolina. This registration could include land planners with designations as AICP, ASLA, AIA, PE, or others so long as the designer of record specializes in site design.

- (a) Purpose. In order to assure compliance with minimum ordinance standards and to aid in the review and approval of development proposals, this Section establishes a site plan review process. This process is an administrative process conducted by the Director of the Planning Commission on behalf of the Director of the Building Standards Department. It is intended that this process occur early in the planning of a proposed development in order to streamline the approval process, to assure that ordinance standards will be met, to address any specific hardships which could warrant a variance from specific provisions, to assure that the proposal complies with adopted public policies regarding the area of the proposal, and to promote and protect the public health, safety, and welfare.
- (b) Preliminary site plan. At any time after the approval of the BP district a preliminary site plan may be submitted to the Planning Director. It is intended that the preliminary plan not be detailed or engineered to the level necessary for the issuance of construction permits. Rather, the applicant should submit the preliminary plan at a point in the design process at which fundamental decisions regarding the site layout, arrangement of buildings, parking areas and streets, access points, extent of grading, and yards and open spaces are necessary to proceed.

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Sufficient information should be included to allow evaluation of the proposal against the standards of this ordinance and to identify potential problem areas when other ordinance regulations may apply. The plan need not cover the entire project area, but must cover the area for which building permits will be requested.

Additional site plans may be filed as additional areas are developed. The minimum information required to be included with the preliminary plan is listed below:

- i. Developer's name, address and phone number;
- ii. Designer's name, address, phone number, and registration number;
- iii. Project name, address, present zoning, and the label "Preliminary Site Plan";
- iv. A vicinity map showing the location of the development site, including a north arrow for site orientation;
- v. A plat of the development site including existing and tentatively proposed topography at 2-foot contour intervals;
- vi. Area of the proposed development site;
- vii. The vehicular access point(s) from adjacent public streets;
- viii. The location of all existing principal structures on the development site and whether they are to be retained or removed under the proposed development plan;
- ix. The location of all existing utility right-of-way(s) on the site and the location of all existing and proposed rights-of-way for public streets and proposed location of private streets;
- x. The location of any existing surface waters and the elevation of the 100-year regulatory floodway and floodway fringe if applicable;
- xi. The required setbacks and yards for the district;
- xii. The approximate building locations as well as information regarding the bulk and height of the buildings;

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- xiii. The proposed vehicular and pedestrian circulation as well as the proposed parking layout including numbers of required spaces;
  - xiv. Existing vegetation and that vegetation which is to remain after clearing and grading is completed and protection measures to be used for existing vegetation;
  - xv. The location of service areas for uses such as trash disposal and loading/delivery areas;
  - xvi. A conceptual landscaping plan indicating typical building, parking, entrance treatments, as well as screening and street planting plans; and
  - xvii. Preliminary subdivision plan. The applicant may put the information dealing with the existing condition of the site, surrounding land owners, and existing vegetation on a separate sheet from the proposed development layout for ease of display and review.
- (c) Review and approval. Within 20 business days of the receipt of a complete preliminary site plan, the Planning Director will review the proposal against the standards of this ordinance. In addition, the Planning Director may consult with other governmental agencies regarding the proposal as it relates to the standards of other ordinances in order to avoid unnecessary delays in the approval process.

If the preliminary plan meets the standards of this ordinance and is in general conformity with other applicable regulations, the Planning Director will mark the plan as "Approved for Final Plans" and return the approved plan to the applicant. The applicant is then free to develop any final site plans that may be necessary or required for the issuance of construction permits. In addition, the approval of the preliminary plan is necessary for the applicant to secure the necessary grading permits to begin work on the site.

All final site plans must be submitted to the Charlotte-Mecklenburg Building Standards Department for approval. One copy of the proposed final site plan will be reviewed by the Planning Director to assure compliance with the approved preliminary site plan.

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**PART 8.5: [RESERVED]**

**PART 9: [RESERVED]**

**PART 10: [RESERVED]**

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### **PART 11: INDUSTRIAL DISTRICTS**

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#### **PART 11: INDUSTRIAL DISTRICTS**

##### **Section 9.1101. Industrial districts established; purposes.**

- (1) The primary purpose of the I-1 (Light Industrial) district is to create and protect industrial areas for light manufacturing and the distribution of products at wholesale. The standards established for this district are designed to promote sound and permanent light industrial development and also to protect nearby residential areas from undesirable aspects of industrial development. Whenever possible, this district should be separated from residential zoning districts by natural or structural boundaries such as drainage channels, sharp breaks in topography, strips of vegetation, traffic arteries, and similar features.
- (2) The purpose of the I-2 (General Industrial) district is to create and protect wholesaling and industrial areas for manufacturing, processing and assembling of parts and products, distribution of products at wholesale, transportation terminals, and a broad variety of specialized industrial operations. Whenever possible, areas of this district should be separated from residential districts by natural or structural boundaries such as drainage channels, sharp breaks in topography, strips of vegetation, traffic arteries and similar features.

##### **Section 9.1102. Uses permitted by right.**

The following uses shall be permitted by right in the I-1 and I-2 districts, provided that they meet all the requirements of this Part and all other provisions established in these regulations:

- (1) Abattoirs (I-2 only).
- (2) Agricultural industries (I-2 only).
- (3) Airports (I-2 only).
- (4) Amusement, commercial outdoors.
- (5) Armories for meetings and training of military organizations.
- (6) Assembly or fabrication of previously manufactured parts, including but not limited to the following:

Apparel and other textile products

Electronic and other electric equipment, except electrical generator and



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distribution equipment  
Fabric samples  
Furniture and fixtures  
Industrial machinery and equipment  
Instruments and related products  
Leather and leather products, excluding tanning or curing of hides  
Lumber and wood products  
Paper and allied products  
Plastic and rubber products  
Metal products  
Transportation equipment  
Other similar uses

- (7) Auction sales.
- (8) Automobiles, truck and utility trailer rental.
- (9) Automotive repair garages.
- (10) Automotive sales and repair, including tractor-trucks and accompanying trailer units (I-1 only).
- (11) Automotive service stations.
- (12) Bakeries, retail and wholesale.
- (13) Barber and Beauty shops.
- (14) Boat and ship sales and repair (I-1 only).
- (15) Building maintenance service.
- (16) Building material sales, retail and wholesale.
- (17) Bus and train terminals.
- (18) Car washes.
- (19) Catalog and mail-order houses.
- (20) Civic, social service and fraternal facilities.
- (21) Clinics, medical, dental and optical.

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- (22) Clinics, veterinary.
- (23) Contractor offices and accessory storage (I-2 only).
- (24) Contractor offices and accessory storage, excluding the storage of construction equipment.
- (25) Distributive businesses.
- (26) Dry cleaning and laundry establishments.
- (27) Engraving.
- (28) Equipment rental and leasing.
- (29) Fabric sample assembly.
- (30) Farms, including retail sales of products grown on premises.
- (31) Fence and fence materials, retail and wholesale.
- (32) Financial institutions, up to 25,000 square feet.
- (33) Financial institutions, up to 70,000 square feet (I-1 only).
- (34) Florists, retail and wholesale.
- (35) Foundries (I-2 only).
- (36) Government buildings, up to 100,000 square feet.
- (37) Government buildings, up to 300,000 square feet (I-1 only).
- (38) Graphics research and production.
- (39) Heliports and helistops, limited.
- (40) Heliports and helistops, unlimited (I-2 only).
- (41) Highway and railroad rights-of-way.
- (42) Hotels and motels (I-1 only).

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- (43) Indoor recreation.
- (44) Laboratories, medical, dental and optical.
- (45) Laboratories, for applied and basic research and testing of products, manufacture, processes or fabrication.
- (46) Locksmiths and gunsmiths.
- (47) Lumber mills and storage yards (I-2 only).
- (48) Manufacture (light) of:

- Bakery products
- Batteries
- Beverages, excluding alcoholic beverages
- Boat and ship building
- Brooms and brushes
- Burial caskets
- Candy and confectionery products
- Cigarettes, cigars and chewing tobacco
- Communications equipment
- Computer and office equipment
- Costume jewelry and notions
- Dairy products
- Electrical lighting and wiring equipment
- Electric components and accessories
- Electronic equipment
- Fabricated metal products, excluding use of blast furnaces or drop forges
- Grain mill products
- Household audio and visual equipment
- Household appliances
- Ice
- Jewelry, silverware, and plated ware
- Measuring and controlling devices
- Meat products, excluding slaughtering and dressing
- Medical instruments and supplies
- Musical instruments
- Ophthalmic goods
- Pens, pencils, office and art supplies
- Pharmaceuticals
- Plastic products, fabricated from previously prepared plastic

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- materials
- Preserved fruits and vegetables
- Pumps
- Search and navigation equipment
- Signs
- Toys and sporting goods
- Watches, clocks, watch cases and parts
- Other similar uses

(49) Manufacture (heavy) in I-2 only of:

- All manufacturing operations permitted in I-1
- Abrasive and asbestos products
- Aircraft and parts
- Agricultural chemicals
- Alcoholic beverages
- Asphalt paving and roofing materials
- Brick, tile and clay products
- Chemical manufacture, refining and processing
- Concrete, gypsum and plaster products
- Construction and related machinery
- Cut stone and stone products
- Electrical distribution equipment
- Electrical industrial apparatus
- Engines and turbines
- Fabricated metal products
- Farm and garden machinery
- Fats and oils processing
- Furniture and fixtures
- Glass and glassware
- Guided missiles, space vehicles and parts
- Industrial machinery
- Leather tanning
- Manufactured homes
- Meat products, including slaughtering and dressing
- Motor vehicles and equipment
- Motorcycles and parts
- Ordinance and accessories
- Paper and allied products
- Petroleum and coal products
- Plastic and rubber products
- Railroad equipment
- Refrigerator and service machinery

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Sugar refining  
Textile mill products  
Tires and inner tubes  
Wire products  
Other similar uses

- (50) Manufactured housing repair.
- (51) Manufactured housing sales (I-1 only).
- (52) Manufacturer's representatives, including offices, and repair and service facilities.
- (53) Merchandise showrooms, including warehousing in a single building.
- (54) Nursery and greenhouses, retail and wholesale.
- (55) Offices, up to 100,000 square feet.
- (56) Offices, up to 400,000 square feet (I-1 only).
- (56.1) Orthotics - Prosthetics Facilities.
- (56.2) Outdoors seasonal sales.
- (57) Parks, greenways and arboretums.
- (58) Pest control and disinfecting services.
- (59) Post offices.
- (60) Power generation plants (I-2 only).
- (61) Printing and publishing.
- (62) Prototype production facilities and pilot plants.
- (63) Radio and television stations and/or offices.
- (64) Railroad freight yards, repair shops and marshalling yards (I-2 only).
- (65) Recycling centers, including drop-off centers.

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- (66) Religious institutions.
- (67) Repair of any goods, equipment and vehicles, the manufacture, assembly or sales of which are permitted in that district.
- (68) Research uses.
- (69) Restaurants.
- (70) Restaurants, drive-in services.
- (71) Retail establishments, shopping centers and business, personal and recreational services up to 25,000 square feet.
- (72) Retail establishments, shopping centers and business, personal and recreational services up to 70,000 square feet (I-1 only).
- (73) Sign painting, exclusive of manufacture.
- (74) Studios for artists, designers, photographers, musicians, sculptors, gymnasts, potters, wood and leather craftsmen, glass blowers, weavers, silversmiths, and designers of ornamental and precious jewelry.
- (75) Subdivision sales offices.
- (76) Telephone booths.
- (77) Theatres, motion picture (I-1 only).
- (78) Theatres, drive-in motion picture (I-2 only).
- (79) Tire recapping and retreading.
- (80) Truck stops (I-2 only).
- (81) Truck terminals (I-2 only).
- (82) Vocational schools.
- (83) Utility operations centers (I-2 only).
- (84) Warehousing (I-2 only).

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- (85) Warehousing, within an enclosed building.
- (86) Waste incinerators, excluding medical waste incinerators. (I-2 only).
- (87) Wholesale sales establishments.

#### Section 9.1103. Uses permitted under prescribed conditions.

The following uses shall be permitted in the I-1 and I-2 districts if they meet the standards established in this Section and all other requirements of these regulations:

- (1) Adult care center, subject to the regulations of Section 12.502.
- (1.1) Adult establishments, subject to the regulations of Section 12.518.
- (1.2) Any establishment containing more than 70,000 square feet of enclosed space engaged in the operation of a flea market (I-1 only), provided that:
  - (a) The use may not be open to the public on any days of the week other than Friday, Saturday and Sunday;
  - (b) The minimum lot size shall be 10 acres;
  - (c) The use's operations, including the storage of inventory, must be housed entirely within an enclosed structure;
  - (d) The structure within which the use is operated must be a warehouse facility which is designed primarily for the bulk storage of products, materials or commodities and contain a minimum of 100,000 square feet of enclosed space;
  - (e) The structure must provide for clear storage to a height of at least 26 feet in all storage areas and may not contain more than 5,000 square feet of office space;
  - (f) Vehicle access to the use may not be provided by way of a residential local (Class VI) street or residential collector (Class V) street; and
  - (g) The use must satisfy the minimum requirements for off-street parking for retail establishments as provided under Table 12.202.

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- (h) The operation of the establishment and the structure within which such use is enclosed shall meet all standards and requirements of the North Carolina Building Code and the County Fire Marshal that may be applicable thereto.
- (1.3) Beneficial fill sites, subject to the regulations of Section 12.523.
- (2) Bus stop shelters, subject to the regulations of Section 12.513.
- (3) Cemeteries, subject to the regulations of Section 12.508.
- (4) Child care centers, subject to the regulations Section 12.502.
- (5) Construction and demolition (C & D) landfills, subject to the regulations of Section 12.524.
- (5.1) Hotels and motels, expansion of existing nonconforming uses (I-2 only), provided that:
  - (a) Building permits for the use were issued before January 1, 1992, therefore, being rendered a legally nonconforming use after the effective date of this zoning ordinance;
  - (b) Expansion of the nonconforming use takes place within the confines of the property as comprised before January 1, 1992;
  - (c) Any expansion shall be subject to the applicable development standards of the I-2 district.
- (6) Jails and prisons, provided that:
  - (a) The minimum lot size shall be as follows:
    - i. Jails within completely enclosed structures - 2 acres
    - ii. Jails with open exercise yards or other unenclosed facilities - 5 acres
    - iii. Prisons - 50 acres;
  - (b) The use and structures shall be separated from the nearest residentially zoned or residentially used property by the following minimum distances:



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- i. any portion of the principal structure - 100 feet
    - ii. any security fence attendant to the principal use - 50 feet
    - iii. any accessory use associated with the principal use - 50 feet
  - (c) No portion of the principal use or any accessory use may exceed 40 feet in height if located within 100 feet of any residentially zoned or residentially used property;
  - (d) Fencing materials such as barbed wire, razor wire, or electrical fences may not be used when adjacent to residentially zoned or residentially used properties. This standard applies to those fences, which are located along or parallel to the property boundary, which is nearest to the residential areas. This standard does not apply to fences which are located more than 60 feet from the property line; and
  - (e) All lighting for the facility must be oriented so that direct beams of light shine away from all adjoining properties and into the property so used.
- (7) Junk yards (I-2 only), provided that:
- (a) The use must be enclosed by a fence which is not easily climbable from six to seven feet in height, and located at least 20 feet from the public street right-of-way; and
  - (b) The use must be screened in accordance with the standards in Section 12.303.
- (8) Kennels, commercial, provided that:
- The use must be located at least 300 feet from a residential zoning district.
- (8.1) Land clearing and inert debris landfills (LCID): off site, subject to the regulations of Section 12.503.
- (9) Medical waste disposal facilities as a principal use (I-2 only), subject to section 12.525.
- (10) Nightclubs, bars and lounges, up to 70,000 square feet in I-1 and up to 25,000 square feet in I-2, provided that:

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Any structure in which a nightclub, bar or lounge is the principal use shall be located at least 400 feet from a residential district.

- (11) Nonconforming structures and uses, subject to the regulations of Chapter 7.
- (12) Off-street parking, subject to the regulations of Chapter 12, Part 2.
- (13) Offices and government buildings, over 400,000 square feet (I-1 only), provided that:
  - (a) Primary vehicular access to the use will not be by way of a residential local (Class VI) street; and
  - (b) The use will be separated by a Class B buffer from any abutting property located in a residential zoning district (See Section 12.302);
- (14) Open space recreational uses, subject to the regulations of Section 12.516.
- (15) Outdoor recreation, provided that:
  - (a) Off-street parking and service areas and outdoor recreational facilities will be separated by a Class C buffer from any abutting property located in a residential zoning district (See Section 12.302); and
  - (b) No outdoor recreational facilities, such as swimming pools, tennis courts, picnic shelter, etc. shall be located within 100 feet of any lot located in a residential zoning district.
- (16) Petroleum storage facilities with a storage capacity no more than 200,000 gallons, provide that:
  - (a) The use meets the requirements established by the fire prevention code of the National Board of Fire Underwriters and the latest edition of the "Flammable and Combustible Liquids Code, NEPA 30" of the National Fire Protection Association;
  - (b) All storage tanks and loading facilities will be located at least 100 feet from any exterior property line;
  - (c) Vehicle access to the use will not be provided by way of a residential local (Class VI) street or residential collector (Class V) street; and

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- (d) All buildings and structures and off-street parking and service areas will be separated by a Class A buffer from any abutting property in residential, institutional, office or business zoning district or uses in those districts (See Section 12.302).
- (17) Petroleum storage facilities with a storage capacity of more than 200,000 gallons (I-2 only), provided that:
  - (a) The use meets the requirements established by the fire prevention code of the National Board of Fire Underwriters and the latest edition of the "Flammable and Combustible Liquids Code, NEPA 30" of the National Fire Prevention Association;
  - (b) All storage tanks and loading facilities will be located at least 100 feet from any exterior property line;
  - (c) Vehicular access to the use will not be provided by way of a residential local (Class VI) street or residential collector (Class V) street; and
  - (d) All buildings and structures and off-street parking and service areas will be separated by a Class A buffer from any abutting property in a residential, institutional, office or business zoning district or uses in those districts (See Section 12.302).
- (18) Public utility structures, subject to the regulations of Section 12.504.
- (19) Public utility transmission and distribution lines, subject to the regulations of Section 12.509.
- (20) Quarries, subject to the QUARRY OVERLAY district of CHAPTER 10, PART 8.
- (21) Raceways and dragstrips, provided that:
  - (a) The use will be located on a lot of at least 50 acres;
  - (b) Vehicular access to the use will be provided only by way of a Class II, Class III or Class IV street;
  - (c) No direct beams of light from outdoor lighting fixtures, signs, or vehicles maneuvering on the site will shine into any abutting property located in a residential zoning district;

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- (d) Off-street parking areas and accessways will be designed to allow direct public transit service to the use; and
- (e) Hours of operation will be no earlier than 6:00 a.m. and no later than 11:00 p.m. Eastern Standard Time.
- (22) Radio, telephone, cellular telephone and television masts, towers, antennae and similar structures, subject to the regulations of subsection 12.108(7) or subsection 12.108(8).
- (23) Sanitary landfills, subject to the regulations of Section 12.507.
- (23.1) Solid waste transfer stations (I-2 only), subject to Section 12.526.
- (24) Stadiums and arenas of no more than 5,000 seats, provided that:
  - (a) All parking areas will meet the landscaping standards set out in Section 12.208;
  - (b) Primary vehicular access to the use will not be provided by way of a residential local (Class VI) street;
  - (c) No direct beams of light from outdoor lighting fixtures, signs, or vehicles maneuvering on the site will shine into any abutting property located in a residential zoning district;
  - (d) Off-street parking areas and accessways will be designed to allow direct public transit service to the use;
  - (e) All building and off-street parking areas and service areas will be separated by a Class B buffer from any abutting property in a residential zoning district (See Section 12.302); and
  - (f) Stadiums and arena buildings shall be located a minimum of 100 feet from any exterior property line.
- (25) Temporary buildings and storage of materials provided that:

The use is in conjunction with the construction of a building on the same lot where construction is taking place or on an adjacent lot. Such temporary uses shall be terminated upon completion of construction.

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- (26) Turkey shoots, subject to the regulations of Section 12.510.

#### **Section 9.1104. Permitted accessory uses and structures.**

The following uses shall be permitted in the I-1 and I-2 districts as accessory uses and structures, subject to the applicable criteria in Chapter 12 of these regulations:

- (1) Accessory uses and structures clearly incidental and related to the permitted principal use or structure on a lot.
- (2) Drive-in windows as an accessory to the principal structure subject to the regulations of Section 12.413.
- (3) Dumpsters, trash handling areas and service entrances, subject to the regulations of Section 12.403.
- (4) Fences and walls.
- (5) Medical waste disposal facilities as an accessory use to a permitted principal use, subject to Section 12.525.
- (6) Land clearing and inert debris landfill (LCID): on site, subject to the regulations of Section 12.405.
- (7) Manager's residence quarters, one dwelling unit/development or project, limited to 1,200 heated square feet.
- (8) Outdoor lighting, subject to the regulations of Section 12.402.
- (9) Petroleum storage, accessory to a permitted use or structure, subject to the Fire Prevention Code of the National Board of Underwriters.
- (10) Petroleum storage, underground, accessory to permitted automotive stations, subject to the Fire Prevention Code of the National Board of Underwriters.
- (11) Private kennels, subject to the regulations of Section 12.410.
- (12) Private stables, subject to the regulations of Section 12.411.
- (13) Vending machines for cigarettes, candy, soft drinks and coin-operated laundries located within an enclosed building as an accessory to the uses in the principal building.

## MECKLENBURG CODE

### PART 11: INDUSTRIAL DISTRICTS

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- (14) Vending machines, out of doors, subject to yard and setback requirements of respective districts.
- (15) Wastewater treatment facilities, subject to the regulations of Section 12.404.

#### **Section 9.1105. Development standards for industrial districts.**

All uses and structures permitted in the I-1 and I-2 districts shall meet the applicable development standards established in this Section and all other requirements of these regulations:

- (1) Area, yard and bulk regulations shall be as follows:

	<u>I-1</u>	<u>I-2</u>
(a) Maximum Floor Area Ratio <sup>1</sup>	.80	1.00
(b) Minimum lot area (square feet)	8,000	8,000
(c) Minimum lot width (feet)	50	50
(d) Minimum setback (feet) (See Section 12.102(1) if abutting a lot in a residential zoning district)	20	20
(e) Minimum side yard (feet)	0 or 5*	0 or 5*
(f) Minimum rear yard (feet)	10	10
(g) Maximum height (feet) <sup>2</sup>	40	40

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\* In I-1 and I-2 districts, no side yard is required, but if one is provided, it must be a minimum of five (5) feet.

#### **FOOTNOTES TO CHART 9.1105(1):**

<sup>1</sup> If a parking deck is constructed as part of a building, the allowable floor area ratio may be increased by 50 percent.

## MECKLENBURG CODE

### PART 11: INDUSTRIAL DISTRICTS

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- <sup>2</sup> A building in a district may be erected to a height in excess of 40 feet, provided the minimum side yard is increased 1 foot for every 2 feet in building height in excess of 40 feet. If a building abuts a residential zoning district, it may not be constructed above the 40-foot limit unless the side and/or rear yard which abuts the residential zoning district is increased 1 foot for each foot in building height in excess of 40 feet. Height requirements for other permitted structures are set forth in Section 12.108.

#### CROSS-REFERENCES:

Applicable buffer requirements may require a larger side or rear yard than the minimum. See Chapter 12, Part 3: Also, larger setback and yard requirements may be required along certain streets subject to the regulations of Section 12.103. Larger than minimum setback standards may be required where a nonresidential use abuts a residential zoning district. See subsection 12.102(1). For properties bordering Lake Norman, Lake Wylie, Mountain Island Lake and the Catawba River, see Section 12.515 for piers and other water-related facilities development.

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- (2) Maximum Floor Area. In the I-1 district, no retail establishment or shopping center may exceed 70,000 square feet. In the I-2 district, no retail establishment or shopping center may exceed 25,000 square feet and no office establishment may exceed 100,000 square feet.
- (3) Buffers and Screening. Development of any use in the I-1 and I-2 districts must comply with applicable buffer and screening requirements in Chapter 12, Part 3.
- (4) Signs. Signs are permitted in the I-1 and I-2 districts in accordance with Chapter 13.
- (5) Parking and Loading. Development of any use in the I-1 and I-2 districts must conform to the parking and loading standards in Chapter 12, Part 2.
- (6) Outdoor Storage. Outdoor storage of goods and materials used in the assembly, fabrication or processing is permitted in the I-1 and I-2 districts, but shall not exceed 25% of the floor area of all buildings on a lot in the I-1 district. Outdoor storage shall be screened from the public right-of-way in accordance with Section 12.303.





# MECKLENBURG CODE

## PART 1: PURPOSE

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### CHAPTER 10:

### OVERLAY DISTRICTS

#### PART 1: PURPOSE

##### **Section 10.101. Purpose.**

Overlay Districts are zoning districts, which are applied only in conjunction with other zoning districts, and may grant additional use or development requirements upon the underlying zoning districts. The effect is to have both the overlay district and the underlying zoning controlling the use and development of a lot. Overlay Districts are applicable on an area wide basis to support specific public policy objectives and should be consistent with the Generalized Land Plan, District Plans and Area Plans. Overlay districts may be applied to general and conditional districts. An overlay district may be initiated as an amendment by the Board of Commissioners, Planning Commission or property owner.

#### PART 2: HISTORIC DISTRICTS

##### **Section 10.201. Purpose.**

The purpose of a local historic district is to encourage the restoration, preservation, rehabilitation, and conservation of historically, architecturally, and archaeologically significant areas, structures, buildings, sites, and objects and their surroundings from potentially adverse influences which may cause the decline, decay, or total destruction of important historical, architectural, and archaeological features, which are a part of the City's heritage, and to review new construction design to ensure compatibility with the character of the district. The historic district will be applied as an overlay zoning district which will overlap other general or specialized zoning districts to ensure the compatibility and appropriateness of exterior design within the historic district.

##### **Section 10.202. Designation of Historic Districts.**

- (1) The Historic District Commission shall make an investigation and report on the historical, architectural, or archaeological significance of the buildings, structures, features, sites, objects, or surroundings included in a proposed district, and prepare a description of the boundaries of the district.

## MECKLENBURG CODE

### **PART 2: HISTORIC DISTRICTS**

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- (2) The North Carolina Department of Cultural Resources, or an agent or employee designated by its Secretary, shall make an analysis of, and recommendations concerning this report and description of proposed boundaries in accordance with state law. Failure of the Department to submit its written analysis and recommendations to the Board of Commissioners within 30 calendar days after a written request for such analysis has been mailed to the department shall relieve the County of any responsibility for awaiting such an analysis, and the Board of Commissioners may at any time thereafter take any necessary action to adopt or amend its zoning ordinance.
- (3) Historic districts shall consist of areas which are deemed to be of special significance in terms of their history, architecture and/or culture and to possess integrity of design, setting, materials, feeling and association. The area, buildings, structures, sites, or objects shall be significant elements of the cultural, social, economic, political, or architectural history of the City or of the archaeological history or prehistory of the City and the conservation of such a district will provide for the education, pleasure, and enhancement of the quality of life of all residents of the County.
- (4) The Board of Commissioners shall designate the boundaries of a Historic District in accordance with procedures set forth in Chapter 6, Part 1, for amending the text of these regulations and the zoning map.
- (5) Following the Board of Commissioners designation and approval of a historic district, the area so designated shall be labeled "HD-O" on the Official Zoning Map.
- (6) With respect to any changes in the boundaries of such district subsequent to its initial establishment or the creation of additional districts within the County, the investigative studies and reports shall be prepared by the Historic District Commission and shall be referred to the Charlotte-Mecklenburg Planning Commission for its review and comment. Changes in the boundaries of an initial district or proposals for additional districts shall also be submitted to the Department of Cultural Resources in accordance with the provisions stated above.

#### **Section 10.203. Certificate of appropriateness required.**

- (1) No exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features), nor above-ground utility structures, nor any type of outdoor advertising sign or important landscape and natural features may be erected, altered, restored,

## MECKLENBURG CODE

### **PART 2: HISTORIC DISTRICTS**

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moved, or demolished within a historic district until after the property owner or his designated agent has contacted the Historic District Commission staff to determine whether the project will require a certificate of appropriateness ("certificate").

- (2) If a certificate shall be required, then the Historic District Commission staff will provide the applicant with an application form, instructions, and such technical advice as may be deemed necessary. The Historic District Commission shall prepare and adopt principles and guidelines, not inconsistent with Chapter 160A, Part 3C, "Historic Districts", of the General Statutes, for new construction, alterations, additions, moving and demolition. A copy of the adopted principles and guidelines shall be kept at the Historic District Commission's Office and County Clerk's Office.
- (3) Work may not begin until a certificate has been issued. A certificate must be issued by the Historic District Commission prior to the issuance of a building permit or other permit granted, for the purposes of constructing, altering, moving, or demolishing structures, which a certificate may be issued subject to reasonable conditions necessary to carry out the purposes of N. C. General Statutes, Chapter 160A, Article 19, Part 3C. A certificate of appropriateness shall be required whether or not a building permit is required.

#### **Section 10.204. Exterior features.**

Exterior features include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building materials; the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant fixtures. In the case of outdoor advertising signs, "exterior features" means the style, material, size, and location of all such signs. "Exterior features" may also include color and important landscape and natural features of the area.

#### **Section 10.205. Minor works.**

The Historic District Commission shall have the authority to delegate to their professional staff approval of certain types of minor works consistent with the detailed standards approved by the Historic District Commission. Minor works are defined as not involving substantial alterations, additions, or removals, that could impair the integrity of the property and/or the district as a whole or would be incongruous with the special character of the district. Staff shall not deny a request for a certificate of appropriateness and, therefore, all questionable applications must be submitted to the Historic District Commission.

## MECKLENBURG CODE

### PART 2: HISTORIC DISTRICTS

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#### Section 10.206. Duration of certificate of appropriateness.

If the application is approved, the certificate of appropriateness shall be valid for a period of six months from the date of issuance. Failure to procure a building permit within a six-month period shall be considered as a failure to comply with the certificate of appropriateness and the certificate shall become null and void. If a building permit is not required, the approved work shall be completed within a six-month period from the date of issuance. The certificate may be renewed by the staff upon written request of the applicant, with a valid reason for failure to comply with the six-month deadline, if the written request is submitted within six-months immediately following the expiration of the initial six-month period. If the applicant fails to renew an expired certificate during the initial six-month period or during the immediately following six-month period, then the project must be re-submitted to the Historic District Commission.

#### Section 10.207. Interior arrangement.

The Historic District Commission has no jurisdiction over interior arrangement, unless the arrangement of interior features directly affects the integrity of the exterior of the property and, therefore, would be incongruous with the special character of the district as a whole.

#### Section 10.208. Procedure.

- (1) The applicant has the responsibility to submit an application for a certificate of appropriateness that is accurate, complete and accompanied by sufficient information to fully depict the proposed development, alteration, rehabilitation, or restoration. If the applicant fails to submit an application as described herein, then the application shall not be submitted for review to the Historic District Commission until the deficient information has been provided to the satisfaction of the Historic District Commission staff.
- (2) All properly filed applications for a certificate of appropriateness shall be reviewed and acted upon within a reasonable time. In cases where the Historic District Commission deems it necessary, it may hold a public hearing concerning the application.

## MECKLENBURG CODE

### **PART 2: HISTORIC DISTRICTS**

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#### **Section 10.209. Notice.**

- (1) An applicant for a certificate of appropriateness, at the time of the submission of the application, shall submit the names and addresses of abutting property owners (disregarding public streets and alleys), as shown on the County tax listing.
- (2) The Historic District Commission shall take such steps as may be reasonably required under the particular circumstances, as stated in the "Rules of Procedure", to inform the abutting property owners and any other owners of any property likely to be materially affected by the application, prior to the issuance or denial of a certificate of appropriateness.

#### **Section 10.210. Standards.**

- (1) In considering an application for a certificate of appropriateness, the Historic District Commission shall first determine that the project is compatible with the district as a whole in terms of size, scale, and massing, as well as maintaining a pedestrian scale and orientation. Further, the Historic District Commission shall apply the Secretary of Interior's Standards for Rehabilitation (See 36 Code of Federal Regulations, Section 67.7. Hereinafter: "Secretary's Standards") stated in Sub-section (2) and the principles and guidelines, referred to in Section 10.202(2), and adopted by the Historic District Commission. Although the Historic District Commission will use the "Secretary's Standards" as its guidelines, approval of a certificate of appropriateness by the Historic District Commission should not be interpreted as approval for any other process such as the Investment Tax Credits.
- (2) Secretary's Standards. The Secretary's Standards are listed below:
  - (a) A property shall be used for its historical purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
  - (b) The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
  - (c) Each property shall be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

## MECKLENBURG CODE

### **PART 2: HISTORIC DISTRICTS**

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- (d) Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
- (e) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
- (f) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new one shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical or pictorial evidence.
- (g) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
- (h) Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
- (i) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale and architectural features to protect the historic integrity of the property and its environment.
- (j) New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

#### **Section 10.211. Ordinary maintenance.**

Nothing in these provisions should be construed to prevent the ordinary maintenance, repair, or removal of any exterior architectural feature in a historic district which does not involve a change in design, material, or outer appearance nor to prevent the construction, reconstruction, alteration, restoration, or demolition of any such feature which the building inspector or similar official shall certify is required for public safety because of an unsafe or dangerous condition. The Historic District Commission staff shall be consulted and/or the

## MECKLENBURG CODE

### **PART 2: HISTORIC DISTRICTS**

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feature shall be well-documented photographically and such documentation shall be made available to the Historic District Commission for its files, if appropriate.

#### **Section 10.212. Demolition or removal.**

- (1) After the designation of a historic district, no building or structure located in that district shall be demolished or otherwise removed until the owner of the property has applied for a certificate of appropriateness for demolition or removal. If the Historic District Commission determines that the property does not contribute to the character of the historic district because of age or structural condition, the Historic District Commission may grant a certificate of appropriateness for the immediate demolition or removal of the property. However, if the property is determined by the Historic District Commission to be a contributing element in the district, the Historic District Commission may delay demolition or removal for no more than 180 days. During such 180 day period, the Historic District Commission may negotiate with the owner and with any other parties in an effort to find a means of preserving the building.
- (2) An application for a certificate of appropriateness authorizing the demolition of a building or structure within the district may not be denied. However, the effective date of such a certificate may be delayed for a period of up to 180 days from the date of approval. The maximum period of delay authorized by this section shall be reduced by the Historic District Commission where it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use of or return from such property by virtue of the delay. If the Historic District Commission finds that the building has no particular significance or value toward maintaining the character of the district, it shall waive all or part of such period and authorize earlier demolition or removal.

#### **Section 10.213. Appeal to Zoning Board of Adjustment.**

- (1) N. C. General Statutes Section 160A-397 establishes the appeal procedure. An appeal in the nature of certiorari may be taken by any aggrieved party to the Zoning Board of Adjustment from the Historic District Commission's action granting or denying the certificate of appropriateness pursuant to Chapter 5 of these regulations. Any appeal must be filed with the Board of Adjustment within thirty days from the date of the issuance or denial of the certificate. An appeal from the Board of Adjustment's decision in any such case shall be heard by the Superior Court of Mecklenburg County.

## MECKLENBURG CODE

### **PART 2: HISTORIC DISTRICTS**

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- (2) If it is necessary to have a verbatim transcript prepared for the Board of Adjustment, then the petitioner shall pay for that expense and any other appropriate, reasonable expenses for the preparation of the record. If the final decision by the Board of Adjustment or by a court is in favor of the petitioner, then the County shall reimburse the petitioner for the costs invoiced by the County for the preparation of the record.

#### **Section 10.214. Enforcement.**

- (1) It shall be unlawful to erect, alter, restore, move, or demolish any building, structure, site, area, or object without securing a certificate of appropriateness and complying with these provisions. A failure to comply with these provisions shall constitute a violation subject to enforcement action. The Historic District Commission staff is authorized to undertake enforcement of these provisions upon its own initiative. These provisions may be enforced by any one, all, or a combination of the remedies provided herein and authorized by law.
- (2) Pursuant to N. C. General Statutes Section 160A-365, "Enforcement of Ordinances", these Historic Districts' provisions may be enforced by any remedy provided in N. C. General Statutes Section 160A-175 and, also, as specifically described in Chapter 8 of this Zoning Ordinance.

#### **Section 10.215. Submission of site plan and compliance with the Zoning Ordinance and other applicable laws.**

An applicant shall submit site plans that are in compliance with the Zoning Ordinance and with any other local or State laws designated by the Historic District Commission. If the Historic District Commission's staff or the Historic District Commission determines that submitted site plans are not in compliance with the Zoning Ordinance or other State or local laws designated by the Historic District Commission, then the Historic District Commission's staff or Historic District Commission shall not be required to proceed to review the application for the certificate of appropriateness until site plans have been submitted that are in accordance with the Zoning Ordinance and applicable State or local laws. If site plans have been submitted that are not in compliance with the Zoning Ordinance or other identified State or local laws, then the certificate of appropriateness or any permits or certificates issued by the Zoning Administrator may be revoked.



## MECKLENBURG CODE

### PART 2: HISTORIC DISTRICTS

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#### Section 10.216. Revocation of building permit.

Pursuant to N. C. General Statutes Section 160A-422, "Revocation of permits", the Mecklenburg County Building Standards Department shall be notified to revoke any building permits for any substantial departure from the approved application, plans, or specifications, for refusal or failure to comply with the requirements of a certificate of appropriateness. If a certificate of appropriateness is required, then a building permit shall not be issued. If a building permit has been mistakenly issued or issued based upon false statements or misrepresentations made in securing the building permits, then the building permit may be revoked.

#### Section 10.217. Citations.

- (1) The Director of the Historic District Commission or any enforcement officer designated by the director on the staff of the Commission is empowered to issue citations to any person, business, corporation, or other legal entity if there is reasonable cause to believe that any of the above have violated any provisions of Chapter 10, et seq. A "warning" citation shall be issued first. The warning citation shall state the violation and give the alleged violator sixty (60) days to remedy the violation. The staff of the Commission shall have authority to extend the period of the warning citation so long as there are documented, objective, or otherwise visible good faith efforts to comply with the warning citation.
- (2) If there has not been compliance with the warning citation, then a citation in the amount of fifty dollars (\$50.00) may be issued. Each day shall constitute a separate violation and a new citation may be issued for each day of a continuing violation. This citation shall inform the violator that a civil complaint or criminal summons will be filed if the citation is not paid within fifteen (15) days of the date of the citation. The director shall have the authority to void any citations if the offender has taken corrective action satisfactory to the Historic District Director and/or Historic District Commission to ensure compliance with these provisions.

## MECKLENBURG CODE

### PART 2: HISTORIC DISTRICTS

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#### Section 10.218. Civil penalty.

- (1) Any person who violates any of the Historic District provisions of this Section may be subject to a civil penalty. The Board of Commissioners shall determine the specific amount of the civil penalty assessed. The civil penalty is especially provided as a remedy for any significant and/or irreparable damage to a building, structure, object, site, or important and natural features of the particular district in violation of these provisions, but is not limited to just those violations.
- (2) If a staff person on the Historic District Commission deems that there is a violation that warrants the remedy of a civil penalty, then the staff person shall report to the Historic District Commission the nature of the violation, the recommended amount of the civil penalty, and the basis for that amount. If the Historic District Commission concludes that it is of the opinion that a civil penalty is appropriate, then the Historic District Commission shall transmit to both the County Manager's Office and to the County Attorney's Office a description of the violation, the recommended amount of the civil penalty, and the basis for that amount. If the County Manager's Office and County Attorney's Office deem the civil penalty the appropriate remedy, then it shall be placed on the agenda of the Board of Commissioners for their consideration. If the County Manager's Office and County Attorney's Office deem that a civil penalty is not the appropriate remedy, for whatever reason, then a joint recommendation shall be conveyed back to the Historic District Commission.
- (3) The civil penalty shall not exceed ten thousand dollars (\$10,000.00). No penalty shall be assessed until the violator has been notified of the violation and the time for appeal has expired. At least two (2) weeks before the scheduled meeting of the Board of Commissioners to determine the amount of the civil penalty, the violator shall be invited to the scheduled meeting and shall be given the opportunity to appeal before the Board of Commissioners at that meeting.
- (4) In determining the amount of the civil penalty, the Board of Commissioners shall consider the amount of money, at the time of the expiration of the date for appealing the violation, that the violator would be required to spend in order to be in compliance with the requirement of the specific Code provision violated.

## MECKLENBURG CODE

### **PART 2: HISTORIC DISTRICTS**

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- (5) The Director of the Historic District Commission shall make written demand for payment of the penalty assessed upon the person in violation and shall set forth, in detail, a description of the violation for which the penalty has been imposed. If payment is not received or equitable settlement reached within sixty (60) days after demand for payment is made, the matter shall be referred to the County Attorney for institution of a civil action in the nature of debt in the name of the County in the appropriate division of the general courts of justice for recovery of the penalty.

#### **Section 10.219. Denial or revocation of certificate of compliance and occupancy.**

- (1) As stated in the Mecklenburg County Building Ordinance, Section B-114, "Certificates of Compliance and Occupancy", the Mecklenburg County Building Standards Department shall not issue a certificate of occupancy or certificate of compliance unless there has been compliance with any certificate of appropriateness issued by the Historic District Commission. Compliance with a certificate of appropriateness shall include, but not be limited to, meeting all the requirements of the certificate of appropriateness in not doing any act which would have required a certificate of appropriateness.
- (2) Further, pursuant to Section B-115-2, "Revocation of Permits or Certificates", any permit or certificate of occupancy or certificate of compliance issued by the Mecklenburg County Building Standards Department in violation of any of the Historic Districts' provisions, stated herein, also may be revoked by the Mecklenburg County Building Standards Department.

## MECKLENBURG CODE

### PART 3: AIRPORT ZONE

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#### PART 3: AIRPORT ZONE

##### Section 10.301. Airport zones established; purpose.

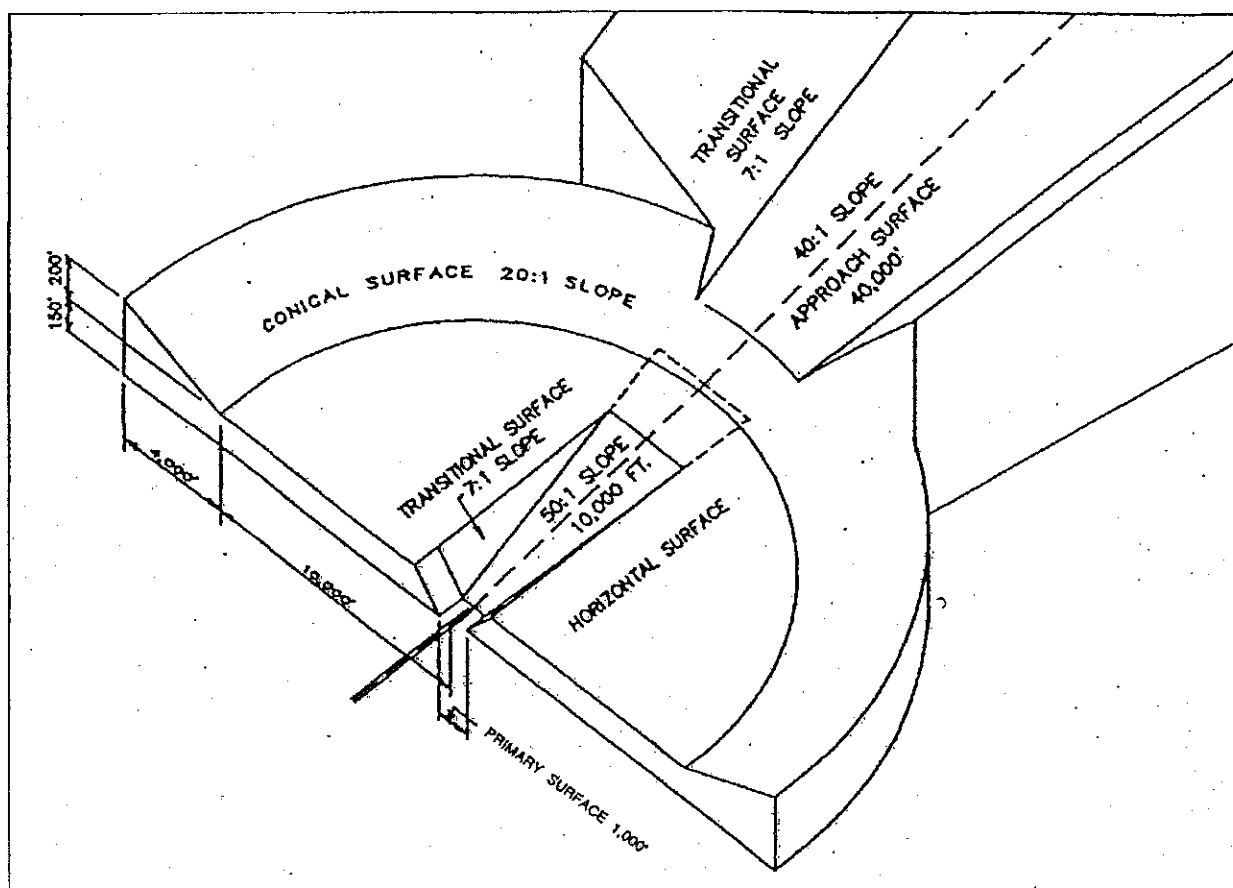
The zones and restrictions established in this Part are designed to limit the height of structures surrounding Charlotte Douglas International Airport in order to prevent hazards to the lives and property of the users of airports and the occupants of land in its vicinity. For these reasons, the following zones are established, with the boundaries defined below and illustrated in Figure 10.301:

- (1) Approach zones. Approach zones shall be established at each end of a runway used for landings and take-offs. The approach zones shall have a length of fifty thousand (50,000) feet beginning at a point two hundred (200) feet outward from the end of each runway and extending outward to a point fifty thousand two hundred (50,200) feet from the end of the runway on the extended center line of the runway. The width of each approach zone shall be one thousand (1,000) feet at a distance of two hundred (200) feet from the end of the runway, uniformly widening thereafter to a width of sixteen thousand (16,000) feet at a distance of fifty thousand two hundred (50,200) feet beyond each end of the runway. The upper surface of an approach zone shall be an inclined plane sloping one (1) foot in height for each fifty (50) feet in horizontal distance beginning at a point two hundred (200) feet from and at the elevation of the end of the runway, extending to a distance of ten thousand two hundred (10,200) feet from the end of the runway and then one (1) foot in height for each forty (40) feet in horizontal distance to a point fifty thousand two hundred (50,200) feet from the end of the runway.
- (2) Transition zones. The area covered by the transition zones shall be as follows:
  - (a) The length of the transition zones adjacent to each runway shall be equal to the length of the center line of the runway plus two hundred (200) feet at each end extending along the runway center line. The width of these transition zones shall be one thousand fifty (1,050) feet with one side extending along a line which is parallel to, level with, and five hundred (500) feet in horizontal distance from the center line of the runway and the other side extending along a line which is parallel to, level with, and one thousand five hundred fifty (1,550) feet from the center line of the runway.

# MECKLENBURG CODE

## PART 3: AIRPORT ZONE

Figure 10.301. Conceptual Diagram of Approach, Transition, Conical, and Horizontal Zones.



## MECKLENBURG CODE

### PART 3: AIRPORT ZONE

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- (b) The length of the transition zones adjacent to each approach zone shall be fifty thousand (50,000) feet measured outward along the runway center line extended from a point two hundred (200) feet outward from the end of the runway to a point fifty thousand two hundred (50,200) feet outward from the end of the runway. The width of these transition zones varies; one side shall extend along the side line of the adjoining approach zone (as described in subparagraph (1) of this section) and the other side shall extend along a line connecting the points on the ground which are normal to the points at which the upper surfaces of the transition zones (as described below) project through the upper surfaces of the horizontal and conical zones (as described below) and, for the distance beyond which the transition zone surfaces project through the conical surfaces, the side shall extend along a line which is five thousand (5,000) feet from the side line of the approach zones.
  - (c) The upper surface of a transition zone shall be an inclined plane sloping one (1) foot in height for each seven (7) feet in horizontal distance measured upward and outward in a vertical plane at right angles to the center line of the runway. The surface of that part of the transition zone which is adjacent to a runway shall slope upward and outward from the side line which is five hundred (500) feet in horizontal distance from the center line of the runway until it projects through the surface of the horizontal zone. The surface of that part of the transition zone which is adjacent to an approach zone slopes upward and outward from the edge of the approach zone surface until it projects through the surface of either the horizontal zone or the conical zone. That part of the transition zone surface which extends beyond the periphery of the conical zone shall slope upward and outward from the edge of the approach zone for a horizontal distance of five thousand (5,000) feet.
- (3) Horizontal zone. The horizontal zone shall include that area within a circle whose center is the airport reference point and whose radius is eleven thousand five hundred (11,500) feet. The approach zones and the transition zones included within the area of that circle are not included in the horizontal zone. The upper surface of the horizontal zone is a level surface located directly above the horizontal zone at a height of one hundred fifty (150) feet above the airport elevation or a height of eight hundred ninety-eight (898) feet above mean sea level.

## MECKLENBURG CODE

### **PART 3: AIRPORT ZONE**

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- (4) Conical zone. The conical zone includes that area within a ring, seven thousand (7,000) feet wide, around the horizontal zone, measured from the periphery of the horizontal zone. The approach zones and the transition zones included within the area of that ring are not included in the conical zone. The upper surface of the conical zone is a conical plane sloping one foot in height for each twenty (20) feet of horizontal distance measured upward and outward from the periphery of the horizontal zone surface, and extending to a height of one thousand two hundred forty-eight (1,248) feet above the airport elevation.

#### **Section 10.302. Height restrictions.**

- (1) No structure or tree shall be erected, altered, allowed to grow, or maintained in an approach zone, transition zone, horizontal zone, or conical zone to a height which projects above the upper surface of any such zone. Any tree or structure may go up to a height of 40 feet.
- (2) The owner of any tree or structure which exceeds the above height limitations and is allowed to continue as nonconforming under the provisions of Chapter 7 shall permit the City of Charlotte to install, operate, or maintain thereon, at the City's expense, any markers and lights necessary to indicate the presence of such a hazard to aircraft operators.

#### **Section 10.303. Additional use restrictions.**

Notwithstanding any other provisions of these regulations, no use shall be made of land within any zone established by this part in such a manner as to create electrical interference with radio communications between the airport and aircraft, make it difficult for flyers to distinguish between airport lights and other lights, result in glare in the eyes of flyers using the airport, impair visibility in the vicinity of the airport, or otherwise endanger the landing, taking off, or maneuvering of aircraft.

## MECKLENBURG CODE

### PART 4: MANUFACTURED HOME OVERLAY

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#### PART 4: MANUFACTURED HOME OVERLAY

##### Section 10.401. Purpose.

The purpose of the Manufactured Home Overlay is to provide for the development of manufactured housing in established residential zoning districts while maintaining the overall character of those districts. The intent of the prescribed conditions herein is to ensure compatibility with existing housing stock through aesthetically related standards. The Manufactured Home Overlay shall be an overlay in any districts permitting residential development (R-3, R-4, R-5, R-6, R-8, R-8MF, R-12MF, R-17MF, R-22MF, R-43MF, O-1, O-2, O-3, B-1, B-2, MX-1, MX-2 and MX-3) established in Chapters 9 and 11. The Manufactured Home Overlay supplements the range of uses permitted in the underlying district. All other uses and regulations for the underlying district shall continue to remain in effect for properties classified under the Manufactured Home Overlay.

##### Section 10.402. Procedures for district designation; additional application content requirements.

- (1) A Manufactured Home Overlay district shall only be designated for a contiguous area of at least 2 acres in size.
- (2) Property shall be classified under the Manufactured Home Overlay district only upon a petition filed by an owner of the property, or anyone else authorized in writing to act on the owner's behalf, and approved by the Board of Commissioners under the procedures and standards established in Chapter 6, Part 1, of these regulations. Uses in the Manufactured Home Overlay district shall be subject only to those conditions and standards established in this Part and those conditions and standards established in Chapters 9 and 11, for uses permitted in the underlying district. All uses permitted in the underlying district are permitted in the Manufactured Home Overlay district.
- (3) The petition shall be accompanied by the following information: A site plan is required. The site plan shall acknowledge and demonstrate compliance with the prescribed conditions described in Section 10.403. Once an overlay district is approved, a building permit shall not be issued until the site plan has been approved by the Planning Director.
- (4) Following the Board of Commissioners designation and approval of a Manufactured Home Overlay district, the area so designated shall be labeled "MH-O" on the Official Zoning Maps.



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### **PART 4: MANUFACTURED HOME OVERLAY**

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#### **Section 10.403. Uses permitted under prescribed conditions.**

The following uses shall be permitted as of right in the Manufactured Home Overlay district provided that they meet the standards established in this Section and all other requirements of these regulations.

- (1) Manufactured homes, in accordance with the following standards:
  - (a) The home shall be set up in accordance with the standards set by the North Carolina Department of Insurance, and a continuous, permanent masonry wall, having the appearance of a conventional load-bearing foundation wall, unpierced except for required ventilation and access, shall be installed under the perimeter of the manufactured home;
  - (b) The home will have all wheels, axles, transporting lights, and towing apparatuses removed;
  - (c) The structure must be at least 24 feet in width along the majority of its length. However, within an underlying R-8 district, the width may be reduced to 22 feet;
  - (d) All roof structures will have a minimum nominal 3/12 pitch and must provide an eave projection of no less than 6 inches, which may include a gutter. The roof must be finished with a type of shingle commonly used in site-built residential construction;
  - (e) Exterior wall materials and finishes must be comparable in composition, appearance and durability to those commonly used in standard residential construction. Vinyl and aluminum lap siding, wood, stucco, brick and similar masonry materials may be used. Reflectivity shall not exceed that of gloss white paint; and
  - (f) All entrances to a manufactured home shall be provided with permanent steps, porch or similar suitable entry.
- (2) All principal and accessory uses in the underlying district are permitted.

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### **PART 5: MOUNTAIN ISLAND LAKE WATERSHED OVERLAY**

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#### **PART 5: MOUNTAIN ISLAND LAKE WATERSHED OVERLAY**

##### **Section 10.501. Purpose.**

The purpose of the Mountain Island Lake Watershed Overlay District is to provide for the protection of public water supplies as required by the N.C. Water Supply Watershed Classification and Protection Act (G.S. 143-214.5) and regulations promulgated thereunder. The Mountain Island Lake Watershed Overlay may be an overlay in any district established in Chapters 9 and 11. The Mountain Island Lake Watershed Overlay District supplements the uses or development requirements of the underlying zoning district within the Mountain Island Lake Watershed Protection Area to ensure protection of public water supplies. All other uses and regulations for the underlying district shall continue to remain in effect for properties classified under the Mountain Island Lake Watershed Overlay District.

The Mountain Island Lake Watershed Protection Area is that area within Mecklenburg County which contributes surface drainage into Mountain Island Lake. The Mountain Island Lake Watershed Protection Area and its subareas are specifically defined on the Mecklenburg County Zoning Maps.

##### **Section 10.502. General definitions.**

For the purposes of Chapter 10 Part 5, the following words and phrases shall be defined as specified below.

**Agricultural Use.** The use of waters for stock watering, irrigation, and other farm purposes.

**Best Management Practices (BMP's).** A structural or nonstructural management-based practice used singularly or in combination to reduce non-point source input to receiving waters in order to achieve water quality protection goals.

Non-structural BMP's. non-engineered methods to control the amount of non-point source pollution. These may include land-use controls and vegetated buffers.

Structural BMP's. engineered structures that are designed to reduce the delivery of pollutants from their source or to divert contaminants away from the water supply. Structural BMP's allowed for use under the High Density Option are those which have been approved by the North Carolina Division of Water Quality and Mecklenburg County. These include wet detention ponds, extended dry detention ponds, and grass swales.

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### PART 5: MOUNTAIN ISLAND LAKE WATERSHED OVERLAY

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**Buffer.** A natural or vegetated area through which storm water runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

**Built-upon area (B.U.).** Built-upon areas shall include that portion of a development project and/or lots that are covered by impervious or partially impervious cover including buildings, pavement, gravel roads, recreation facilities (e.g. tennis courts), etc. (Note: wooden slatted decks and the water area of a swimming pool are considered pervious.)

**Critical Area.** The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The Critical Area of the Mountain Island Lake Watershed Overlay District is divided into four subareas as defined in Section 10.504.

**Discharge.** The addition of any man induced waste effluent either directly or indirectly to N.C. surface waters.

**Existing Development.** Existing development, as defined for the purposes of this Part, means projects for which a certificate of compliance has been issued, projects for which a building permit has been issued, property which has been subdivided by a recorded instrument, or projects which have obtained vested rights under Section 1.105 and/or Section 1.110 as of the date of adoption of the amendment incorporating this subpart into this Ordinance.

**Existing Lot (Lot of Record).** A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds prior to the adoption of this ordinance, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this ordinance.

**Hazardous Material.** Any substance listed as such in: SARA section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 of CWA (oil and hazardous substances).

**Industrial Discharge.** The discharge of industrial process treated wastewater or wastewater other than sewage and includes:

- (1) wastewater resulting from any process of industry or manufacture, or from the development of any natural resource;

## MECKLENBURG CODE

### PART 5: MOUNTAIN ISLAND LAKE WATERSHED OVERLAY

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- (2) wastewater resulting from processes of trade or business, including wastewater from laundromats and car washes, but not wastewater from restaurants;
- (3) storm water will not be considered to be an industrial wastewater unless it is contaminated with industrial wastewater; or
- (4) wastewater discharged from a municipal wastewater treatment plant requiring a pretreatment program.

**Nonresidential Development.** All development other than residential development, agriculture and silviculture.

**Normal Pool Elevation.** The Mountain Island lake normal pool elevation which is at contour interval 648 feet above Mean Sea Level, United States Geological Survey (U.S.G.S.) Datum.

**Perennial Stream.** A stream or creek containing a continuous natural flow of water throughout the year except possibly under exceptionally dry conditions. Such streams are identified on United States Geological Survey Quadrangle Maps.

**Protected Area.** The area adjoining and upstream of the Critical Areas of water supply watersheds where risk of water quality degradation from pollution while still greater than non watershed designated areas, is less than in the Critical Areas. The protected area of the Mountain Island Lake Watershed Overlay District is divided into three subareas as defined in Section 10.504.

**Septic Tank System.** A ground absorption sewage disposal system consisting of a holding or settling tank and a ground absorption field.

**State Standard.** A quality standard for an applicable WS classification as established by the North Carolina Environmental Management Commission.

**Subdivider.** Any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

**Subdivision.** A subdivision will include all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale, or building development of any type, including both residential and nonresidential multiple building site and multi-site projects even if there is no division of the underlying land into separate parcels which is to be recorded with the Register of Deeds and also includes all divisions of land involving the dedication of a new street or a new street right-of-way or a change in existing streets; provided, however, that the

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### **PART 5: MOUNTAIN ISLAND LAKE WATERSHED OVERLAY**

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following will not be included within this definition nor be subject to the requirements of this ordinance:

1. The combination or recombination of portions of parcels created and recorded prior to January 1, 1988, or portions of lots platted in compliance with this ordinance after January 1, 1988, where the total number of parcels or lots is not increased and the resultant parcels are equal to the standards of this ordinance.
2. The division of land into parcels greater than 5 acres where no street right-of-way dedication is involved.
3. The creation of strips of land for the widening or opening of streets or the location of public utility rights-of-way.
4. The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the appropriate zoning classification.
5. The division of land plots or lots for use as a cemetery.
6. Creation of a separate lot or building site by a less than fee simple instrument, such as a ground lease, when the property interest created is divided from the original parcel for ten years or less, including options to renew.
7. The lease of space or other area within a building owned by the landlord.
8. Easements for the purpose of utilities, driveways, parking, footpaths, trails or other similar purposes.
9. The division of a tract or parcel into separate tracts or parcels, or the creation of interests in lots or parcels, by means of (a) a deed of trust, mortgage, or similar security interest solely for the purpose of securing any bona fide obligation (including transfers of such parcels or tracts pursuant to foreclosure or deeds in lieu of foreclosure) and (b) releases from the liens and operation of such deeds of trust, mortgages, or similar security interests.
10. Proceedings to partition interests in lots or parcels pursuant to Chapter 46 of the North Carolina General Statutes (or any successor statute) resulting in the division of a lot or parcel into two or more lots or parcels except where the partition proceeding is brought to circumvent the provisions of this Ordinance.

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### PART 5: MOUNTAIN ISLAND LAKE WATERSHED OVERLAY

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11. Transfers of tracts or parcels by inheritance or bona fide gift.
12. Condemnation or deed in lieu of condemnation, by either a public or private condemnor; provided, however, that the condemnor must comply with the requirements of this ordinance as to the property acquired, either prior to the commencement of any development of the property acquired, or prior to the issuance of any building permit on the property acquired, or within six months following the date of acquisition, whichever date first occurs.

**Variance, Local Watershed.** A variance from the requirements of this part which would not result in the relaxation of any State Standard.

**Variance, Major Watershed.** A variance from the requirements of this part that would result in the relaxation of a State Standard and any one or more of the following:

- (1) The relaxation, by a factor greater than ten (10%) percent, of any management requirement under the low density option.
- (2) The relaxation, by a factor greater than five (5%) percent, of any buffer, density, or built-upon area requirement under the high density option.
- (3) Any variation in the design, maintenance, or operation requirements of a wet detention pond or other approved storm water management system.

**Variance, Minor Watershed.** A variance from the minimum statewide watershed protection rules that results in a relaxation, by a factor of up to and including five (5) percent, of any buffer, density, or built-upon area requirement under the high density option; or that results in a relaxation, by a factor of up to and including ten (10) percent, of any management requirement under the low density option.

**Watershed.** The entire land area contributing surface drainage into a stream, creek, lake or other body of water.

**Water Dependent Structures.** Those structures for which the use requires access or proximity to or siting within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks, piers, bulkheads and similar structures. Ancillary facilities such as restaurants, outlet for boat supplies, parking lots, and commercial boat storage areas are not water dependent structures.

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### **PART 5: MOUNTAIN ISLAND LAKE WATERSHED OVERLAY**

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#### **Section 10.503. Exceptions to applicability.**

1. Existing development, as defined in this part, is not subject to the requirements of this part. Expansions to structures classified, as existing development must meet the requirements of this part, however the built-upon area of the existing development is not required to be included in the density calculations.
2. An existing lot, as defined in this part, owned prior to the effective date of this ordinance, regardless of whether or not a vested right has been established, may be developed for single family residential purposes subject only to the buffer requirements of Section 10.508 of this part; however this exemption is not applicable to multiple contiguous lots under single ownership.
3. Existing public utilities may expand without being subject to the restrictions of this part provided that:
  - a. Such expansion complies with all applicable laws and regulations of the State of North Carolina and the United States of America, including the minimum statewide water supply watershed management requirements adopted by the Environmental Management Commission ("EMC"); and
  - b. Discharges associated with the existing public utilities may be expanded, however the pollutant load shall not be increased beyond presently permitted levels.

#### **Section 10.504. Mountain Island Lake Watershed Overlay District Subareas established.**

##### **A. Critical Areas:**

CA1 - Lower Gar Creek. From normal pool elevation of Mountain Island Lake extending up Gar Creek to Beatties Ford Road and to approximately the ridgeline along the north side of Gar Creek and to Mt. Holly-Huntersville Road on the south side of Gar Creek, as shown more specifically on the Mecklenburg County Zoning Maps.

CA2 - Upper Gar Creek. From Beatties Ford Road upstream along Gar Creek to the limits of the Gar Creek drainage basin and to approximately the ridgeline along either side of Gar Creek, as shown more specifically on the Mecklenburg County Zoning Maps.

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CA3 - McDowell Creek. From normal pool elevation of Mountain Island Lake extending one mile upstream on McDowell Creek and to approximately the ridgeline along either side of McDowell Creek, as shown more specifically on the Mecklenburg County Zoning Maps.

CA4 - Lake Front. Extending landward one-half mile from normal pool elevation along Mountain Island Lake and the Catawba River between the Cowan's Ford Dam and the Mountain Island Lake Dam, as shown more specifically on the Mecklenburg County Zoning Maps.

#### B. Protected Areas:

PA1 - The area beginning at the outer limits of the critical areas to five hydrologic miles from the normal pool elevation of Mountain Island Lake, as shown more specifically on the Mecklenburg County Zoning Maps.

PA2 - The area extending from the outer limit of the PA1 area where it intersects with N.C. 73 and running in a north-northeasterly direction along N.C. 73 to the intersection of I-77 and thence proceeding in a southerly direction along I-77 to the intersection of Gilead Road (SR 2136) and thence in an easterly direction along Gilead Road to the intersection of N.C. 115 (Old Statesville Road) and thence in a southerly direction along N.C. 115 to the intersection of Hambright Road and thence in a westerly direction along Hambright Road to the intersection of Mt. Holly-Huntersville Road and thence in a northwesterly direction along the outer limits of the CA2 and PA1 areas to the beginning point as shown more specifically on the Mecklenburg County Zoning Maps.

PA3 - The area extending from the outer limits of the PA2 are to the limits of the Mountain Island Lake Watershed as shown more specifically on the Mecklenburg County Zoning Maps.

#### **Section 10.505. Uses and standards established.**

##### (1) Critical Areas

The intent is to require higher standards in the Critical Area because of the greater risk of water quality degradation from pollution. The following uses and standards apply to the Mountain Island Lake Watershed Overlay District



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subareas and shall be permitted if they meet the standards of this section and all other requirements of this Ordinance.

(A) Uses Permitted by right

1. (RESERVED)
2. Dwellings, detached
3. Dwellings, duplex, triplex, and quadraplex (underlying R-8 district only)
4. Parks, greenways and arboretums
5. Non-structural BMP's.

(B) Uses Permitted Under Prescribed Conditions

1. Adult care homes, subject to the regulations of Section 12.502.
2. Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.
3. Bus stop shelters, subject to the regulations of Section 12.513.
4. Cemeteries, subject to the regulations of Section 12.508.
5. Child Care homes, subject to the regulations of Section 12.502.
6. Dwellings, duplex (R-3, R-4, R-5, and R-6 only), provided that:
  - (a) The dwelling will be located on a corner lot;
  - (b) If more than one entrance, the entrances to each unit in the structure will face different streets; and
  - (c) The dwelling must meet the minimum setback for both streets.
7. Elementary and secondary schools, provided that:
  - (a) All buildings, outdoor recreational facilities, and off-street parking and service areas will be separated by a Class C buffer for elementary and junior high schools and Class B buffer for senior high schools from any abutting property located in a residential zoning district (See Section 12.302);
  - (b) The use will be on a lot which fronts a collector, minor thoroughfare or major thoroughfare for elementary schools and junior high schools, and on a minor thoroughfare or major thoroughfare for senior high schools; and
  - (c) Primary vehicular access to the use will not be provided by way of a residential local (Class VI) street.
8. Equestrian oriented subdivisions, subject to regulations of Section 12.514.

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9. Government buildings, up to 12,500 square feet, provided that:
  - (a) All buildings and off-street parking and service areas will be separated by a Class C buffer from abutting property located in a residential zoning district (See Section 12.302);
  - (b) The use will be located on a lot that fronts a collector, minor thoroughfare or major thoroughfare; and
  - (c) Primary vehicular access to the use will not be provided by way of a residential local (Class VI) street.
10. Highways and Railroad rights-of-way provided that:
  - (a) To the extent practicable, the construction of new roads in the critical area should be avoided.
11. Open space recreational uses, subject to the regulations of Section 12.516.
12. Outdoor recreation, provided that:
  - (a) The use will be located on a lot that is at least two times the minimum lot area required in the district;
  - (b) Off-street parking and service areas and outdoor recreational facilities will be separated by a Class C buffer from any abutting property located in a residential zoning district (See Section 12.302);
  - (c) No outdoor recreation facilities, such as swimming pools, tennis courts, picnic shelters, etc. shall be located within 100 feet of any lot located in a residential zoning district; and
  - (d) Hours of operation will be no earlier than 6:00 a.m. and no later than 11:00 p.m. Eastern Standard Time.
13. Public utility structures, subject to regulations of Section 12.504.
14. Public utility transmission and distribution lines, subject to the regulations of Section 12.509.
15. Radio, telephone, cellular telephone and television masts, towers, antennae and similar structures, subject to requirements of subsection 12.108(7) or subsection 12.108(8).
16. Religious institutions, up to 750 seats, subject to regulations of Section 12.506.
17. Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 10T.0209).
18. Subdivision sales offices, provided that:
  - (a) The use serves the subdivision in which it is located and abutting subdivision or subdivisions by the same developer or affiliate; and
  - (b) The use shall be terminated upon completion of the sale of 95 percent of the total number of homes and/or lots; provided

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however, that a model or demonstration home may be used for sales purposes until the last home or lot is sold.

19. Temporary buildings and storage of materials, provided that:  
The use is in conjunction with the construction of a building on the same lot where construction is taking place or on an adjacent lot. Such temporary uses shall be terminated upon completion of construction.
20. Bed and Breakfasts (B & B's), subject to regulations of Section 12.521.
21. Boarding houses, subject to regulations of Section 12.520.

#### (C) Permitted accessory uses and structures

- (1) Accessory uses and structures, clearly incidental and related to the permitted principal use or structure on the lot.
- (2) Bookstores, offices, printing and distribution and similar uses as accessories to religious institutions located on the same lot and subject to the regulations of Section 12.506.
- (3) Customary home occupations, subject to the regulations of Section 12.408.
- (4) Dumpsters, trash handling areas and service entrances, subject to the regulations of Section 12.403.
- (5) Elderly and disabled housing as an accessory to a single family detached dwelling, subject to the regulations of Section 12.407.
- (6) Fences and walls, subject to the regulations of Section 12.406.
- (7) Guest houses and employee quarters as an accessory to a single family detached dwelling, subject to the regulations of Section 12.412.
- (8) Marinas, subject to the regulations of Section 12.409 and provided that:
  - (a) there will be no fuel dispensing facilities
  - (b) pump out facilities will be provided if it serves more than 50 dwelling units.

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- (9) Land clearing and inert debris landfills (LCID): on site, not within any floodplain or buffer area and subject to regulations of Section 12.405.
  - (10) Outdoor lighting, subject to the regulations of Section 12.402.
  - (11) Petroleum storage, accessory to a permitted principle use or building, subject to the Fire Prevention Code of the National Board of Fire Underwriters.
  - (12) Private kennels, subject to the regulations of Section 12.410.
  - (13) Private stables, subject to the regulations of Section 12.411.
  - (14) Vending machines for cigarettes, candy, soft drinks and similar items and coin-operated laundries located within an enclosed building as an accessory to the uses in the principal building or buildings.
  - (15) Wastewater treatment facilities, accessory to a permitted principal use provided that:
    - (a) no new industrial process discharges into any stream in the Mountain Island Lake Watershed Area
    - (b) No new wastewater treatment systems requiring NPDES permits in the Mountain Island Lake Watershed that directly discharge into the Lake or any of its tributaries
    - (c) Existing, privately owned wastewater treatment systems may expand, but the pollutant load shall not be increased beyond their presently permitted limits.
- (D) Prohibited Uses
- 1. Cluster Development
  - 2. Hazardous Waste
  - 3. Industrial Process Discharges, new or expanded, requiring NPDES permits
  - 4. Land clearing and inert debris landfills (LCID): off site
  - 5. Landfills, sanitary
  - 6. Nonresidential development new or expanded
  - 7. Petroleum Contaminated Soils, Treatment or Disposal (landfarming)

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8. Sludge Application
9. Structural BMP's
10. Wastewater treatment facilities new, privately-owned requiring NPDES Permits.

#### (2) Protected Areas

The intent is to allow development with fewer restrictions in the protected areas than in the critical areas because the risk of water quality degradation from pollution is less in the protected areas than in the critical areas. These uses and standards shall apply to the PA1, PA2 and PA3 subareas and shall be permitted if they meet the standards of this section and all other requirements of this Ordinance.

##### (A) Permitted Uses

All those permitted in the underlying zoning district except as provided in Section 10.505.2(D).

##### (B) Uses Permitted under prescribed Conditions

Those listed below and all those permitted in the underlying zoning district except as provided in Section 10.505.2(D).

1. Land clearing and inert debris landfills (LCID): off site, (PA2 and PA3 only) subject to regulations of Section 12.503.
2. Landfills, sanitary, (PA2 and PA3 only) subject to regulations of Section 12.507.
3. Storage of Hazardous Materials, subject to the filing of a spill/failure containment plan with Mecklenburg County Fire Marshall.
4. Structural BMP's, under the High Density Option, subject to regulations of Section 10.508
5. Wastewater treatment facilities, (PA2 and PA3 only) subject to regulations of Section 12.404.

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(C) Permitted Accessory Uses and Structures

All those permitted in the underlying zoning district except as provided in 10.505.2(D).

(D) Prohibited Uses

1. Industrial Process Discharges, New, requiring NPDES permit
2. Land clearing and inert debris landfills (LCID): off site
3. Landfills, sanitary (PA1)
4. Petroleum Contaminated Soils, Treatment or Disposal (Landfarming)
5. Wastewater treatment facilities, new, privately-owned, requiring NPDES permits.

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## PART 5: MOUNTAIN ISLAND LAKE WATERSHED OVERLAY

### Section 10.506. Development standards for Mountain Island Lake Watershed Overlay Districts.

All uses permitted in the Mountain Island Lake Watershed Overlay Subareas shall meet the applicable development standards established in this section and all other requirements of these regulations.

1. Area, yard, and bulk regulations shall be as follows:

	CA1	CA2	CA3	CA4	PA1	PA2	PA3
(a) Maximum Residential Density (D.U./AC)							
1. low density option	0.5	1.0	1.0	2.0	*	*	*
2. low density option (w/o curb & gutter)	0.5	1.0	1.0	2.0	*	*	*
3. high density option <sup>(a)</sup>	-	-	-	-	*	*	*

\* Maximum allowed in underlying district

(b) Minimum lot area - acres							
Detached Dwellings	2ac	1ac	1ac	0.5ac	*	*	*
Duplex	-	-	-	-	*	*	*
Triplex	-	-	-	-	*	*	*
Quadraplex	-	-	-	-	*	*	*

\* Minimum required in underlying district

(c) Maximum % Built Upon	CA1	CA2	CA3	CA4	PA1	PA2	PA3
1. Residential							
a. low density option	6%	12%	12%	24%	24%	24%	N/A
b. low density option (w/o curb and gutter)	6%	12%	12%	24%	24%	36%	N/A
c. high density option <sup>(a)</sup>	-	-	-	-	50%	70%	N/A
2. Nonresidential							
a. low density option	-	-	-	-	24%	24%	N/A
b. low density option (w/o curb and gutter)	-	-	-	-	24%	36%	N/A
c. high density option <sup>(a)</sup>	-	-	-	-	50%	70%	N/A

Footnote to Chart 10.506.1

<sup>(a)</sup> High Density Option - See Section 10.509

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#### **Section 10.507. Cluster development.**

Cluster Development, as defined in Section 2.201(C6) is permitted in the PA1, PA2 and PA3 subareas in accordance with the following regulations.

1. Subject to all the cluster requirements of the underlying district.
2. % B.U. shall not exceed the allowed % B.U. for the watershed subarea.  
[Section 10.506.1(c)]
3. The remainder of the tract shall remain in a vegetated or natural state as common open space except that non-impervious recreational uses are permitted provided that they are located a minimum of 30 feet from the stream bank. Impervious recreational uses are permitted if they are located outside of any required buffer and do not exceed the allowable percentage built upon for the project.
4. Subject to the buffer area requirements of Section 10.508.

#### **Section 10.508. Buffer areas required.**

Vegetative buffers are required along the shoreline of Mountain Island Lake measured from the normal pool elevation and along all perennial streams measured from the bank on each side of the stream.

1. Critical Areas. In the CA1, CA2, CA3 and CA4 subareas the minimum buffer areas are as follows:
  - a) All areas adjacent to normal pool elevation of Mountain Island Lake - 100 feet
  - b) All areas adjacent to perennial streams - 100 ft. or 100 year flood plain, whichever is greater
2. Protected Areas. In the PA1 and PA2 subareas the minimum buffer areas are as follows:
  - a) All areas adjacent to perennial streams in the PA1 subarea:
    1. low density option - 50'
    2. high density option - 100'
  - b) All areas adjacent to perennial streams in the PA2 subarea:
    1. low density option - 30'
    2. high density option - 100'



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- c) Buffer areas are not required in the PA3 subarea

#### 3. Additional buffer requirements:

No permanent structures, built upon areas, septic tanks systems or any other disturbance of existing vegetation shall be allowed within the buffer except as follows:

- a. No trees larger than 2-inch caliper are to be removed except for dead or diseased trees. Trees less than 2-inch caliper and undergrowth may be removed to be replaced by an effective stabilization and filtering ground cover based upon the Watershed Buffer Guidelines for Mecklenburg County contained in Appendix 5 and as approved by the County Environmental Protection Department.
- b. Streambank or shoreline stabilization is allowed as approved on a plan submitted to the applicable Engineering Department and the County Environmental Protection Department.
- c. Water dependent structures and public projects such as road crossings and greenway paths are allowed where no practical alternative exists. These activities should minimize built-upon surface area, direct run off away from surface waters, and maximize the utilization of nonstructural BMP's and pervious materials.
- d. During new development or the expansion of existing development the County can require enhancement of the existing vegetation in the buffer if necessary so that the buffer can effectively perform its filtering and absorption functions based on the Watershed Buffer Guidelines for Mecklenburg County contained in Appendix 5.
- e. In the PA1 and PA2 subareas, non-impervious recreational development and non-impervious pedestrian trails may be allowed in the required buffer if located a minimum of 30' from the stream bank.

#### 4. Mitigation of disturbed buffers required.

Should existing vegetation within the buffer be disturbed (except as allowed by this Ordinance) or should vegetation which was added to a buffer pursuant to the requirement that existing vegetation in the buffer be enhanced be disturbed (except as allowed by this Ordinance) the Zoning Administrator shall require that any vegetation remaining in the buffer be enhanced in accordance with the

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“Watershed Buffer Guidelines for Mecklenburg County” contained in Appendix 5 so that the buffer can effectively perform its filtering and absorption functions.

#### **Section 10.509. High Density Option.**

The High Density Option allows for a greater development density provided engineered controls (Structural BMP's) are used to manage storm water runoff. Structural BMP's are required under the High Density Option. High density development shall meet the requirements of this section, the Charlotte-Mecklenburg Land Development Standards Manual and other published standards of the County Engineering Department.

##### **1. High Density Permit Application.**

- A. A High Density Development Permit shall be required for new development exceeding the requirements of the low density option.
- B. Application for a High Density Development Permit shall be submitted as follows:
  - 1. Development plans subject to the Subdivision Ordinance and the Sediment and Erosion Control Ordinance and reviewed through the Charlotte-Mecklenburg Planning Commission will submit the High Density Development Permit to the Subdivision Administrator as part of the subdivision review application process.
  - 2. Development plans not subject to the Subdivision Ordinance will submit the High Density Development Permit to the County Engineer as part of the Sediment and Erosion Control requirements of the building permit application process.
  - 3. Applications for the High Density Option shall be made on the proper form and shall include the following information:
    - a. A completed High Density Development Permit Application signed by the owner of the property. The signature of the consulting engineer or other agent will be accepted on the application only if accompanied by a letter of authorization.

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- b. Required number of development plans and specifications of the storm water control structure.
  - c. Submittal of a sediment and erosion control plan to the appropriate agency.
  - d. Permit application fees.
- 2. Structural BMP's.
  - A. All Structural BMP's shall be designed and stamped by either a North Carolina registered professional engineer or landscape architect.
  - B. Structural BMP's shall be designed for specific pollutant removal according to modeling techniques approved by the North Carolina Division of Water Quality. Specific requirements for these systems shall be in accordance with the design criteria and standards contained in the Charlotte-Mecklenburg Land Development Standards Manual.
  - C. Qualifying areas of the Structural BMP's may be considered pervious when computing total built-upon area. However, if the structure is used to compute the percentage built-upon area for one site, it shall not be used to compute the built-upon area for any other site or area.
  - D. The design of the Structural BMP's shall include the appropriate easements for ingress and egress necessary to perform inspections, maintenance, repairs and reconstruction.
- 3. Posting of Financial Security Required.
  - A. When Structural BMP's are required under the High Density Option, the approval of the High Density Development Permit will be subject to the owner filing a surety bond or letter of credit or making other financial arrangements which are acceptable to the County Engineering Department in an amount to be determined by the County Engineering Department in consultation with other agencies, such as the County Environmental Protection Department, in a form which is satisfactory to the County Attorney, guaranteeing the installation and maintenance of the required Structural BMP's until the earlier of either of the following events: (a) the passage of three (3) years from the date of completion of the Structural BMP; or (b) issuance of certificates of occupancy for seventy-five percent (75%) of all construction which might reasonably be anticipated to

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be built within the area which drains into the Structural BMP's, allowing credit for improvements completed prior to the submission of the final plat. Upon the earlier of either of the following events: (a) the passage of three (3) years from the date of completion of the Structural BMP; or (b) issuance of certificates of occupancy for seventy-five percent (75%) of all anticipated construction relative to the required Structural BMP's, written notice thereof must be given by the owner to the County Engineering Department. The County Engineering Department will arrange for an inspection of the Structural BMP's and if found satisfactory, will within 30 days of the date of notice notify the owner in writing. The owner may then petition the Board of County Commissioners for acceptance of maintenance responsibilities of the Structural BMP's. The County will accept maintenance responsibilities if the Structural BMP's have been built according to standards contained in the Charlotte-Mecklenburg Land Development Standards Manual and are functioning as designed, provided, however, that the Board of County Commissioners may attach reasonable conditions to its acceptance of maintenance responsibilities including requiring the granting of appropriate easements for ingress and egress.

#### **4. Additional Requirements.**

- A. An Occupancy Permit shall not be issued for any building within the permitted development until the County Engineering Department has approved the storm water control structure, as provided in Section 10.509.3(A).

#### **Section 10.510. Appeals and Variances.**

- A. Any appeal to reverse or modify the order, decision, determination, or interpretation of the Zoning Administrator shall be subject to Chapter 5, Appeals and Variances, of these regulations.
- B. A petition for a local watershed variance, as defined in this part, shall comply with all the procedures and standards of Chapter 5, Appeals and Variances, of these regulations. The Board of Adjustment shall have the authority to grant or to deny a local watershed variance based upon § 5.108, "Standards for granting a variance". Any appeal of the Board's decision shall be pursuant to Chapter 5 and G.S. § 153A-345(e).
- C. A petition for a minor watershed variance or a major watershed variance, as defined in this part, shall comply with all the procedures and standards of Chapter 5, Appeals and Variances, of these regulations, with the following additions:

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1. In addition to the notification requirement of Chapter 5, the Zoning Administrator shall mail a written notice to each local government having jurisdiction in the watershed where the subject property is located and/or any entity utilizing the receiving waters of the watershed as a water supply at least ten (10) working days prior to the public hearing. The applicant for the variance shall provide a list of those local governments and/or entities that must be notified. The notice shall include a description of the variance being requested. Recipients of the notice of the variance request may submit comments at least (3) working days prior to the scheduled hearing date by the Board of Adjustment. Such comments, properly filed, shall become part of the record of proceedings.
2. The Board of Adjustment shall have the authority to grant or deny a minor watershed variance based upon § 5.108 "Standards for granting a variance". Any appeal of the Board's decision shall be pursuant to Chapter 5 and G.S. § 153A-345(e).
3. The Board of Adjustment shall make a recommendation to grant or a decision to deny a major watershed variance based upon § 5.108, "Standards for granting a variance" of these regulations and the standard provided for in 15A NCAC 2B .0104(r), which states that a major watershed variance is to be determined on a case-by-case basis, when necessary to accommodate important social and economic development.
  - a. If the Board of Adjustment recommends that the major variance be granted, the Zoning Administrator shall within thirty (30) working days forward a preliminary record of the Board's hearing to the North Carolina Environmental Management Commission ("EMC") for final decision in accordance with the State's rules and regulations. The preliminary record of the hearing shall include:
    - (a) The variance application;
    - (b) The hearing notices;
    - (c) The evidence presented;
    - (d) Motions, offers of proof, objections to evidence, and rulings on them;
    - (e) Proposed findings and exceptions;
    - (f) The proposed decision, including all conditions proposed to be added to the permit.

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1. When the EMC approves or denies the variance, the EMC will prepare an EMC decision and send it to the Board. The Board shall then prepare a final decision granting or denying the proposed variance. If the EMC approves the variance with condition and stipulations, the Board shall prepare a final decision, including such conditions and stipulations, granting the proposed variance.

The EMC decision shall constitute the final decision on the major variance request and the applicant shall be notified of the decision by the Zoning Administrator.

2. Any further appeal of the EMC's decision of a major watershed variance shall be pursuant to the authority and enabling legislation of the EMC.
  - b. If the Board of Adjustment makes a decision to deny the major variance, then the record of the Board's hearing, findings, and conclusions shall not be forwarded to the North Carolina Environmental Management Commission. Any appeal of the Board's denial of a major watershed variance shall be pursuant to Chapter 5 and G.S. § 153A-345(e).
4. The Zoning Administrator shall keep a record, including a description of each project receiving a variance and any reasons stated for granting the variance, of all approved major and minor watershed variances. The Zoning Administrator shall submit a record of the variances granted during the previous calendar year to the North Carolina Division of Environmental Management on or before January 1st of the following year. This record shall provide a description of each project receiving a variance and the reasons for granting the variance.

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#### PART 6: CATAWBA RIVER/LAKE WYLIE WATERSHED OVERLAY

##### **Section 10.601. Purpose.**

The purpose of the Catawba River/Lake Wylie Watershed Overlay District is to provide for the protection of public water supplies as required by the N.C. Water Supply Watershed Classification and Protection Act (G.S. 143-214.5) and regulations promulgated thereunder. The Catawba River/Lake Wylie Watershed Overlay may be an overlay in any district established in Chapters 9 and 11. The Catawba River/Lake Wylie Watershed Overlay District supplements the uses or development requirements of the underlying zoning district within the Catawba River/Lake Wylie Watershed Protection Area to ensure protection of public water supplies. All other uses and regulations for the underlying district shall continue to remain in effect for properties classified under the Catawba River/Lake Wylie Watershed Overlay District.

The Catawba River/Lake Wylie Watershed Protection Area is that area within Mecklenburg County which contributes surface drainage into that portion of the Catawba River known as Lake Wylie and its tributaries. The Catawba River/Lake Wylie Watershed Protection subareas are specifically defined on the Mecklenburg County Zoning Maps.

##### **Section 10.602. General definitions.**

For the purposes of Chapter 10 Part 6, the following words and phrases shall be defined as specified below.

**Agricultural Use.** The use of waters for stock watering, irrigation, and other farm purposes.

**Best Management Practices (BMP's).** A structural or nonstructural management-based practice used singularly or in combination to reduce non-point source input to receiving waters in order to achieve water quality protection goals.

**Non-structural BMP's.** Non-engineered methods to control the amount of non-point source pollution. These may include land-use controls and vegetated buffers.

**Structural BMP's.** Engineered structures that are designed to reduce the delivery of pollutants from their source or to divert contaminants away from the water supply. Structural BMP's allowed for use under the High Density Option are those which have been approved by the North Carolina Division of Water Quality and Mecklenburg County. These include wet detention ponds, extended dry detention ponds, and grass swales.

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**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. The buffer is measured landward from the normal pool elevation of impounded structures and from the top of the bank of each side of streams or rivers.

**Built-upon area (B.U.).** Built-upon areas shall include that portion of a development project and/or lots that are covered by impervious or partially impervious cover including buildings, pavement, gravel roads, recreation facilities (e.g. tennis courts), etc. (Note: wooden slatted decks and the water area of a swimming pool are considered pervious.)

**Critical Area.** The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed.

**Discharge.** The addition of any man induced waste effluent either directly or indirectly to N.C. surface waters.

**Existing Development.** Existing development, as defined for the purposes of this Part, means projects for which a certificate of compliance has been issued, projects for which a building permit has been issued, property which has been subdivided by a recorded instrument, or projects which have obtained vested rights under Section 1.110 as of the date of adoption of the amendment incorporating this subpart into this Ordinance.

**Existing Lot (Lot of Record).** A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds prior to the adoption of this ordinance, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this ordinance.

**Hazardous Material.** Any substance listed as such in: SARA section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 of CWA (oil and hazardous substances).

**Industrial Discharge.** The discharge of industrial process treated wastewater or wastewater other than sewage and includes:

- (1) wastewater resulting from any process of industry or manufacture, or from the development of any natural resource;
- (2) wastewater resulting from processes of trade or business, including wastewater from laundromats and car washes, but not wastewater from restaurants;



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- (3) storm water will not be considered to be an industrial wastewater unless it is contaminated with industrial wastewater; or
- (4) wastewater discharged from a municipal wastewater treatment plant requiring a pretreatment program.

**Nonresidential Development.** All development other than residential development, agriculture and silviculture.

**Normal Pool Elevation.** The Catawba River, Lake Wylie normal pool elevation as determined by United States Geological Survey (U.S.G.S.) Datum.

**Perennial Stream.** A stream or creek containing a continuous natural flow of water throughout the year except possibly under exceptionally dry conditions. Such streams are identified on United States Geological Survey Quadrangle Maps.

**Protected Area.** The area adjoining and upstream of the Critical Area of water supply watersheds where risk of water quality degradation from pollution while still greater than non watershed designated areas, is less than in the Critical Area.

**Septic Tank System.** A ground absorption sewage disposal system consisting of a holding or settling tank and a ground absorption field.

**State Standard.** A quality standard for an applicable WS classification as established by the North Carolina Environmental Management Commission.

**Subdivider.** Any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

**Subdivision.** A subdivision will include all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale, or building development of any type, including both residential and nonresidential multiple building site and multi-site projects even if there is no division of the underlying land into separate parcels which is to be recorded with the Register of Deeds and also includes all divisions of land involving the dedication of a new street or a new street right-of-way or a change in existing streets; provided, however, that the following will not be included within this definition nor be subject to the requirements of this ordinance:

1. The combination or recombination of portions of parcels created and recorded prior to January 1, 1988, or portions of lots platted in compliance with this ordinance after January 1, 1988, where the total number of parcels or lots is not increased and the resultant parcels are equal to the standards of this ordinance.

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2. The division of land into parcels greater than 5 acres where no street right-of-way dedication is involved.
3. The creation of strips of land for the widening or opening of streets or the location of public utility rights-of-way.
4. The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the appropriate zoning classification.
5. The division of land plots or lots for use as a cemetery.
6. Creation of a separate lot or building site by a less than fee simple instrument, such as a ground lease, when the property interest created is divided from the original parcel for ten years or less, including options to renew.
7. The lease of space or other area within a building owned by the landlord.
8. Easements for the purposes of utilities, driveways, parking, footpaths, trails or other similar purposes.
9. The division of a tract or parcel into separate tracts or parcels, or the creation of interests in lots or parcels, by means of (a) a deed of trust, mortgage, or similar security interest solely for the purpose of securing any bona fide obligation (including transfers of such parcels or tracts pursuant to foreclosure or deeds in lieu of foreclosure) and (b) releases from the liens and operation of such deeds of trust, mortgages, or similar security interests.
10. Proceedings to partition interests in lots or parcels pursuant to Chapter 46 of the North Carolina General Statutes (or any successor statute) resulting in the division of a lot or parcel into two or more lots or parcels except where the partition proceeding is brought to circumvent the provisions of this Ordinance.
11. Transfers of tracts or parcels by inheritance or bona fide gift.
12. Condemnation or deed in lieu of condemnation, by either a public or private condemnor; provided, however, that the condemnor must comply with the requirements of this ordinance as to the property acquired, either prior to the commencement of any development of the property acquired, or prior to the issuance of any building permit on the property acquired, or within six months following the date of acquisition, whichever date first occurs.

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**Variance, Local Watershed.** A variance from the requirements of this part, which would not result in the relaxation of any State Standard.

**Variance, Major Watershed.** A variance from the requirements of this part that would result in the relaxation of a State Standard and any one or more of the following:

- (1) The relaxation, by a factor greater than ten (10%) percent, of any management requirement under the low density option.
- (2) The relaxation, by a factor greater than five (5%) percent, of any buffer, density, or built-upon area requirement under the high density option.
- (3) Any variation in the design, maintenance, or operation requirements of a wet detention pond or other approved storm water management system.

**Variance, Minor Watershed.** A variance from the minimum statewide watershed protection rules that results in a relaxation, by a factor of up to and including five (5) percent, of any buffer, density, or built-upon area requirement under the high density option; or that results in a relaxation, by a factor of up to and including ten (10) percent, of any management requirement under the low density option.

**Water Dependent Structures.** Those structures for which the use requires access or proximity to or siting within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks, piers, bulkheads and similar structures. Ancillary facilities such as restaurants, outlet for boat supplies, parking lots, and commercial boat storage areas are not water dependent structures.

**Watershed.** The entire land area contributing surface drainage into a stream, creek, lake or other body of water.

#### **Section 10.603. Exceptions to Applicability.**

1. Existing Development, as defined in this part is not subject to the requirements of this part. Expansion to structures classified as existing development must meet the requirements of this part, however, the built upon area of the existing development is not required to be included in the calculations.
2. An existing lot, as defined in this Part, owned prior to the effective date of this ordinance, regardless of whether or not a vested right has been established, may be developed for single family residential purposes subject only to the buffer requirements of Section 10.608 of this part; however, this exemption is not

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applicable to multiple contiguous lots under single ownership.

3. Existing public utilities may expand without being subject to the restrictions of this part provided that:
  - a. Such expansion complies with all applicable laws and regulations of the State of North Carolina and the United States of America, including the minimum statewide water supply watershed management requirements adopted by the Environmental Management Commission ("EMC"); and
  - b. Discharges associated with the existing public utilities may be expanded, however the pollutant load shall not be increased beyond presently permitted levels.

#### **Section 10.604. Catawba River/Lake Wylie Watershed Overlay District Subareas established.**

1. Critical Area. The Critical Area extends one-half mile (½) inland from the normal pool elevation of Lake Wylie from Mountain Island Dam to the upstream side of the Paw Creek Arm ("Paw Creek Cove"), as shown more specifically on the Mecklenburg County Zoning Maps.
2. Protected Area. The Protected Area extends from the outer boundaries of the Critical Area to approximately five (5) miles from the Lake upstream in the Long Creek drainage basin as shown more specifically on the Mecklenburg County Zoning Maps.

#### **Section 10.605. Uses and standards established.**

##### **1. Critical Area**

The intent is to require higher standards in the Critical Area because of the greater risk of water quality degradation from pollution. The following uses and standards apply to the Critical Area and shall be permitted if they meet the standards of this Part and all other requirements of this ordinance.

##### **(A) Uses Permitted By Right**

All those permitted in the underlying zoning district except as provided in Section 10.605.1(D)

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(B) Uses Permitted Under Prescribed Conditions

Those listed below and all those permitted in the underlying zoning district except as provided in Section 10.605.1(D)

1. Storage of Hazardous Materials, subject to the filing of a spill/failure containment plan with the Mecklenburg County Fire Marshall.
2. Structural BMP's, where allowed under the High Density Option subject to the regulations of Section 10.609.

(C) Permitted Accessory Uses and Structures

All those permitted in the underlying zoning district, except as provided in Section 10.605.1(D).

(D) Prohibited Uses

1. Landfills, sanitary
2. Petroleum Contaminated Soils, Treatment or Disposal
3. Sludge Applications
4. Wastewater Treatment Plants, **new** privately owned or operated for domestic waste requiring NPDES permit.

2. Protected Area

The intent is to allow development with fewer restrictions in the protected area than in a critical area because the risk of water quality degradation from pollution is less in the protected area than in a critical area. These uses and standards shall apply to the protected area and shall be permitted if they meet the standards of this Part and all other requirements of this ordinance.

(A) Uses Permitted By Right

All those permitted in the underlying zoning district except as provided in Section 10.605.2(D).

(B) Uses Permitted under Prescribed Conditions

Those listed below and all those permitted in the underlying zoning district except as provided in Section 10.605.2(D).

1. Storage of Hazardous Materials, subject to the filing of a spill/failure containment plan with the Mecklenburg County Fire Marshall.

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2. Structural BMP's, where allowed under the High Density Option, subject to regulations of Section 10.609
- (C) Permitted Accessory Uses and Structures  
All those permitted in the underlying zoning district except as provided in Section 10.605.2(D).
- (D) Prohibited Uses
  1. Wastewater Treatment Plants, new privately owned or operated for domestic waste requiring NPDES permit.

#### **Section 10.606. Development Standards for the Catawba River/Lake Wylie Watershed Overlay.**

All uses permitted in the Catawba River/Lake Wylie Watershed Overlay shall meet the applicable development standards established in this section and all other requirements of these regulations.

1. Critical Area
  - A. Area, yard, and bulk regulations shall be as follows:
    1. Maximum Residential Density (D.U./AC.)  
Maximum allowed in underlying district
    2. Minimum lot area  
Minimum required in underlying district
    3. Maximum Allowable Built Upon Area (% B.U.)<sup>(2)</sup>
      - a. Residential
        1. low density option - 24 %
        2. high density option <sup>(1)</sup> - 50 %
      - b. Non-Residential
        1. low density option - 24 %
        2. high density option <sup>(1)</sup> - 50 %

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#### 2. Protected Area

A. Area, yard, and bulk regulations shall be as follows:

1. Maximum Residential Density (D.U./AC)

Maximum allowed in underlying district

2. Minimum lot area

Minimum required in underlying district

3. Maximum Allowable Built Upon Area (% B.U.) <sup>(2)</sup>

a. Residential

1. low density option - 24%

2. high density option <sup>(1)</sup> - 70%

b. Nonresidential

1. low density option - 24%

2. high density option <sup>(1)</sup> - 70%

#### Footnotes to Chart 10.606.1(A3) and 10.606.2(A3)

<sup>(1)</sup> High Density Option - See Section 10.609

<sup>(2)</sup> Percentages apply on an individual lot basis for lots of record established on or before June 20, 1994. Lots of record established thereafter will be subject to these percentages unless otherwise specified on a recorded plat or on a subdivision plan approved by the Planning Commission.

#### **Section 10.607. Cluster Development.**

Cluster Development, as defined in Section 2.201(C6) is permitted in the Critical and Protected Areas in accordance with the following regulations.

1. Subject to all the cluster requirements of the underlying zoning district.
2. % B.U. shall not exceed the allowed % B.U. for the watershed area. [Section 10.606.1(A3) and Section 10.606.2(A3)]

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3. The remainder of the tract shall remain in a vegetated or natural state as common open space except that non-impervious recreational uses are permitted provided that they are located a minimum of 30 feet from the stream bank. Impervious recreational uses are permitted if they are located outside of any required buffer and do not exceed the allowable percentage built upon for the project.
4. Subject to the buffer area requirements of Section 10.608.

#### **Section 10.608. Buffer areas required.**

Vegetative buffers are required along the shoreline of the Catawba River/Lake Wylie measured from the normal pool elevation and along each side of all perennial streams measured from the top of bank.

1. Critical Area

In the critical area the minimum buffer areas are as follows:

- a. low density option - 100'
- b. high density option - 100'

2. Protected Area

In the protected area the minimum buffer areas are as follows:

- a. low density option - 40'
- b. high density option - 100'

3. Additional buffer requirements:

No permanent structures, built upon areas, septic tanks systems or any other disturbance of existing vegetation shall be allowed within the buffer except as follows:

- a. No trees larger than 2-inch caliper are to be removed except for dead or diseased trees. Trees less than 2 inch caliper and undergrowth may be removed to be replaced by an effective stabilization and filtering ground cover based upon the Watershed Buffer Guidelines for Mecklenburg County contained in Appendix 5 and as approved by the County Environmental Protection Department.



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- b. Streambank or shoreline stabilization is allowed as approved on a plan submitted to the applicable Engineering Department and the County Environmental Protection Department.
  - c. Water dependent structures and public projects such as road crossings, sewer lines and greenway paths are allowed where no practical alternative exists. These activities should minimize built-upon surface area, direct run off away from surface waters, and maximize the utilization of nonstructural BMP's and pervious materials.
  - d. During new development or the expansion of existing development the County can require enhancement of the existing vegetation in the buffer if necessary so that the buffer can effectively perform its filtering and absorption functions based on the Watershed Buffer Guidelines for Mecklenburg County contained in Appendix 5.
  - e. Non-impervious recreational development and non-impervious pedestrian trails may be allowed in the required buffer if located a minimum of 30 feet from the stream bank.
4. Mitigation of disturbed buffers required.

Should existing vegetation within the buffer be disturbed (except as allowed by this Ordinance) or should vegetation which was added to a buffer pursuant to the requirement that existing vegetation in the buffer be enhanced be disturbed (except as allowed by this Ordinance), the Zoning Administrator shall require that any vegetation remaining in the buffer be enhanced in accordance with the Watershed Buffer Guidelines for Mecklenburg County contained in Appendix 5 so that the buffer can effectively perform its filtering and absorption functions.

#### **Section 10.609. High Density Option.**

The High Density Option allows for a greater development density provided engineered controls (Structural BMP's) are used to manage stormwater runoff. Structural BMP's are required under the High Density Option. High density development shall meet the requirements of this section, the Charlotte-Mecklenburg Land Development Standards Manual and other published standards of the County Engineering Department.

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1. High Density Permit Application.
  - A. A High Density Development Permit shall be required for new development exceeding the requirements of the low density option.
  - B. Application for a High Density Development Permit shall be submitted as follows:
    1. Development plans subject to the Subdivision Ordinance and the Sediment and Erosion Control Ordinance and reviewed through the Charlotte-Mecklenburg Planning Commission will submit the High Density Development Permit to the Subdivision Administrator as part of the subdivision review application process.
    2. Development plans not subject to the Subdivision Ordinance will submit the High Density Development Permit to the County Engineer as part of the Sediment and Erosion Control requirements of the building permit application process.
    3. Applications for the High Density Option shall be made on the proper form and shall include the following information:
      - a. A completed High Density Development Permit Application signed by the owner of the property. The signature of the consulting engineer or other agent will be accepted on the application only if accompanied by a letter of authorization.
      - b. Required number of development plans and specifications of the stormwater control structure.
      - c. Submittal of a sediment and erosion control plan to the appropriate agency.
      - d. Permit application fees.
2. Structural BMP's
  - A. All Structural BMP's shall be designed and stamped by either a North Carolina registered professional engineer or landscape architect.

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### PART 6: CATAWBA RIVER/LAKE WYLIE WATERSHED OVERLAY

- B. Structural BMP's shall be designed for specific pollutant removal according to modeling techniques approved by the North Carolina Division of Water Quality. Specific requirements for these systems shall be in accordance with the design criteria and standards contained in the Charlotte-Mecklenburg Land Development Standards Manual.
  - C. Qualifying areas of the Structural BMP's may be considered pervious when computing total built-upon area. However, if the structure is used to compute the percentage built-upon area for one site, it shall not be used to compute the built-upon area for any other site or area.
  - D. The design of the Structural BMP's shall include the appropriate easements for ingress and egress necessary to perform inspections, maintenance, repairs and reconstruction.
3. Posting of Financial Security Required
- A. When Structural BMP's are required under the High Density Option, the approval of the High Density Development Permit will be subject to the owner filing a surety bond or letter of credit or making other financial arrangements which are acceptable to the County Engineering Department in an amount to be determined by the County Engineering Department in consultation with other agencies, such as the County Environmental Protection Department, in a form which is satisfactory to the County Attorney, guaranteeing the installation and maintenance of the required Structural BMP's until the earlier of either of the following events: (a) the passage of three (3) years from the date of completion of the Structural BMP; or (b) issuance of certificates of occupancy for seventy-five percent (75%) of all construction which might reasonably be anticipated to be built within the area which drains into the Structural BMP's, allowing credit for improvements completed prior to the submission of the final plat. Upon the earlier of either of the following events: (a) the passage of three (3) years from the date of completion of the Structural BMP; or (b) issuance of certificates of occupancy for seventy-five percent (75%) of all anticipated construction relative to the required Structural BMP's, written notice thereof must be given by the owner to the County Engineering Department. The County Engineering Department will arrange for an inspection of the Structural BMP's and if found satisfactory, will within 30 days of the date of notice notify the owner in writing. The owner may then petition the Board of County Commissioners for acceptance of maintenance responsibilities of the Structural BMP's. The County will accept maintenance responsibilities

## MECKLENBURG CODE

### **PART 6: CATAWBA RIVER/LAKE WYLIE WATERSHED OVERLAY**

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if the Structural BMP's have been built according to standards contained in the Charlotte-Mecklenburg Land Development Standards Manual and are functioning as designed, provided, however, that the Board of County Commissioners may attach reasonable conditions to its acceptance of maintenance responsibilities including requiring the granting of appropriate easements for ingress and egress.

#### **4. Additional Requirements**

- A. An Occupancy Permit shall not be issued for any building within the permitted development until the County Engineering Department has approved the storm water control structure, as provided in Section 10.609.3(A).

#### **Section 10.610. Appeals and Variances.**

- A. Any appeal to reverse or modify the order, decision, determination, or interpretation of the Zoning Administrator shall be subject to Chapter 5, Appeals and Variances, of these regulations.
- B. A petition for a local watershed variance, as defined in this part, shall comply with all the procedures and standards of Chapter 5, Appeals and Variances, of these regulations. The Board of Adjustment shall have the authority to grant or to deny a local watershed variance based upon § 5.108, "Standards for granting a variance". Any appeal of the Board's decision shall be pursuant to Chapter 5 and G.S. § 153A-345(e).
- C. A petition for a minor watershed variance or a major watershed variance, as defined in this part, shall comply with all the procedures and standards of Chapter 5, Appeals and Variances, of these regulations, with the following additions:
  - 1. In addition to the notification requirement of Chapter 5, the zoning Administrator shall mail a written notice to each local government having jurisdiction in the watershed where the subject property is located and/or any entity utilizing the receiving waters of the watershed as a water supply at least ten (10) working days prior to the public hearing. The applicant for the variance shall provide a list of those local governments and/or entities that must be notified. The notice shall include a description of the variance being requested. Recipients of the notice of the variance request may submit comments at least three (3) working days prior to the scheduled hearing date by the Board of

## MECKLENBURG CODE

### PART 6: CATAWBA RIVER/LAKE WYLIE WATERSHED OVERLAY

Adjustment. Such comments, properly filed, shall become part of the record of proceedings.

2. The Board of Adjustment shall have the authority to grant or deny a minor watershed variance based upon § 5.108 "Standards for granting a variance". Any appeal of the Board's decision shall be pursuant to Chapter 5 and G.S. § 153A-345(e).
3. The Board of Adjustment shall make a recommendation to grant or a decision to deny a major watershed variance based upon § 5.108, "Standards for granting a variance" of these regulations and the standard provided for in 15A NCAC 2B .0104(r), which states that a major watershed variance is to be determined on a case-by-case basis, when necessary to accommodate important social and economic development.
  - a. If the Board of Adjustment recommends that the major variance be granted, the Zoning Administrator shall within thirty (30) working days forward a preliminary record of the Board's hearing to the North Carolina Environmental Management Commission ("EMC") for final decision in accordance with the State's rules and regulations. The preliminary record of the hearing shall include:
    - (a) The variance application;
    - (b) The hearing notices;
    - (c) The evidence presented;
    - (d) Motions, offers of proof, objections to evidence, and rulings on them;
    - (e) Proposed findings and exceptions;
    - (f) The proposed decision, including all conditions proposed to be added to the permit.
  1. When the EMC approves or denies the variance, the EMC will prepare an EMC decision and send it to the Board. The Board shall then prepare a final decision granting or denying the proposed variance. If the EMC approves the variance with condition and stipulations, the Board shall prepare a final decision, including such conditions and stipulations, granting the proposed variance.

The EMC decision shall constitute the final decision on the major variance request and the applicant shall be

## MECKLENBURG CODE

### **PART 6: CATAWBA RIVER/LAKE WYLIE WATERSHED OVERLAY**

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notified of the decision by the Zoning Administrator.

2. Any further appeal of the EMC's decision of a major watershed variance shall be pursuant to the authority and enabling legislation of the EMC.
  - b. If the Board of Adjustment makes a decision to deny the major variance, then the record of the Board's hearing, findings, and conclusions shall not be forwarded to the North Carolina Environmental Management Commission. Any appeal of the Board's denial of a major watershed variance shall be pursuant to Chapter 5 and G.S. § 153A-345(e).
4. The Zoning Administrator shall keep a record, including a description of each project receiving a variance and any reasons stated for granting the variance, of all approved major and minor watershed variances. The Zoning Administrator shall submit a record of the variances granted during the previous calendar year to the North Carolina Division of Environmental Management on or before January 1 of the following year. This record shall provide a description of each project receiving a variance and the reasons for granting the variance.

### **PART 7: [RESERVED]**

## MECKLENBURG CODE

### PART 8: QUARRY OVERLAY

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#### PART 8: QUARRY OVERLAY

##### Section 10.801. Purpose.

The purpose of the Quarry Overlay district is to provide for quarry operations to be permitted in every district subject to a specific evaluation of how the proposed quarry will be able to meet the prescribed conditions contained herein and its degree of compatibility with surrounding land uses. The overlay district procedure also provides for surrounding property owners to become aware of the proposal through the rezoning notification and public hearing process. The Quarry Overlay supplements the range of uses permitted in the underlying district. All other uses and regulations for the underlying district shall continue to remain in effect for properties classified under the Quarry Overlay.

##### Section 10.802. Procedures for District Designation.

- (1) Property shall be classified under the Quarry Overlay district only upon a petition filed by the owner of the property, or anyone else authorized in writing to act on the owner's behalf, and approved by the Board of Commissioners under the procedures and standards established in Chapter 6 of these regulations.
- (2) The petition shall be accompanied with a site plan and any additional written material necessary to acknowledge and demonstrate compliance with the prescribed conditions of Section 10.803.
- (3) Once the Quarry Overlay district is approved by the Board of Commissioners, development may proceed according to the procedures of Chapter 4 of these regulations and the approved plan. Any alterations to an approved Quarry Overlay district shall be considered according to the provisions of Section 6.206, Alterations to approval.
- (4) Following the Board of Commissioners designation and approval of a Quarry Overlay district, the area so designated shall be labeled "Q-O" on the Official Zoning Maps.

##### Section 10.803. Prescribed Conditions.

Quarries shall be subject to the following conditions:

- (1) The site must contain a minimum of 100 acres

## MECKLENBURG CODE

### PART 8: QUARRY OVERLAY

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- (2) The future use of the property upon the cessation of quarrying activities shall be a park or some form of recreational use.
- (3) The application must include a plan with provisions for the property owner to create a reserve fund, to be held by the property owner, to finance the initial capital expenses of establishing the anticipated future use of the property. Such capital expenses shall be in the minimum amount of \$1,000.00 times the number of acres in the total quarry site. Provided, however, if it is found that the operation of any quarry is subject to The Mining Act of 1971 (N.C.G.S. §74-46 et seq.), the conditions in the preceding two sentences of this subsection (3) are not required;
- (4) Dimensional and yard requirements for quarries are specified below.

Required minimum distance from any public right-of-way or from adjacent property that is zoned:	<u>Residential</u>	<u>Institutional, Research, Office, or Business</u>	<u>Industrial</u>
To any building or extraction area, road, driveway or pit	200 feet *	100 feet *	50 feet *
To any crushing of rock, processing of stone gravel or other material	300 feet	300 feet	200 feet
To any blasting	500 feet	500 feet	400 feet

- \* All existing trees and vegetation are to remain in an undisturbed condition. Where the natural growth is inadequate to materially screen the quarry site from the view of adjoining properties and from a public street, vegetation must be provided according to Class A buffer requirements. When the site is adjoining residentially zoned property, the exterior 100 feet of the 200-foot separation must contain vegetation equivalent to a Class A buffer adjacent to the exterior property. When adjacent to any nonresidential zoning district, a 50-foot Class A buffer must be provided at the exterior property line. This 50-foot buffer can be the same



## MECKLENBURG CODE

### PART 8: QUARRY OVERLAY

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minimum distance separation as stated above. The access to the site and utilities serving the site may cross all of these areas, however, underground utility areas must be replanted after installation. It is the intent of this provision that these driveways and utilities be basically in a straight line and as nearly perpendicular to the property line as possible.

- (5) During operation of the quarry, and after termination of quarrying operations at the site, the following features, consistent with the reuse plan for the site, must be maintained unless the applicant installs and maintains a permanent fence of the type described in subdivision 10.803.(9) around the entire perimeter of the quarry operations:

(a) Rock quarries.

From the edge of the pit, an area 20 feet wide must be maintained free of any soil cover.

From a point 20 feet from the edge of the pit, the soil cover, if less than 20 feet in depth, must be graded back to a slope of 1 foot vertical, or less, to one foot horizontal from the rock level to the top of the soil cover.

If the soil cover to be stripped away exceeds 20 feet in depth, a ditch 8 feet wide and 3 feet deep at least 10 feet back from the edge of the cut may be substituted for the backsloping. If the pit has reached its maximum expansion to any direction, however, the permanent fence as described in Subdivision 10.803.(9) below, in connection with termination of quarrying operations, will suffice instead of the backsloping or ditch in that particular area.

(b) Gravel quarries and sand quarries.

When the pit exceeds a depth of 20 feet from the surface of the ground, all dense underbrush must be removed from the soil cover for a distance of 20 feet from the edge of the pit.

- (6) Vehicular access to the facility must be paved and must be provided only from any Class I, II, III, III-C or IV street or from any street built to commercial or industrial standards which leads directly from a Class I, II, III, III-C or IV street. Acceleration/deceleration lanes and/or a left turn lane must be provided unless the appropriate transportation department determines that they are not suitable at that particular location.

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### PART 8: QUARRY OVERLAY

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- (7) A metal fence and gate of the type described in subsection 10.803(9) must be constructed and maintained at all entrances to the quarry site.
- (8) All access driveways, which serve the site for ingress or egress, must be wide enough to accommodate two lanes of traffic. An area on the site must be provided between the entrance off the street and the quarrying operation to accommodate ten vehicles. No vehicles will be allowed to back up on any public right-of-way.
- (9) Upon the termination of quarrying operations at any pit that exceeds a depth of 20 feet from the surface of the ground, either the pit must be backfilled to a slope of one foot vertical, or less, to one foot horizontal from the bottom of the pit to the surface of the ground, or a fence designed to prevent access must be erected and maintained around the pit, or the site must be otherwise reclaimed in accordance with the reuse plan for the property. If a fence is used, it must be a minimum of six feet high, a maximum of seven feet high, and must be constructed of wire mesh in rectangular shapes which rectangles cannot exceed two inches by four inches.

#### **Section 10.804. Operational Requirements.**

After the Quarry Overlay district has been approved by the Board of Commissioners and the Zoning Administrator has found that the applicant has fulfilled or has appropriate plans to fulfill all of the requirements of the preceding subsections and any other applicable provisions of these regulations, a quarry zoning permit or a modification of an existing permit shall be issued by the Zoning Administrator.

Nevertheless, quarrying operations upon the site shall not commence (or continue) until the applicant has delivered to the Zoning Administrator such permits or other written approvals which may be required by the State of North Carolina or by Mecklenburg County.

The property owner must place funds in the reserve fund annually in amounts equal to (a) \$1,000.00 per acre in the total quarry site increased by an assumed annual inflationary rate of five percent, divided by (b) the number of years the quarry is anticipated to be open. The first such annual payment into the reserve fund must be made by the property owner prior to the commencement of quarrying operations. The evidence of such payment, in the form of a notarized statement by the property owner, must be presented to the Zoning Administrator prior to the commencement of quarrying operations. On or before each subsequent annual anniversary date of the first such notarized statement, the property owner must make the required annual payment into the reserve fund and present to the Zoning Administrator a notarized statement from the property owner showing that the payment has been made in

## MECKLENBURG CODE

### PART 8: QUARRY OVERLAY

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advance for the next year of operation of the quarry, and showing the total amount held in the reserve fund. In addition, if the property owner prepares annual financial statements, a copy of such annual financial statement, showing the amount held in the reserve fund, must be sent annually to the Zoning Administrator during each year that the quarry is in operation.

In the event that the quarrying operations at the site cease prior to the estimated number of years of operation, prior to ceasing operations the property owner must pay all remaining amounts into the reserve fund and present to the Zoning Administrator a notarized statement showing that such payment has been made and showing the total amount in the reserve fund. Provided, however, that if the operation of the quarry is subject to regulation under The Mining Act of 1971 (North Carolina General Statutes § 74-46, *et seq.*), and the applicant presents evidence to the Zoning Administrator that the applicant has complied with the provisions of that Act, as they might affect the quarry site, including the obtaining of a mining permit, the filing of a reclamation plan and the posting of a performance bond with the North Carolina Department of Natural Resources and Community Development, as required by such Act, the applicant shall be exempt from fulfilling the requirements of this paragraph, of the immediately preceding paragraph in this subsection, and of subdivision 10.803.(3).

Except in cases of emergency involving safety on the site, quarrying sites may not be operated on Sunday. The quarry may not be operated earlier than 7:00 a.m. or later than 6:00 p.m. on any other day. These restrictions shall not apply to quarries located in industrial districts or to office or maintenance operations conducted within an enclosed building.



# MECKLENBURG CODE

## **PART 1: PURPOSE**

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### **CHAPTER 11:**

### **CONDITIONAL ZONING DISTRICTS**

#### **PART 1: PURPOSE**

##### **Section 11.101. Purpose.**

The Conditional Zoning Districts allow for the establishment of certain uses which, because of their nature or scale, have particular impacts on both the immediate area and the community as a whole. The development of these uses cannot be predetermined or controlled by general district standards. In order to accommodate these uses, this Section establishes specific development standards for these uses, which allow for flexibility in development while protecting existing developed areas. The permitted uses and development standards are contained within each district. The process for approval of a Conditional Zoning District is explained in Chapter 6, Part 2.

#### **PART 2: MIXED USE DISTRICTS (MX-1, MX-2, and MX-3)**

##### **Section 11.201. Purpose.**

The Mixed Use Districts are hereby established in order to accommodate the development of planned communities that may incorporate a full range of housing types and, in some instances, compatible nonresidential uses that provide goods, services, and employment primarily to serve the residents of the planned community. In order to encourage high quality design and innovative arrangement of buildings and open space uses throughout the project, these districts provide substantial flexibility from the conventional use and dimensional requirements of the general districts. Three mixed use districts are established with varying degrees of development intensity to address the application of mixed use to various locations within the community. The developmental and locational criteria for the districts are as follows:

- MX-1:** This district permits only residential mixed use development and is applicable to developments 10 acres or larger. This district is intended to be located within any residential areas in the community.
- MX-2:** This district permits residential mixed use development (dwelling and permitted accessory uses and structures) on tracts which are 20 acres or larger and residential mixed use and nonresidential use development on tracts which are 36 acres or larger. This district is permitted within the community along major thoroughfares, minor thoroughfares or collector streets having adequate access.

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### **PART 2: MIXED USE DISTRICTS (MX-1, MX-2, AND MX-3)**

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MX-3: This district permits residential mixed use and major commercial institutional and employment uses. This district is applicable to developments 100 acres or larger. It is intended to be located as a component of "Development Enterprise Areas", or similar areas identified in the adopted Generalized Land Plan, and areas of the community along major thoroughfares.

#### **Section 11.202. Uses permitted by right.**

The following uses shall be permitted by right in the MX-1, MX-2, and MX-3 districts, provided that they meet all requirements of this Part and all other requirements of these regulations:

- (1) (RESERVED).
- (2) Dwellings, detached, duplex, triplex and quadraplex.
- (3) Dwellings, attached and multi-family up to 12 units in a building.
- (4) Farms, including retail sale of produce grown on the premises.
- (5) Group Homes, for no more than 6 clients.
- (6) Highway and railroad rights of way.
- (7) Parks, greenways and arboretums.

#### **Section 11.203. Uses permitted under prescribed conditions.**

The following uses shall be permitted in the MX-1, MX-2 and MX-3 districts if they meet the standards established in this Section and all other requirements of these regulations:

- (1) Adult care homes, subject to the regulations of Section 12.502.
- (2) Bus stop shelters, subject to the regulations of Section 12.513.
- (3) Cemeteries, subject to the regulations of Section 12.508.

## MECKLENBURG CODE

### PART 2: MIXED USE DISTRICTS (MX-1, MX-2, AND MX-3)

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- (4) Civic, social services and fraternal facilities (MX-2 and MX-3 only), provided that:
  - (a) All buildings, off-street parking and service areas will be separated by a Class C buffer from any abutting property located in a residential zoning district (See Section 12.302);
  - (b) The use will be located on a lot that fronts a collector, minor thoroughfare or major thoroughfare; and
  - (c) Primary vehicular access to the use will not be provided by way of a residential local (Class VI) street.
- (5) Child care homes, subject to the regulations of Section 12.502.
- (6) Dormitories (MX-2 and MX-3 only), provided that:
  - (a) The dormitory will be located within one-half mile of the institutional use it is designed to serve;
  - (b) Building walls over 200 square feet and facing a public right of way shall require a minimum of one large maturing tree per 30 linear feet of wall or one small maturing tree per 20 linear feet of wall no closer than 15 feet to the wall; and
  - (c) If there are more than 12 living units in a single dormitory or if there is more than one dormitory on the same lot, the development must be reviewed and approved in accordance with the regulations for planned multi-family or attached development in subsection 9.303(19).
- (7) Dwellings, mixed use (MX-2 and MX-3 only), provided that:
  - (a) The dwelling units will be located in the same building as an office or commercial use permitted in the district;
  - (b) The dwelling units will occupy no more than 75 percent of the total floor area of the buildings on the lot;
  - (c) The minimum lot and yard requirements for the dwelling units shall be the same as the B-1 district; and

## MECKLENBURG CODE

### PART 2: MIXED USE DISTRICTS (MX-1, MX-2, AND MX-3)

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- (d) Development density shall be controlled by the applicable floor area ratio.
- (8) Dwellings, planned multi-family and attached development and one multi-family or attached building on a lot with more than 12 units, subject to the regulations of subsection 9.303(19).
- (9) Elementary and secondary schools, provided that:
  - (a) All buildings, outdoor recreational facilities and off-street parking and service areas will be separated by a Class C buffer for elementary schools and junior high schools and Class B buffer for senior high schools from any abutting residential zoning district (See Section 12.302);
  - (b) The use will be on a lot which fronts a collector, minor thoroughfare or major thoroughfare for elementary schools and junior high schools and on a lot which fronts a minor thoroughfare or major thoroughfare for senior high schools; and
  - (c) Primary vehicular access to the use will not be provided by way of a residential local (Class VI) street.
- (10) Equestrian oriented subdivisions, subject to the regulations of Section 12.514.
- (11) Government buildings, up to 12,500 square feet, provided that:
  - (a) All buildings, off-street parking and service areas will be separated by a Class C buffer from any abutting property located in a residential zoning district or abutting residential use (See Section 12.302);
  - (b) The use will be located on a lot that fronts a collector, minor thoroughfare or major thoroughfare; and
  - (c) Primary vehicular access to the use will not be provided by way of a residential local (Class VI) street.
- (12) Nonresidential uses permitted in the B-1 or B-2 districts (MX-2 and MX-3 only), provided that:
  - (a) Only B-1 uses are permitted in the MX-2 district and such uses shall occupy no more than 5% of the total project area;



## MECKLENBURG CODE

### PART 2: MIXED USE DISTRICTS (MX-1, MX-2, AND MX-3)

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- (b) B-1 and B-2 uses are permitted in the MX-3 district provided such uses shall occupy no more than 15% of the total project area;
  - (c) Such uses shall be provided and operated primarily for the service and convenience of the residents of the project area;
  - (d) Such uses shall occupy no more than one acre per 100 dwelling units within the project area for the first 100 dwelling units or portion thereof above 149 dwelling units, plus an additional one-half acre per 50 dwelling units above 100 dwelling units;
  - (e) The area to be occupied by such uses shall be planned and designed as an integral part of the total project area;
  - (f) Vehicular access to such uses shall not be provided by way of a private or residential local (Class VI) street;
  - (g) All structures and parking/service areas shall be separated from adjacent residential uses within the project area by a Class B buffer (See Section 12.302);
  - (h) All off-street parking areas shall be landscaped to the standards established in Section 12.208;
  - (i) Adult care centers and child care centers, shall be subject to the regulations of Section 12.502; and
  - (j) No direct beams of light from outdoor lighting fixtures, signs, or vehicles maneuvering on the site of the use will shine into any abutting lots occupied by residential uses.
- (13) Outdoor recreation, provided that:
- (a) The use will be located on a lot that is at least two times the minimum lot area required in the district;
  - (b) Off-street parking, service areas and outdoor recreational facilities will be separated by a Class C buffer from any abutting property located in a residential zoning district (See Section 12.302). However, outdoor recreational facilities and associated parking located on a lot within a planned development shall provide a Class C buffer only along the portion of the lot which forms part of the external boundary of the planned development;

## MECKLENBURG CODE

### PART 2: MIXED USE DISTRICTS (MX-1, MX-2, AND MX-3)

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- (c) No outdoor recreational facilities, such as swimming pools, tennis courts, picnic shelter, etc. shall be located within 100 feet of any lot located in a residential district. However, outdoor recreational facilities located on a lot within the interior portion of a planned development may be located a minimum of 20 feet from an adjacent lot within the planned development, but must maintain a 100 foot separation from the external project boundaries of the planned development when abutting a residential zoning district; and
  - (d) Hours of operation for outdoor recreation will be no earlier than 6:00 a.m. and no later than 11:00 p.m. Eastern Standard Time.
- (14) Public utility structures, subject to the regulations of Section 12.504.
- (15) Public utility transmission and distribution lines, subject to the regulations of Section 12.509.
- (16) Radio, telephone, cellular telephone and television masts, towers, antennae and similar structures, subject to the regulations of subsection 12.108(7) or subsection 12.108(8).
- (17) Religious institutions, up to 1200 seats, subject to the regulations of Section 12.506.
- (18) Retail and office establishments and restaurants in multi-family and attached buildings, provided that:
  - (a) The establishment will be located within a building that contains at least 50 dwelling units;
  - (b) Such establishments will occupy no more than 25 square feet per dwelling unit in the building up to a maximum of 10,000 square feet;
  - (c) The establishment will have no direct public entrance from the outside of the building, except for a restaurant use; and
  - (d) No merchandise or display of merchandise will be visible from outside the building.

## MECKLENBURG CODE

### PART 2: MIXED USE DISTRICTS (MX-1, MX-2, AND MX-3)

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- (19) Subdivision sales office, provided that:
- (a) The use serves the subdivision in which it is located and adjoining subdivision or subdivisions by the same developer or affiliate; and
  - (b) The use shall be terminated upon the completion of the sale of 95 percent of the total number of homes and/or lots; provided however, that a model or demonstration home may be used for sales purposes until the last home or lot is sold.
- (20) Temporary buildings and storage of materials, provided that:
- The use is in conjunction with the construction of the same building on a lot where construction is taking place or on an adjacent lot. Such temporary uses shall be terminated upon completion of construction.
- (21) Bed and breakfasts (B & B's), subject to regulations of Section 12.521.
- (22) Boarding houses, subject to regulations of Section 12.520.
- (23) Outdoor seasonal sales, subject to the regulations of Section 12.519.

#### **Section 11.204. Permitted accessory uses and structures.**

The following uses shall be permitted in the MX-1, MX-2 and MX-3 districts as accessory uses and structures, subject to the applicable criteria in Chapter 12 of these regulations:

- (1) Accessory uses, and structures clearly incidental and related to the permitted principal use or structure on the lot.
- (2) Bookstores, offices, printing and distribution and similar uses as accessories to religious institutions located on the same lot and subject to the regulations of Section 12.506.
- (3) Customary home occupation, subject to the regulations of Section 12.408.
- (4) Drive-in windows as an accessory use to a principal nonresidential use, subject to the regulations of Section 12.404 (MX-2 and MX-3 only).
- (5) Dumpsters, trash handling areas and service entrances, subject to the regulations of Section 12.403.

## MECKLENBURG CODE

### **PART 2: MIXED USE DISTRICTS (MX-1, MX-2, AND MX-3)**

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- (6) Elderly and disabled housing as an accessory to a single family detached dwelling, subject to the regulations of Section 12.407.
- (7) Fences and walls, subject to the regulations of Section 12.406.
- (8) Guest houses and employee quarters as an accessory to a single family detached dwelling, subject to the regulations of Section 12.413.
- (9) Marinas, subject to the regulations of Section 12.409.
- (10) Land clearing and inert landfills (LCID): on-site, subject to the regulations of Section 12.405.
- (11) Outdoor lighting, subject to the regulations of Section 12.402.
- (12) Petroleum storage, accessory to a permitted principal use or building, subject to the Fire Prevention Code of the National Board of Fire Underwriters.
- (13) Private kennels, subject to the regulations of Section 12.410.
- (14) Private stables, subject to the regulations of Section 12.411.
- (15) Vending machines for cigarettes, candy, soft drinks and similar items and coin-operated laundries located within an enclosed building as an accessory to the uses in the principal building or buildings.
- (16) Wastewater treatment facilities, subject to the regulations of Section 12.404.

#### **Section 11.205. Development standards for MX-1, MX-2 and MX-3 districts.**

All uses and structures in the MX Districts shall meet the development standards established in Section 11.209 of this Part, and the following:

- (1) The minimum total project area for development in a mixed use district must be as follows:

MX-1	10 acres
MX-2	36 acres
MX-3	100 acres

## MECKLENBURG CODE

### PART 2: MIXED USE DISTRICTS (MX-1, MX-2, AND MX-3)

- (2) Residential development within the MX districts shall meet the minimum lot area, lot width, and yard requirements established in Section 9.205 for the R-6 district for single family development and in Section 9.305 for the R-22MF district for attached and multi-family development. Single family dwellings may have a minimum rear yard of twenty feet if the rear yard does not form the outer boundary of an MX district. Residential development within an MX district need not comply with these requirements if it complies with the provisions of subsection 9.205(4).
- (3) Nonresidential development within the MX districts shall meet the minimum lot area, lot width, and yard requirements established in Section 9.805 for the B-1 district. In no event shall nonresidential development in an MX district exceed a floor area ratio of 0.60.

#### **Section 11.206. Density limitations.**

- (1) Residential development in the MX districts shall not exceed the maximum residential density indicated in Table 11.206. The calculation of maximum density shall be based on the total project area minus any portion of the total project area to be devoted to nonresidential uses. For the purpose of this calculation, public rights-of-way shall be deemed to be a residential use.

Table 11.206

<u>District</u>	<u>Maximum Dwelling Units Per Acre</u>
MX-1	6.0
MX-2	8.0
MX-3	8.0

- (2) Each phase of a multi-phase project within an MX district should be able to stand as an independent project. At no point in the development of a multi-phase project shall the density of residential development in a completed phase of the project area exceed the approved maximum density established by this Section.
- (3) At least 50% of the dwelling units in an MX-1 district shall be detached dwellings.

## MECKLENBURG CODE

### **PART 2: MIXED USE DISTRICTS (MX-1, MX-2, AND MX-3)**

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- (4) The maximum density as specified in this section may be increased by up to 50% if the development being proposed implements a specific public plan or policy for the area of the development. Any such density increase must be proposed at the time of the initial rezoning request and will be considered as part of the rezoning decision.

#### **Section 11.207. Common open space; density bonus.**

- (1) At least 10 percent of the total project area shall be set aside as common open space.
- (2) A density bonus over and above the density otherwise allowed in the MX district may be approved by the Board of Commissioners provided that the petitioner increases the percentage of the total project area to be devoted to common open space. This bonus may be granted only if specifically requested by the petitioner. Any such bonus shall consist of a one percent increase in the allowable density for every one percent of land area devoted to common open space in addition to the 10 percent required under subsection (1) above, but in no event shall the bonus exceed 35 percent of the allowable density set out in Section 11.206.
- (3) All common open space shall be set aside and improved no later than the date on which certificates of occupancy are issued for the first 75 percent of the total number of dwelling units to be constructed within the project area.
- (4) No more than 50 percent of all required common open space shall be covered by water.
- (5) Any structures located in any common open space shall be accessory to recreational use of the space and shall cover no more than 5 percent of all common open space.
- (6) The required common open space shall be planned and improved so that it is accessible and usable by persons living in the project area. However, common open space containing natural features worthy of preservation may be left unimproved.
- (7) All of the required common open space shall be either conveyed to Mecklenburg County, if the County agrees to accept ownership of and to maintain the space, or conveyed to one or more homeowner associations created for the project

## MECKLENBURG CODE

### **PART 2: MIXED USE DISTRICTS (MX-1, MX-2, AND MX-3)**

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area, or with respect to outdoor recreation facilities, to the owner or operator thereof.

- (8) Any conveyance to a homeowners association shall be subject to restrictive covenants and easements reviewed by the Planning Director and recorded and filed at the time the subdivision plat for the project area is recorded. The covenants and easements shall provide for the establishment of a homeowner's association before any homes are sold, where membership is mandatory for each home buyer and any successive buyer, the association is responsible for liability insurance and local taxes on common open space and recreational facilities owned by it, any fees levied by the association that remain unpaid will become a lien on the individual property, and the association shall be able to adjust the assessment to meet changing needs. The covenants and easements shall also prohibit future development of any common open space for other than open space or recreation purposes and shall provide for continued maintenance of any common open space and recreational facilities.

#### **Section 11.208. Innovative development standards.**

After the property has been reclassified to the MX district by the Board of Commissioners, the Planning Commission, as part of the approval process for development of property located in the MX district, may modify the following standards established in these regulations and the Subdivision Ordinance for Mecklenburg County in order to accommodate a development project proposed for the MX district:

- (1) Street right-of-way.
- (2) Street type and construction standards (including width) for public or private streets.
- (3) Sidewalks, curbs, and gutters.
- (4) Minimum lot size.
- (5) Public street frontage.
- (6) Setbacks and yards.
- (7) Open space.
- (8) Height of fences and walls.

## MECKLENBURG CODE

### **PART 2: MIXED USE DISTRICTS (MX-1, MX-2, AND MX-3)**

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- (9) Off-street parking.
- (10) Lot width.
- (11) Building separation.

#### **Section 11.209. Development standards of general applicability.**

Except as otherwise provided in this Part, all uses and structures permitted in the MX district shall meet the applicable development standards set out in Chapter 12 of these regulations. Signs shall be permitted in the MX district in accordance with Chapter 13.



## MECKLENBURG CODE

### **PART 3: MANUFACTURED HOUSING DISTRICT**

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#### **PART 3: MANUFACTURED HOUSING DISTRICT**

##### **Section 11.301. Purpose.**

The R-MH district is hereby established in order to provide for the proper location and planning of manufactured homes and mobile home parks and subdivisions.

##### **Section 11.302. Uses permitted by right.**

The following uses shall be permitted by right in the R-MH district, provided that they meet with all requirements of this Part and all other requirements of these regulations:

- (1) Farms, including retail sale of produce grown on the premises.
- (2) Manufactured homes.
- (3) Mobile homes.
- (4) Service buildings to house laundry facilities, recreational facilities, meeting rooms for residents of the park or subdivision, and a caretaker's office.
- (5) Parks, greenways and arboretums.

##### **Section 11.303. Uses permitted under prescribed conditions.**

The following uses shall be permitted in the R-MH district if they meet the standards established in this Section and all other requirements of these regulations:

- (1) Adult care homes, subject to the regulations of Section 12.502.
- (2) Child care homes, subject to the regulations of Section 12.502.
- (3) (RESERVED)
- (4) Public utility transmission and distribution lines, subject to the regulations of Section 12.509.

## MECKLENBURG CODE

### **PART 3: MANUFACTURED HOUSING DISTRICT**

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#### **Section 11.304. Development standards; density; common area requirements.**

All uses and structures in the R-MH District shall meet the development standards established in Section 11.307 of this Part, and the following:

- (1) A manufactured home or mobile home park or subdivision located within the R-MH district shall be at least 2 acres in area and the maximum size allowed for any rezoning to the R-MH district is 40 acres.
- (2) No structure shall be located within 30 feet of any property line defining the perimeter of the manufactured home or mobile home park or except as otherwise provided in subsection 12.106.
- (3) Each lot or space within the park shall be at least 5,000 square feet in area and at least 40 feet wide. No more than one home may be erected on one space. In a subdivision, the lot and yards shall be developed to the standards of the R-5 district.
- (4) Any structure shall be located at least 20 feet from any internal street and at least 10 feet from any adjacent lot or space within the park or subdivision except as otherwise provided in Section 12.106.
- (5) The overall density of homes within the park or subdivision shall not exceed 6 units per acre.
- (6) There must be at least 4 spaces available at first occupancy in a manufactured home or mobile home park.
- (7) All manufactured and mobile homes, buildings and service areas will be separated by a Class C buffer from any abutting property located in a residential zoning district.
- (8) At least 8 percent of the total area of a manufactured housing park shall be devoted to recreational use by the residents of the park. Such use may include space for community buildings, gardens, outdoor play areas, swimming pools, ball courts, racquet courts, etc.
- (9) No service building, office, or common recreational area shall be located adjacent to a public street or any property line defining the perimeter of the park or subdivision.

## MECKLENBURG CODE

### **PART 3: MANUFACTURED HOUSING DISTRICT**

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#### **Section 11.305. Streets and utilities.**

- (1) Each lot or space shall be equipped with electricity, drinking water and wastewater disposal facilities.
- (2) A park shall be equipped with paved private streets built to the specifications of the Charlotte-Mecklenburg Land Development Standards Manual.
- (3) A subdivision shall be equipped with paved public streets built to the specification of the Charlotte-Mecklenburg Land Development Standards Manual.
- (4) Internal streets and circulation patterns shall be adequate to handle the traffic to be generated by the development.

#### **Section 11.306. Foundations, patios and walkways.**

- (1) Each home shall be placed on a permanent stand in accordance with standards set by the North Carolina Department of Insurance.
- (2) Each home shall have an area on site for provision of a permanent patio or deck adjacent or attached to the permanent stand of at least 180 square feet.
- (3) A walkway shall be constructed for each lot or space to connect parking spaces to the manufactured home entrance.
- (4) Attached structures such as an awning, cabana, storage building, carport, windbreak, or porch which has a floor area larger than 25 square feet and is roofed shall be considered part of the stand for purposes of all setback and yard requirements.
- (5) The area beneath a home must be fully enclosed with durable skirting within 60 days of placement in the park or subdivision. As a minimum, such skirting must be a product designed and sold for use as skirting or as approved by the Zoning Administrator.

#### **Section 11.307. Development standards of general applicability.**

Except as otherwise provided in this Part, all uses and structures permitted in the R-MH district shall meet the applicable development standards set out in Chapter 12 of these regulations. Signs shall be permitted in the R-MH district in accordance with Chapter 13.

## MECKLENBURG CODE

### **PART 3: MANUFACTURED HOUSING DISTRICT**

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#### **Section 11.308. Compliance with other regulations.**

- (1) Preliminary plans and final plats for manufactured home or mobile home subdivisions shall be submitted to the Planning Commission for review and approval in accordance with the requirements of the Subdivision Ordinance.
- (2) The development of all manufactured home and mobile home parks and subdivisions shall comply with all applicable requirements of the "Mecklenburg County Ordinance Governing Mobile Home Parks".

#### **Section 11.309. Replacement of existing mobile homes and manufactured homes.**

An existing mobile home or manufactured home as a principal residential building on an individual lot or located in a nonconforming mobile home or manufactured housing park or subdivision in operation at the time of adoption of these regulations may be replaced with another mobile home or manufactured home provided the number of mobile home or manufactured mobile units may not be increased beyond the number available before replacement and the replacing mobile home must not create nonconforming yards, separation distances, or increase existing nonconforming yards or separation distances. A replacement mobile home or manufactured home on an individual lot or subdivision shall adhere to the standards of Section 10.403, except for subdivision (c), unless located in a R-MH district or mobile home park.

## MECKLENBURG CODE

### **PART 4: COMMERCIAL CENTER DISTRICT**

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#### **PART 4: COMMERCIAL CENTER DISTRICT**

##### **Section 11.401. Purpose.**

The Commercial Center Development (CC) district is hereby established in order to accommodate, in areas outside of the Uptown Charlotte expressway loop, the development of shopping centers and individual retail establishments larger than 70,000 square feet of floor area. The location and design of such large-scale developments typically serve the employment, shopping, or service needs of an area ranging from a neighborhood to the entire community. The standards for this district therefore are designed to ensure compatibility of such development with nearby uses and the orderly development of the community.

##### **Section 11.402. Uses permitted by right.**

The following uses shall be permitted by right in the CC district, provided that they meet all requirements of this Part and all other requirements established in these regulations:

- (1) Automotive service stations, including minor adjustments, repairs and lubrication.
- (2) Barber and beauty shops.
- (3) Civic, social service and fraternal facilities.
- (4) Clinics, medical, dental and optical.
- (5) Cultural facilities.
- (6) Dry cleaning and laundry establishments, up to 4,500 square feet.
- (7) Dwellings, attached and multi-family up to 12 units in a building.
- (8) Equipment rental and leasing, within an enclosed building.
- (9) Financial institutions.
- (10) Florists.
- (11) Funeral homes, embalming and crematories.
- (12) Government buildings.

## MECKLENBURG CODE

### **PART 4: COMMERCIAL CENTER DISTRICT**

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- (13) Highway and railroad rights-of-way.
- (14) Hotels and motels.
- (15) Indoor recreation.
- (16) Jewelers.
- (17) Locksmiths and gunsmiths.
- (18) Nurseries and greenhouses.
- (19) Offices.
- (20) Outdoor recreation.
- (21) Parks, greenways and arboretums.
- (22) Post offices.
- (23) Printing and publishing, up to 5,000 square feet.
- (24) Religious institutions.
- (25) Repair or servicing of any article, within an enclosed building, the sale of which is permitted in the district.
- (26) Restaurants.
- (27) Retail establishments, shopping centers, and business, personal and recreation services permitted in the B-1 district.
- (28) Telephone booths.
- (29) Theaters, motion pictures.
- (30) Vocational schools, within an enclosed building.
- (31) Outdoor seasonal sales.

## MECKLENBURG CODE

### PART 4: COMMERCIAL CENTER DISTRICT

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#### **Section 11.403. Uses permitted under prescribed conditions.**

The following uses shall be permitted in the CC district, if they meet the standards established in this Section and all other requirements of these regulations:

- (1) Adult care centers, subject to the regulations of Section 12.502.
- (2) Building material sales, retail, provided that:
  - (a) All portions of the business including the storage of all materials must be housed within a completely enclosed building; and
  - (b) Only retail sales of building materials will be permitted. For the purpose of this Section this means the sales to the ultimate consumer with sales to a contractor or other intermediate user being prohibited.
- (3) Bus stop shelters, subject to the regulations of Section 12.513.
- (4) Child care centers, subject to the regulations of Section 12.502.
- (5) Dwellings, mixed use, provided that:
  - (a) Any dwelling will be located in the same building as a commercial use permitted in the district;
  - (b) The minimum lot and yard requirements shall be the same as required for the CC district;
  - (c) Dwellings will occupy no more than 50 percent of the total floor area of all buildings on the lot; and
  - (d) Development density will be determined by the floor-area- ratio.
- (6) Dwellings, planned multi-family and attached development and one multi-family or attached building on a lot with more than 12 units, subject to the regulations of subsection 9.303(19).
- (7) Nightclubs, bars and lounges, provided that:

Any structure in which a nightclub, bar or lounge is the principal use shall be located at least 400 feet from any residential zoning district external to the CC district.

## MECKLENBURG CODE

### **PART 4: COMMERCIAL CENTER DISTRICT**

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- (8) Off-street parking, subject to the regulations of Chapter 12, Part 2.
- (9) Public utility structure, subject to the regulations of Section 12.504.
- (10) Public utility transmission and distribution lines, subject to the regulations of Section 12.509.
- (11) Temporary buildings and storage of materials, provided that:

The use is in conjunction with the construction of the same building on a lot where construction is taking place or on an adjacent lot. Such temporary uses shall be terminated upon completion of construction.

#### **Section 11.404. Permitted accessory uses and structures.**

The following uses shall be permitted in the CC district as accessory uses and structures, subject to applicable criteria in Chapter 12 of these regulations:

- (1) Accessory uses and structures clearly incidental and related to the permitted use or structure on the lot.
- (2) Drive-in windows as an accessory to the principal use, subject to the regulations of Section 12.413.
- (3) Dumpsters, trash handling areas and service entrances, subject to the regulations of Section 12.403.
- (4) Land clearing and inert landfills (LCID): on-site, subject to the regulations of Section 12.405.
- (5) Outdoor lighting, subject to the regulations of Section 12.402.
- (6) Petroleum storage, accessory to a permitted use or structure, subject to the Fire Prevention Code of the National Board of Underwriters.
- (7) Petroleum storage, underground, accessory to permitted automotive stations, subject to the Fire Prevention Code of the National Board of Underwriters.
- (8) Vending machines for cigarettes, candy, soft drinks and coin-operated laundries located within an enclosed building as an accessory to the uses in the principal building.



## MECKLENBURG CODE

### **PART 4: COMMERCIAL CENTER DISTRICT**

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- (9) Wastewater treatment facilities, subject to the regulations of Section 12.404.

#### **Section 11.405. Development standards.**

All uses and structures in the CC district shall meet the development standards established in Section 11.407 of this Part, and the following:

- (1) Minimum project size must be at least 5 acres.
- (2) All principal buildings and structures located within the project area shall meet a minimum setback of 35 feet, a minimum side yard, and a minimum rear yard of 25 feet from any exterior property line. This minimum setback may be decreased under the prescribed conditions enumerated in subsection (7) below and approved by the Charlotte-Mecklenburg Planning Commission staff.
- (3) Residential development within the CC district shall meet the minimum lot area, lot width, and yard requirements established in Section 9.305 for the R-22MF district.
- (4) In no event shall the amount of development within the project area exceed a floor area ratio of 1.0. If a parking deck is constructed as part of the development, the allowable floor area may be increased by 50 percent.
- (5) All nonresidential buildings and uses at the project perimeter will be separated by a Class B buffer from any abutting property located in a residential district, abutting residential use or low-intensity institutional use (See Section 12.302). All residential development at the project perimeter shall provide buffers in accordance with Section 12.302. For those mixed use projects within the CC district which contain both residential and nonresidential uses, the buffer requirements outlined in Section 12.302 may be reduced or waived in their entirety within the interior of the project.
- (6) A building in a district may not be erected to a height in excess of 40 feet, unless the minimum side yard is increased 1 foot for every 2 feet in building height above 40 feet. If a building abuts a residential zoning district, it may not be constructed above the 40-foot limit unless the side and/or rear yard which adjoins the residential zoning district is increased 1 foot for each foot in building height above 40 feet. Height requirements for other permitted structures are set forth in Section 12.108.

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### PART 4: COMMERCIAL CENTER DISTRICT

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- (7) The minimum setback of 35 feet as prescribed in subsection (2) above may be reduced to 12 feet from the back of the existing or proposed future curb, whichever is larger as determined by the Charlotte-Mecklenburg Planning Commission staff, if the following criteria are met:

- (a) Street walls. The first floors of all buildings, including structured parking must be designed to encourage and complement pedestrian-scale interest and activity.

It is intended that this be accomplished principally by the use of transparent windows and doors arranged so that the uses are visible from and/or accessible to the street on at least 50% of the length of the first floor frontage facing the street.

Where expanses of blank wall are necessary, they may not exceed 20 feet in length. A blank wall is a facade, which does not add to the character of the streetscape and does not contain transparent windows or doors or sufficient ornamentation, decoration or articulation.

Doors may not swing open into the minimum 12-foot setback area.

- (b) Structured parking facilities. Structured parking facilities must be designed so that the only openings at the street level are those to accommodate vehicle entrances and pedestrian access to the structure.

In the event that any openings for ventilation, service, or emergency access are located at the first floor level in the building facade, then they must be decorative and must be an integral part of the overall building design. These openings as well as pedestrian and vehicular entrances must be designed so that cars parked inside are not visible from the street. The remainder of the street level frontage must be either occupied retail space or an architecturally articulated facade designed to screen the parking areas of the structure, to encourage pedestrian scale activity, and to provide for urban open space.

Cars on all levels of a structured parking facility must be screened from view from the street utilizing decorative elements such as grillwork or louvers. In no instance will cabling alone be sufficient to meet this screening requirement.

## MECKLENBURG CODE

### PART 4: COMMERCIAL CENTER DISTRICT

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The design requirements of this subsection (b) applies to all building facades of parking structures which are visible from any public right-of-way.

(c) Surface parking. No surface parking or maneuvering space shall be located between any building line and the street, except that driveways providing access to the parking area may be installed across these areas. It is the intent that these driveways be as nearly perpendicular to the street right-of-way as possible.

(d) Service and loading areas. No service or loading area may be oriented towards the street from which the reduced setback will occur, nor be within the area between any building line and the street.

(e) Streetscape requirements. The streetscape requirements for the reduced setback are as follows:

(1) Street trees are required in accordance with an approved streetscape plan for the area. If no streetscape plan exists, trees are required along the street frontage as follows:

Large maturing tree - One tree per 35 linear feet. The minimum caliper shall be 2 inches measured 6 inches above ground at the time of planting.

Small maturing tree - One tree per 24 linear feet. The minimum caliper shall be 2 inches measured 6 inches above ground at the time of planting.

(2) Trees must be planted in accordance with the Charlotte-Mecklenburg Land Development Standards Manual. Trees should be of a type permitted in Appendix 1.

(3) Sidewalks will be installed in accordance with an approved streetscape plan for the area. If no streetscape plan exists, sidewalks shall be installed with a minimum width of 6 feet, separated from the curb by a 6-foot wide planting strip. Tree grates may be substituted for the 6-foot wide planting strip. Such tree grates with accompanying irrigation and drainage shall be built in accordance with the Charlotte-Mecklenburg Land Development Standards Manual.

## MECKLENBURG CODE

### **PART 4: COMMERCIAL CENTER DISTRICT**

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#### **Section 11.406. Accessways.**

In addition to the requirements of Chapter 12, Part 2, the following restrictions shall apply:

- (1) Primary vehicular access to the project area shall not be provided by way of a residential local (Class VI) street.
- (2) One driveway is permitted for the first 300 feet of frontage, two driveways for 300-600 feet of frontage, and three driveways for greater than 600 feet of frontage, unless traffic safety considerations otherwise warrant lesser or greater restrictions.
- (3) No parcel of land removed by the developer from the rest of the project area by subdivision or by metes and bounds description shall be permitted to have driveway access to the street unless an approved site plan provides otherwise.

#### **Section 11.407. Development standards of general applicability.**

Except as otherwise provided in this Part, all uses and structures permitted in the CC district shall meet the applicable development standards set out in Chapter 12 of these regulations. Signs shall be permitted in the CC district in accordance with Chapter 13.

## MECKLENBURG CODE

### **PART 5: NEIGHBORHOOD SERVICES DISTRICT**

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#### **PART 5: NEIGHBORHOOD SERVICES DISTRICT**

##### **Section 11.501. Purpose.**

The purpose of the Neighborhood Services District (NS) is to encourage and accommodate the development and continued existence of mixed use districts, which provide a focus for neighborhood retail and service activities. This district provides for a variety of neighborhood oriented retail and service uses intermixed with high density residential uses. Residential uses on the upper floor of commercial structures are strongly encouraged. Emphasis in the district is placed upon creating a pedestrian scale urban environment with strong linkages to the neighborhood and access to transit.

##### **Section 11.502. Applicability.**

The identification of Neighborhood Services Districts will be done primarily through the area planning process. This does not preclude, however, a private sector initiated rezoning petition to establish a district. The following criteria must be considered for the establishment of the Neighborhood Services District:

- (1) The district must be directly adjacent to or within a residential neighborhood.
- (2) The proposed uses are intended to serve the surrounding neighborhood.
- (3) The district must have frontage on a major or minor thoroughfare, unless an approved site plan provides otherwise.
- (4) The district must have proximity to existing and future transit routes.

##### **Section 11.503. Uses permitted by right.**

The intent of the Neighborhood Services District is to provide for uses that directly serve the neighborhood in which they are located. Uses allowed by right and under prescribed conditions in the B-1 district are allowed.

##### **Section 11.504. Permitted accessory uses and structures.**

Accessory uses and structures which are permitted in the B-1 district are allowed.

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### **PART 5: NEIGHBORHOOD SERVICES DISTRICT**

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#### **Section 11.505. Development standards.**

All uses and structures in the Neighborhood Services District shall meet the development standards established in Section 11.508 of this Part, and the following:

- (1) The minimum setback shall be 12 feet from the back of the existing or future curb as established by the "Charlotte-Mecklenburg Thoroughfare Plan" or as prescribed within an approved streetscape plan governing the site, whichever is greater.
- (2) Nonresidential buildings are encouraged to be attached with no side yards. If a side yard is provided, it shall be a minimum of 10 feet.
- (3) Side yard adjacent to residential zoning district is 10 feet.
- (4) Rear yard adjacent to nonresidential zoning district is 10 feet.
- (5) Rear yard adjacent to residential zoning district is 20 feet.
- (6) Screening shall be provided next to a residential district as required in Section 12.303.
- (7) Maximum floor area ratio is 2.0. Any residential use incorporated into a commercial or office structure will not be included in the floor area ratio calculation. In addition, a commercial or office structure may receive an additional .50 floor area ratio if a residential use is incorporated into the structure. If a parking deck is constructed as part of the building, the allowable floor area ratio may be increased by .50. The total maximum allowable floor area ratio in this district is 3.0.
- (8) Maximum height is 60 feet in the district. However, the maximum height in the district abutting property zoned for single family residential is 40 feet, except the height may exceed 40 feet if there is an increase in side and rear yards of one foot for every foot of building height over 40 feet up to the 60 feet maximum.
- (9) The NS district is exempt from the buffer regulations of Section 12.302, but must meet applicable screening requirement of Section 12.303.

## MECKLENBURG CODE

### **PART 5: NEIGHBORHOOD SERVICES DISTRICT**

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#### **Section 11.506. Parking requirements.**

In addition to the requirements of Chapter 12, Part 2, the following shall apply:

- (1) The minimum parking requirements for the Neighborhood Services District are as follows:

Residential	- 1 space per dwelling unit
All other uses	- 1 space per 600 square feet
- (2) No parking of motor vehicles is permitted within any required setback.
- (3) Shared parking is encouraged pursuant to the regulations Section 12.203.
- (4) Parking decks shall be developed under the regulations of Section 12.212.

#### **Section 11.507. Streetscape requirements.**

The streetscape requirements of the Neighborhood Services District are as follows:

- (1) Street trees are required in the Neighborhood Services District in accordance with an approved streetscape plan for the area. If no streetscape plan exists, trees are required along the street frontage as follows:

Large maturing tree - One tree per 35 linear feet. The minimum caliper shall be 3 inches measured 6 inches above ground at the time of planting.

Small maturing tree - One tree per 24 linear feet. The minimum caliper shall be 2 inches measured 6 inches above ground at the time of planting.
- (2) Trees must be planted in accordance with the Charlotte-Mecklenburg Land Development Standards Manual. Trees should be of a type permitted in Appendix 1.
- (3) Sidewalks will be installed accordance with the approved streetscape plan.

#### **Section 11.508. Development standards of general applicability.**

Except as otherwise provided in this Part, all uses and structures permitted in the NS district shall meet the applicable standards set out in Chapter 12 of these regulations. Signs shall be permitted in the NS district in accordance with Chapter 13.

## MECKLENBURG CODE

### PART 6: HAZARDOUS WASTE DISTRICT

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#### PART 6: HAZARDOUS WASTE DISTRICT

##### Section 11.601. Purpose.

The Hazardous Waste District (HW) is hereby established in order to ensure that hazardous waste treatment and storage facilities are sited in a manner consistent with protecting the public health, safety and welfare and to ensure that risks to adjoining properties and the community in general are minimized to the greatest extent reasonably possible.

##### Section 11.602. Use permitted under prescribed conditions.

Hazardous waste treatment and storage facilities and associated accessory uses shall be permitted in the HW district, if they meet the following standards established in this Section and all other requirements of these regulations:

- (1) The use shall comply with the Federal Resource Conservation and Recovery Act of 1976, as amended, [PL 94-580] and the North Carolina Solid Waste Management Act, as amended, (Article 13B. G.S. 130-166.16) for design, siting, materials to be stored on treated and monitoring.
- (2) All storage, treatment, and loading facilities handling hazardous materials will be located at least 200 feet from any exterior property line and at least 1,250 feet from any lot located in a residential, research, institutional, or office zoning district.
- (3) Fences, 7 feet or higher, which are not easily climbable will surround all facilities for the storage and handling of hazardous materials.
- (4) Vehicular access to the operation will be provided only by way of a Class I, Class II, Class III or Class IV street.
- (5) All surface water and groundwater on the property will be protected so as to minimize to the greatest possible extent using the best available technology, the probability of contamination by hazardous materials.
- (6) All sanitary sewer and storm water management systems on the property will be protected so as to minimize to the greatest possible extent using the best available technology, the probability of contamination by hazardous materials.
- (7) A Class A buffer shall be provided in accordance with Section 12.302.



## MECKLENBURG CODE

### **PART 6: HAZARDOUS WASTE DISTRICT**

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- (8) The types of soil under and within 30 feet of all portions of the proposed site to be used for storage, treatment, loading and handling of hazardous materials as well as under all paved surfaces or roads leading to these facilities, shall not have a natural percolation rate in excess of  $3.5 \times 10^{-4}$  centimeters per second.

#### **Section 11.603. Additional application requirements.**

Applications for hazardous waste treatment and storage facilities must be submitted and reviewed in accordance with Chapter 6, Part 2 and shall include the following additional information:

- (1) Maps of the area within one-quarter mile of the exterior property lines of the proposed site, and including the proposed site, which show:
- (a) all dwelling units, other principal buildings and structures and streets;
  - (b) all significant topographical features;
  - (c) all surface water;
  - (d) all sanitary sewer systems;
  - (e) all storm water management systems; and
  - (f) all wells.
- (2) An engineering certification for the proposed site concerning the factors of:
- (a) depth to seasonal high water table;
  - (b) soil drainage, composition, thickness and permeability;
  - (c) flooding;
  - (d) depth to bedrock; and
  - (e) prevailing wind direction.
- (3) A certification from the appropriate local, state and/or federal agencies that the use for the proposed site is in compliance with the appropriate local, state and/or federal regulations governing:
- (a) air quality standards;
  - (b) water quality standards; and
  - (c) wastewater standards.

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### **PART 6: HAZARDOUS WASTE DISTRICT**

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#### **Section 11.604. Development standards of general applicability.**

Except as otherwise provided in this Part, all uses and structures permitted in the HW district shall meet the applicable development standards set out in Chapter 12 of these regulations. Signs shall be permitted in the HW district in accordance with Chapter 13.

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### PART 7: RE-3 RESEARCH DISTRICT

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#### PART 7: RE-3 RESEARCH DISTRICT

##### Section 11.701. Purpose.

The RE-3 district has the same purposes and permits the same uses as the RE-1 and RE-2 districts but is established to permit additional uses oriented toward such activities as distribution and service. These uses are to be developed in settings similar to those attained by the requirements established in other RE districts.

##### Section 11.702. Uses permitted by right.

The same uses permitted by right in the RE-1 and RE-2 districts (Section 9.602) shall be permitted by right in the RE-3 district in addition to the following uses provided they meet all requirements of this Part and all other requirements established in these regulations:

- (1) Health institutions
- (2) Hotels and motels
- (3) Manufacturer's representatives, including offices and repair and service facilities.
- (4) Merchandise showrooms
- (5) Printing and publishing
- (6) Restaurants without drive-in service

##### Section 11.703 Uses permitted under prescribed conditions.

The same uses permitted under prescribed conditions in the RE-1 and RE-2 districts (Section 9.603) shall be permitted under prescribed conditions in the RE-3 district in addition to the following uses provided they meet the standards established in this Section and all other requirements of these regulations:

## MECKLENBURG CODE

### **PART 7: RE-3 RESEARCH DISTRICT**

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Distribution businesses, including warehousing and the repair of items stored in the building, provided that:

- (a) A minimum portion of each building must be used for one or more of these uses: office, repair and servicing, showroom, sorting, labeling, packaging and repackaging, processing, stating or electronic bar coding (pricing). The required minimums are: 25% of buildings up to 200,000 sq. ft.; 35% of buildings between 200,000 and 400,000 sq. ft.; 50% of buildings of 400,000 sq. ft. and above;
- (b) Landscaping and internal planting requirements shall be met in accordance with Section 11.705(3).

#### **Section 11.704. Permitted accessory uses and structures.**

The same accessory uses and structures permitted in the RE-1 and RE-2 districts (Section 9.604) shall be permitted in the RE-3 district.

#### **Section 11.705. Development standards.**

All uses and structures permitted in the RE-3 district shall meet the applicable development standards established in this Section and other requirements of these regulations:

- (1) Area, yard and bulk regulations shall be as follows:
  - (a) Maximum floor area ratio (%) 1 .70
  - (b) Minimum lot area (acres) 4 acres
  - (c) Minimum lot width (feet) 400\*
  - (d) Minimum setbacks (feet)
    - Lots between 2 and less than 4 acres N.A.
    - Lots between 4 and less than 15 acres 100
    - Lots between 15 and less than 20 acres 125
    - Lots 20 acres or greater 150

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### PART 7: RE-3 RESEARCH DISTRICT

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(e)	Minimum side and rear yards (feet)	
	- Lots between 2 and less than 4 acres	N.A.
	- Lots between 4 and less than 15 acres	35
	- Lots between 15 and less than 20 acres	40
	- Lots 20 acres or greater	50
(f)	Minimum street side yard on corner lots (feet)	
	- Lots between 2 and less than 4 acres	N.A.
	- Lots between 4 and less than 15 acres	75
	- Lots between 15 and less than 20 acres	85
	- Lots 20 acres or greater	100
(g)	Maximum height (feet) 2	40

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\* Lots having any part of their frontage on the circular portion of a cul-de-sac right-of-way may use 200 feet in the RE-3 as the minimum lot width.

N.A. - Not Applicable

#### FOOTNOTES TO CHART 11.705(1)

1. If a parking deck is constructed as part of a building, the allowable F.A.R. may be increased by 50 percent.
  2. A building in a designated district may be erected to a height in excess of 40 feet, provided the minimum side yard is increased 1 foot for every 2 feet in building height in excess of 40 feet. If a building abuts a residential zoning district, it may not be constructed above the 40-feet unless the side and/or rear yard which adjoins the residential zoning district is increased 1 foot for each foot in building height in excess of 40 feet. Height requirements for other permitted structures are set forth in Section 12.108.
- (2) The cross-references and other development standards of Section 9.605. Development standards for research districts, items (2), (3), and (4) are also applicable to the RE-3 district.

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### PART 7: RE-3 RESEARCH DISTRICT

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(3) Landscape edge and internal planting requirements

(a) The following landscape requirements apply to the RE-3 zoning classification and are intended to create park like character with generous landscape edges and internal tree/vegetation requirements. The following standards apply to both the landscape edge treatment adjacent to the property lines and the internal planting requirements located within impervious surface areas.

- (1) The type of trees to be planted must come from the approved list in Appendix 1. Minimum tree caliper measured 6 inches above the ground on all trees shall be 2½ inches and the minimum height shall be 10 feet.
- (2) All grass and ornamental landscape planting areas shall be irrigated with a permanent underground sprinkler system.
- (3) Installation of required landscaping may be delayed until planting conditions are favorable for such work but in no case shall the period extend beyond the next planting season (October-March).
- (4) Modifications to these requirements may be made if unique site conditions exist on renovated or previously developed sites. A plan shall be submitted showing what is proposed instead of the standard requirements. The purpose and intent of this section must be demonstrated before a modification can be granted. The Zoning Administrator or designee may grant a modification.

(b) All required setbacks, side yards and rear yards shall be preserved with natural vegetation consisting of large maturing trees. Driveways and/or utilities may cross these areas approximately perpendicular to the setbacks, side and rear yards. Grading is permitted within 10% of the total setback, side and rear yard areas but shall be replanted with trees. Shrubs may be used in addition to the trees but are not a part of these requirements. Where trees do not exist in the setback, side and rear yards, or within graded areas of same, new planting shall be required in accordance with the following standards.

1 large maturing tree per 1,000 sq. ft. of area, plus

1 evergreen and/or ornamental tree per 2,000 sq. ft. area

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- (c) Internal landscaping requirements for areas other than the required setbacks, side yards and rear yards shall be in accordance with the following standards.
- (1) Whenever the impervious cover on a site exceeds 10,000 square feet, an area equal to 10% of the total impervious surface (building plus automobile and truck parking and maneuvering areas) must be provided for landscape purposes and tree planting. Internal tree planting is required at the rate of 1 tree per 5,000 square feet of impervious cover. Credit for existing trees in good condition may be given in determining necessary internal planting in accordance with these guidelines. Trees adjacent to and within 50 feet of the perimeter curb shall count toward the 10% required landscape area provided such trees are not located within the required setback, side or rear yards.
  - (2) Trees must be planted within or adjacent to the parking areas, so that the parking spaces are 60 feet or less from a tree. Minimum unpaved landscaped area per tree shall be 200 square feet with such landscape area having a minimum dimension of 8 feet at the base of the tree. This minimum dimension does not apply to trees along the perimeter.
  - (3) If a building permit is requested for an addition to a previously developed site, internal tree planting is still required for the entire site and the minimum planting area shall be 200 square feet per tree. However, only 5% of the total impervious cover must be used for landscape purposes. This applies only to additions equal to or greater than 1,000 square feet or 5% of the existing square footage, whichever is less.
  - (4) All trees planted along the perimeter of parking areas shall be large maturing trees.
  - (5) A minimum of 75% of planted trees within parking areas shall also be large maturing trees. However, no trees identified as large maturing shall be planted within 20 feet of an electrical distribution line. This does not include low-voltage insulated or covered lines of 240 volts or less or telephone or cable vision lines.

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- (4) Signs. Signs are permitted in the RE-3 district in accordance with Chapter 13 except that:
  - (a) Signs in the district may be luminous; and
  - (b) Signs lighted internally must be contained within an opaque background with only letters, numbers and symbols being translucent. The intent of this requirement is to provide signs, which consist of lighted letters, numbers and symbols on an opaque background.
- (5) Parking and Loading. Development of any use in the research districts must conform to the parking and loading standards in Chapter 12, Part 2 except that:
  - (a) The parking area must be paved with a dust-free, all weather surface and must be properly drained and landscaped.
  - (b) Underground parking structures are permitted in accordance with Section 12.213.
  - (c) Parking of motor vehicles is not permitted in any required setback, side yard or rear yard in the RE-3 district. The space within the setback, side or rear yard may not be used as maneuvering space for parking or unparking of vehicles, except that driveways providing access to the parking area may be installed across the space.

#### **Section 11.706. Development standards of general applicability.**

Except as otherwise provided in this Part, all uses and structures permitted in the RE-3 district shall meet the applicable development standards set out in Chapter 12 of these regulations.



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### **PART 1: SUPPLEMENTAL DEVELOPMENT STANDARDS**

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#### **CHAPTER 12:**

#### **DEVELOPMENT STANDARDS OF GENERAL APPLICABILITY**

#### **PART 1: SUPPLEMENTAL DEVELOPMENT STANDARDS**

##### **Section 12.101. Every lot must abut a street.**

No building, structure or use of land for any purpose may be placed on a lot, which does not abut a street, except for agricultural purposes, and as, provided for in Section 11.208 and the following exceptions:

- (1) A single family detached dwelling may be constructed on a lot that does not abut a street, provided that the lot is at least 2 acres in size, is provided with access to a public street by an easement at least 15 feet in width for the exclusive use of the detached dwelling, and the easement is maintained in a condition passable for emergency and service vehicles. All lots must be created in accordance with the subdivision ordinance, if they were not recorded prior to May 1, 1989.
- (2) Attached and multi-family dwellings need not abut a street, provided that all portions of every dwelling unit are within 400 feet of a public or private street that furnishes direct access to the property and that access to each dwelling unit will be made available via either a public right-of-way or a private street or vehicular or pedestrian way owned by the individual unit owner in fee or in common ownership.
- (3) Driveways in a research, institutional, office, business or industrial zoning district may be used to provide access to uses in any of these districts which are located on lots which do not abut a street. Any such lot, which existed prior to May 20, 1985, may be used as if it abutted a street, provided that it is served with a driveway built to appropriate standards located on a permanent, recorded easement.
- (4) Nothing in this Section exempts any property from the provisions of the subdivision ordinance, which regulate the division of land. In any case, when there appears to be contradicting or overlapping standards or requirements, the more restrictive standard or requirement will control.

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- (5) Lots or building sites which are part of a larger nonresidential development, such as a shopping center, need not abut a street so long as the overall site abuts a street and is designed in such a manner and way that access is furnished to all interior lots or building sites.
- (6) Lots subdivided for lease within the former Resort-Residential which are converted to the R-5 district and existing at the time of enactment of these regulations need not abut a street.

#### **Section 12.102. Special lot, setback and yard requirements.**

The following are various lot setback and yard requirements to address unique land use circumstances and provide development flexibility:

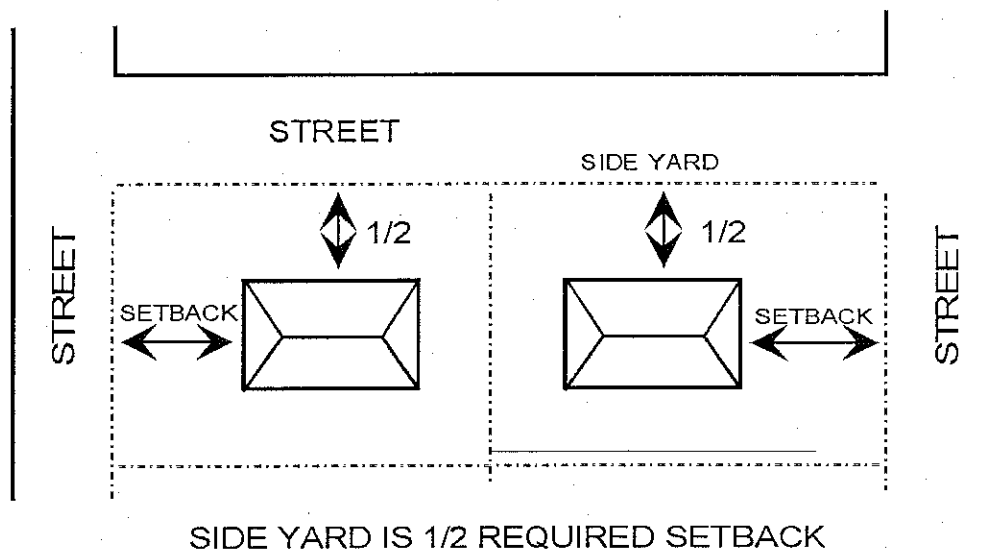
- (1) Any use, building, or structure in a research, office, business, industrial or institutional zoning district located on a lot abutting a lot in a residential zoning district with setbacks off the same street shall meet the minimum setback requirement for uses permitted by right in the abutting residential zoning district.
- (2) Side and rear yards will not be required for lots used for nonresidential purposes when such side or rear yard would be adjacent to railroad rights-of-way in the research, office, business, and industrial zoning districts.
- (3) Side yards and rear yards may be measured from the centerline of alleys which adjoin lots in any district. However, if the alley separates lots in residential zoning districts from lots in nonresidential zoning districts, this allowance will not apply.
- (4) If both the setback and rear yard of a lot abut public streets, then the required rear yard shall be the same as the required setback in the district.
- (5) Elevated pedestrian walkways, including those over public rights-of-way, may be located in any required yard or setback area provided they do not create a visual obstruction for motor vehicle traffic and have all other governmental approvals for its location over the public right-of-way. It is the intent of this provision that these walkways be as nearly perpendicular to the required setback or yard as possible.

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### PART 1: SUPPLEMENTAL DEVELOPMENT STANDARDS

- (6) If two corner lots are separated by a common rear lot line, the common side yards of the lots on the street must be a minimum of 50 percent of the required setback for the zoning district in which the structure is located as illustrated in Figure 12.102(a).

Figure 12.102(a)

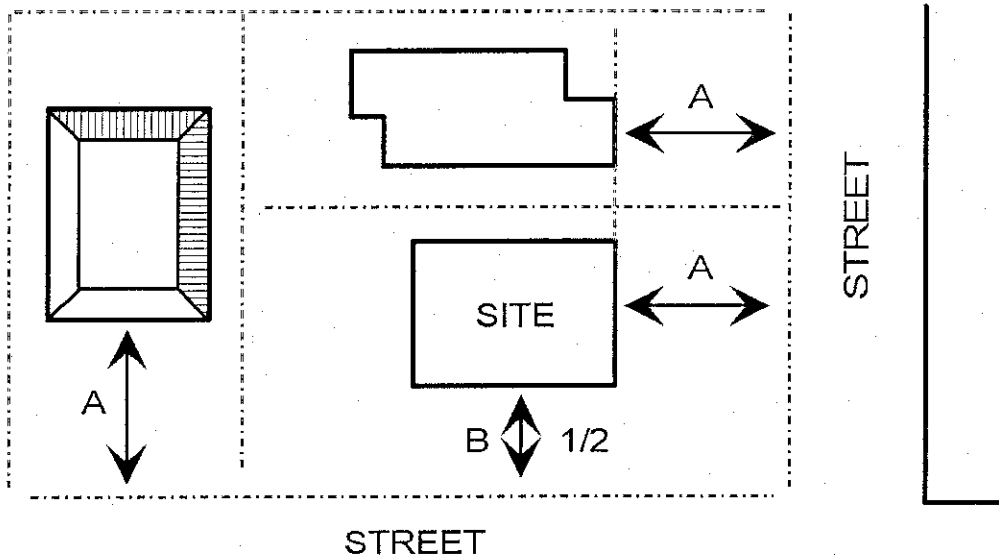


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### PART 1: SUPPLEMENTAL DEVELOPMENT STANDARDS

- (7) If, in any zoning district, the rear lot line of a corner lot adjoins the side lot line

Figure 12.102(b)



A: SETBACK

B: SIDE YARD IS 1/2 SETBACK

of an abutting lot fronting on a street, then the side yard of the corner lot must be a minimum of 50 percent of the setback for the abutting lot as illustrated in Figure 12.102(b).

- (8) If a lot is fronted on three sides by streets, the setback requirement for the zoning district shall be applied only on the two opposing street fronts. The required side yard on the third street front must be at least one-half the required setback in that zoning district. The yard opposite the third street front must be at least the minimum side yard requirement for the zoning district. If the lot is fronted on four sides by streets, two opposing streets shall have the minimum required setbacks and the other two streets must have side yards of one-half the required setback.

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- (9) The location of required setback, side and rear yards on irregularly shaped lots will be determined by the Zoning Administrator. The determination will be based on the spirit and intent of this ordinance to achieve an appropriate spacing and location of buildings on individual lots.

#### **Section 12.103. Requirements for lots along thoroughfares.**

G.S. 153A-326. states that counties shall have authority to (i) classify all or a portion of the streets within their jurisdictions according to their size, present and anticipated traffic loads, and other characteristics relevant to the achievement of the purposes of this Section, and (ii) establish by ordinance minimum distances that buildings and other permanent structures or improvements constructed along each class or type of street shall be setback from the right-of-way line or the centerline of an existing or proposed street. Pursuant to that authority, the following requirements shall apply:

- (1) The minimum yards or setbacks prescribed for each zoning district, which abuts a thoroughfare, shall be measured from the proposed right-of-way line established for each classification of thoroughfare as follows:

<u>Thoroughfare Classification</u>	<u>Distance From Thoroughfare Centerline to "Proposed Right-of-Way Line"</u>
Freeway or Expressway (Class I)	175 feet
Limited Access Arterial (Class II)	100 feet
Commercial Arterial (Class III-C)	75 feet
Major Arterial (Class III)	50 feet
Minor Arterial (Class IV)	35 feet

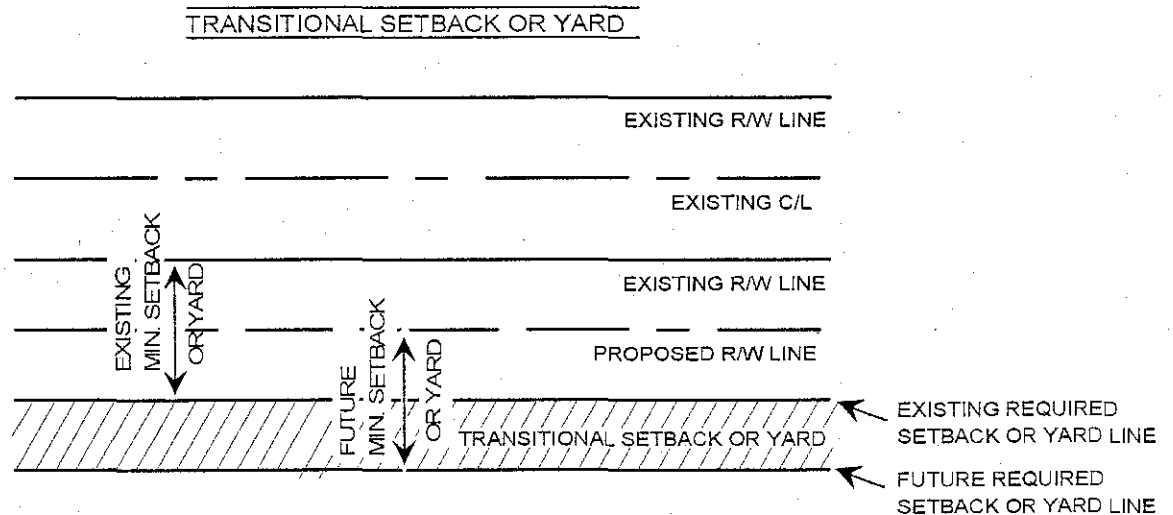
- (2) A transitional setback or yard shall also be established for each zoning district which abuts a thoroughfare that has an existing right-of-way which is not as wide as the right-of-way established for that thoroughfare as illustrated in Figure 12.103. The transitional setback or yard area established for lots abutting thoroughfares can be used for any purpose allowed by the particular zoning district, except for (a) those uses which are prohibited in the required setbacks or yards as established by this ordinance, or (b) to satisfy any

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minimum parking requirements if parking is not allowed in the setback or yard by the particular zoning district. However, the transitional setback or yard may be used for parking which exceeds the minimum ordinance parking requirements. The area between the existing right-of-way and the proposed right-of-way line may not be used to satisfy any minimum parking requirement, any minimum open space requirements, any minimum lot size requirements or any other minimum requirements, imposed by this ordinance. At the time that the proposed right-of-way is dedicated or otherwise acquired for roadway purposes, the property owner shall be responsible for the removal of any uses constructed after May 1, 1989, which are within the transitional setback or yard that are not otherwise permitted in the setback or yard by the zoning district regulations. The property owner shall have one (1) year from the date of right-of-way acquisition to remove any such uses.

Figure 12.103



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- (3) The standards of subsections 12.103(1) and 12.103(2) will not apply to any development meeting one or more of the following circumstances:
  - (a) Any multi-building site or multi-site project which has at least one building built or under construction, or has a valid, unexpired building permit issued for at least one building prior to May 1, 1989.
  - (b) Any project which had a site plan not requiring any additional right-of-way approved prior to May 1, 1989 either:
    - (i) by the Planning Commission and/or Planning Staff; or
    - (ii) under the conditional zoning district and/or special use permit zoning processes of the Zoning Ordinance. However, any change in the site plan requiring a public hearing or the creation of a new parcel of land may subject the project, for which the site plan was revised, or the newly created parcel of land to the provisions of this ordinance.
- (4) An affected property owner shall have the right to appeal transitional yard or setback requirements to the Board of Adjustment for variance or modification as they apply to the particular piece of property. The Board of Adjustment may vary or modify these requirements upon a showing that:
  - (a) The peculiar nature of the property results in practical difficulties or unnecessary hardships that impede carrying out the strict letter of the requirement;
  - (b) The property will not yield a reasonable return or cannot be put to reasonable use unless relief is granted; and
  - (c) Balancing the public interest in enforcing the setback requirements and the interest of the owner, the grant of relief is required by considerations of justice and equity.

In granting relief, the Board of Adjustment may impose reasonable and appropriate conditions and safeguards to protect the interest of neighboring properties. There may be an appeal to the Board of County Commissioners from the Board of Adjustment. Any such appeal to the Board of Commissioners shall be governed by the same laws and rules as appeals from decisions granting or denying variances or modifications under the Zoning Ordinance.

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### **PART 1: SUPPLEMENTAL DEVELOPMENT STANDARDS**

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#### **Section 12.104. Computation of density.**

There may be circumstances when a development proposal includes land in various zoning districts. In that circumstance, the maximum allowable number of dwelling units allowed on the site will be computed by the following method: compute the maximum allowable number of dwelling units allowed for the land area in each zoning classification as if it were being developed independently, and then total the results for all zoning classifications involved. Once the maximum number of dwelling units is computed, the actual placement of the units on the site will not be restricted by the maximum allowable densities in the various districts. Nothing in this Section, however, shall be construed to permit any use or category of uses on a parcel or portion of a parcel which would not otherwise be permitted in the zoning district applicable to such lot or portion of a lot, nor does this requirement change any standards applicable to the use pursuant to the underlying zoning.

#### **Section 12.105. Effect of certain street and public land dedications on computation of density.**

Land dedicated for future streets or thoroughfares may be used to compute the number of lots or dwelling units allowed on an entire site. This does not apply to any right-of-way for existing streets, but only to the dedication of additional or new right-of-way.

Land dedicated to the public for any community service facility including but not limited to public schools, parks, greenways, open space, police and fire stations, libraries, public housing, or other public use sites may be used to compute the number of lots or dwelling units allowed on the entire site. However, in the Mixed Use Districts and Cluster developments any land so dedicated may count towards the total site area in computation of the total number of lots or dwelling units, but it shall not be credited towards any additional lots, dwelling units or further reductions in lot sizes other than those already permitted by the regulations specifically applying to them. To compute the number of lots or dwelling units that could have been built in the qualifying right-of-way or dedicated area, the following method will be used:

Total dedicated land area (in acres) multiplied by the maximum permitted density for the zoning district.

The resulting number of units when added to what can be built on the remainder of the site can not total more than the permitted density of the entire site before dedication.

In order to receive credit, any such computations are a submission requirement for a single family subdivision and must accompany the preliminary plan, and are a mandatory submission requirement for a multi-family development and must accompany the planned multi-family or attached review submission or the rezoning petition, if one is required.



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#### **Section 12.106. Uses and structures prohibited and allowed in required setbacks and yards.**

- (1) No principal building or principal structure shall be located within any setback or yard required by these regulations except as provided in this Section and elsewhere in these regulations.
- (2) Except as otherwise provided in this subsection, no accessory structure shall be located within any setback or side yard required by these regulations, nor within (3) feet of a lot line in the established rear yard. No accessory structure shall be located within any established setback in any residential district, except as otherwise provided. This section notwithstanding, no elderly or disabled housing, guest houses, or employee quarters shall be located within 15 feet of a rear property line or along any side property line within the required side yard dimension. In the RE-1, RE-2 and BP districts, a security gate or guard station may be located within the required setback. Piers, docks, and other water-dependent accessory structures may be located in any required setback or yard on lots which abut a body of water. A fence, wall, mailbox, powerpole, light-pole, patio at grade, paths, walkways, or berm may be located in any required setback or yard. Signs may be located in a required setback or yard provided that they are in accordance with Chapter 13 of these regulations. Bus stop shelters may be located in any setback or yard, which abuts a street in accordance with Section 12.513.
- (3) Certain portions of the required rear yard on a lot used for a single family detached dwelling may be utilized for attached garages, porches, decks, fireplaces, greenhouses, covered patios and utility room extensions of the principal structure in accordance with the following restrictions and as illustrated in Figure 12.106:
  - (a) No more than 20% of the area of the required rear yard may be used to accommodate extensions of the principal structure for attached garages, porches, decks, fireplaces, greenhouses, covered patios or utility rooms.
  - (b) No such extension may encroach into the rear yard more than 25% of the depth of the required rear yard; and

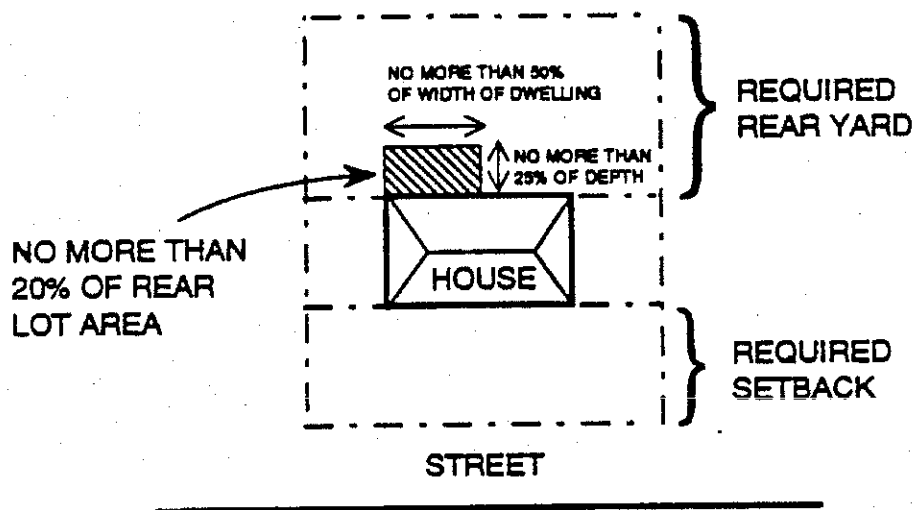
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- (c) No such extension may be more than 50% of the width of the dwelling at the rear building line.

These extensions must observe the same side yard or building separation as that required for the principal structure. If any portion of the required rear yard is used to accommodate an extension of the principal structure as allowed by this Section, no more than 15% of the remaining required rear yard may be occupied by any detached accessory structure.

**Figure 12.106**



- (4) No outdoor storage of goods and materials or refuse containers shall be located within any required setback, or within any required side yard which abuts a street, except for the temporary placement of refuse containers for curbside pick-up in residential districts.
- (5) Notwithstanding other provisions of this Section, architectural features such as cornices, eaves, steps, gutters, and fire escapes may project up to 3 feet into any required yard unless they would obstruct driveways, which may be used for service and emergency vehicles. In addition, in single family subdivisions which have been recorded after January 1, 1998, heating, ventilation, and air conditioning units may be located within side or rear yards so long as they do not project more than 3 feet into any required yard, the units are not more than 42 inches of height, and the units are not closer than fourteen feet to an existing structure located on property outside of the new subdivision.

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#### **Section 12.107. More than one principal building per lot.**

- (1) More than one principal building devoted to nonresidential uses may be located on a lot provided that:
  - (a) An unobstructed accessway at least 15 feet wide is maintained from a public street to each building for use by service and emergency vehicles; and
  - (b) Each building on the lot is separated by at least 4 feet from any other building on the lot, unless a lesser standard is established in these regulations.
- (2) No more than one principal building devoted to residential uses shall be located on a lot, except as part of a planned multi-family development and other planned projects, such as manufactured home parks, nursing homes, etc. approved in accordance with these regulations.

#### **Section 12.108. Height limitations.**

No structure shall exceed a height of 40 feet, except as provided in this Section or elsewhere in these regulations.

- (1) Except as provided for in this Section, a building in any district may be erected to a height in excess of 40 feet, provided the minimum side yard is increased 1 foot for every 2 feet of building height in excess of the 40 feet.
- (2) A building, which abuts a residential zoning district, may not be erected to a height in excess of 40 feet; unless the side and/or rear yard abutting the residential zoning district is increased 1 foot for every foot of building height in excess of 40 feet.
- (3) High rise buildings in multi-family districts cannot exceed a height of 60 feet, unless any side and/or rear yard abutting a single family residential zoning district upon which a building shadow will be cast is increased 1½ feet for every foot of building height in excess of 60 feet.
- (4) The height limitation established in subsection (1) above shall not apply to public utility poles and lines, skylights, and roof structures for elevators, stairways, tanks, heating, ventilation and air-conditioning equipment, or similar equipment for the operation and maintenance of a building, and any device used to screen such structures and equipment.

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- (5) The following structures are permitted above the height limit on lots in the research, institutional, office, business, and industrial zoning districts which do not abut lots in any residential district: towers, steeples, flagpoles, chimneys, water tanks or similar structures. If this type of structure is on a lot which abuts a residential zoning district, then the part of the structure above the height limit must be separated from any such abutting lot line by a distance equal to its height measured from the ground.
- (6) The structures listed in subsection 12.108(5) above are also permitted above the height limit in residential zoning districts. However, any part of such a structure, which extends above the height limit must be separated from any abutting property line by a distance equal to its height measured from the ground. Television, amateur radio operators, and similar antennas, which extend above the height limit, may be separated from any abutting property line by one foot for every two feet in height above the permitted height. Otherwise, the structure will be subject to the usual requirements for the particular zoning district.
- (7) Radio and television towers and similar structures, as a principal or accessory use, are permitted above the height limit in any zoning district. If such a structure is located on a lot in or abutting a residential district, it must be located at least 200 feet from all abutting property lines.
- (8) Wireless communications transmission facilities including, but not limited to towers, masts, antennae and related antenna support structures are permitted above (or below) the height limit in any district. All wireless communications transmission facilities located in a residential district (residential districts: R-3, R-4, R-5, R-6, R-8, MX-1, MX-2, MX-3, R-MH, R-8MF, R-12MF, R-17MF, R-22MF, R-43MF, UR-1, UR-2, UR-3, and all of their parallel conditional districts plus any parallel conditional residential districts approved prior to January 1, 1992) or within 400 feet of a residential zoning district shall conform to the concealment standards specified in Section 12.108.(8)(j). Wireless communications transmission facilities may be constructed up to a height of 40 feet in any zoning district, and need only comply with the underlying zoning district's separation standards concerning setback, side and rear yards. All wireless communications transmission facilities of up to 150 feet in height, whether permitted as a principal use on a site or as an ancillary or secondary use on a site, must be designed and equipped with the technological and structural capability to accommodate at least two wireless communications carriers. All such towers over 150 feet in height must be designed and equipped with the technological and structural capability to accommodate at least three wireless communication carriers. Lots and buildings thereon must conform to the

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minimum area, height and yard requirements for the district in which they are located unless otherwise indicated by subsection (a) below. If the facility is above 40 feet in height and is located on a lot in or adjacent to residential district, the facility must comply with subsection (7) above, unless otherwise indicated by subsections (d) and (e) below. The maximum required separation for wireless communication transmission facilities from any abutting property line in any zoning district shall be 200 feet. The facility plant and/or any related support building shall be allowed in accordance with the provision of Section 12.504. Replacement of existing wireless communication transmission facilities to increase the height of such facilities shall be allowed in accordance with the separate provisions of subdivision (d) below.

- (a) Wireless communications transmission facilities are permitted above (or below) the height limit in any zoning district as an ancillary or secondary use on a site where another use (other than single family or duplex use) is already established as the principal use of the property, such as a school, church, multi-family residential complex, shopping center, office building, commercial, golf courses, parks or other similar use. In this case, the wireless communications facility shall not be required, regardless of the underlying zoning, to separately comply with the normal district standards dealing with lot area, height and frontage on a public street and subdivision regulations so long as the principal use complies with such requirements for the underlying district nor shall the facility be required to comply with requirements of the Tree Ordinance. For lots in or adjacent to a residential district, wireless communications facilities may be constructed over 40 feet in height provided that the minimum setback, side and rear yards adjacent to the residentially zoned property are increased by one foot for each one foot of facility height in excess of 40 feet, up to a maximum required separation 200 feet. If a proposed wireless communications facility is located on residentially zoned property, separation from adjoining nonresidential zoned property shall be controlled by the adjoining nonresidential zoned property's minimum separation standards concerning setback, side and rear yards, as appropriate. However, if the proposed wireless communications transmission facility is located in a nonresidential district and adjoins only nonresidential districts, the facility may be constructed to any height subject to underlying minimum district requirements for separation from

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adjoining properties. A properly permitted wireless communications transmission facility, established as an ancillary or secondary use, may remain in its present location if the principal use of the site is abandoned, demolished or removed. However, if the wireless communications transmission tower is ever replaced, it must then comply with all applicable yards, setbacks, and separation standards as a principal use in the district. The changing of, additions to, or removal of antenna on the tower as well as the co-location of additional carriers on the tower shall be permitted and shall not require the tower to be brought into compliance with current separation requirements.

- (b) Wireless communications facilities are permitted above the height limit on lots in research, institutional, office, business, and industrial districts, which do not adjoin lots in a residential district. Lots must conform to the minimum area and yard requirements for the district in which they are located unless otherwise indicated by subsection (a) above.
- (c) Wireless communications transmission facilities are permitted atop any building or structure (other than single family or other residential structure of less than two stories in height) in any district so long as such facilities do not exceed 20 feet in height measured from the top of the highest point of the existing structure. Any such facility as well as the associated antennae located in a residential district or within 400 feet of a residential district must be indiscernible from the rest of the building or structure.
- (d) Replacement of Existing Wireless Communications Towers With Additional Height:

Wireless communications transmission facilities existing at the time of the adoption of this ordinance amendment may be replaced in any zoning district with replacement facilities containing taller towers or antennae and shall not be required to conform to the separation standards concerning setback, side and rear yard requirements applicable to a tower or antenna of such increased height as provided in section (a) provided that:

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1. The height of the replacement tower may not exceed the height of the original tower by more than 50 feet. (The addition of up to 50 feet in height under this section may occur only once).
2. The replacement tower must conform to the separation standards concerning setback, side and rear yard requirements applicable to the original tower at the time it was originally constructed.
3. The replacement tower must utilize monopole construction. Any tower up to 150 feet in height must be designed and equipped with the technological and structural capability to accommodate at least two wireless communications carriers. Any tower over 150 feet in height must be designed and equipped with the technological and structural capability to accommodate at least three wireless communications carriers.
4. The Wireless Communications facility owner must provide the Zoning Administrator with an affidavit signed by at least one other wireless communications carrier stating that it needs a wireless communications facility within 1000 feet of the subject site and agreeing to co-locate on the replacement tower.
5. The replacement tower must conform to the landscaping and buffering requirements in force at the time of the replacement tower permit application, and
6. Notification of adjacent property owners and neighborhood leaders is required as outlined in section 12.108(g). However, notification of adjoining properties, which are zoned for non-residential purposes, is not required.

(e) Replacement of Existing Wireless Communications Towers at the Same Height:

Any existing wireless communications transmission facility, including but not limited to towers, masts, antennae and related antenna support structures, may be removed and replaced with a new facility within 100 feet of the same location without being required to conform to the current zoning standards applicable to the underlying zoning district at

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the time of such replacement so long as such replacement is no closer to the setback, side or rear yards than the existing facility and provided that:

1. The height of the replacement facility does not exceed that of the original facility.
  2. The replacement facility must utilize monopole construction. Any tower up to 150 feet in height must be designed and equipped with the technological and structural capability to accommodate at least two wireless communications carriers. Any tower over 150 feet in height must be designed and equipped with the technological and structural capability to accommodate at least three wireless communications carriers.
  3. The replacement facility shall comply with the landscaping and buffering requirements applicable at the time of replacement.
  4. If the new facility is to be used for the co-location of two or more wireless communications carriers at the time of its construction, the wireless communications facility owner must provide the Zoning Administrator with an affidavit signed by at least one other wireless communications carrier stating that it needs a wireless communications facility within 1000 feet of the subject site and agreeing to co-locate on the new tower for the remainder of the term of the existing lease, if the property on which the tower is located is leased.
  5. The applicant has up to 90 calendar days to remove the original tower after the new facility is installed.
- (f) The wireless communications facility equipment building or buildings used in connection with facilities permitted under Section 8(a) (d) or (e) shall be limited to 500 sq. ft. per communications company using said facility and be limited to 15 feet in height; provided however, that the building height limitation may be waived by the Zoning Administrator up to a maximum height of 25 feet in order to accommodate architectural design, screening or similar special needs.



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(g) Public Notification Process for Certain Wireless Communications Transmission Facilities:

(1) *Purpose of Notification*

Wireless communications transmission facilities may have impacts on nearby properties. While the use can be permitted subject to certain standards, neighboring residential property owners should have the opportunity to learn about these uses to hear an explanation of the proposed facility, present relative information that may affect the design of the facility, and to furnish information on the permit application.

(2) *Applicability of Notification*

Any application for a permit for a wireless communication facility as outlined under Section 12.108(8) (8a) or (8d) for a site that is in or within 100 feet of a residential district is subject to the following notification process.

(3) *Notification Process*

The following notification process is required for certain wireless communication facilities or replacement of an existing tower with additional height except that notification of abutting properties which are zoned for non-residential purposes is not required and except as provided under section 12.108(8b), (8c), (8e) and (8i). The notification process is designed to facilitate the exchange of information between the permit applicant and affected nearby property owners.

- (a) The Zoning Administrator shall mail a notice to all property owners, as shown on the County tax listing, within 100 feet of the proposed facility site including those across a street. In addition, the Zoning Administrator shall mail a notice to neighborhood leaders, as determined by the list at the Planning Commission staff office, within one mile of the proposed facility site.

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- (b) Any permit applicant shall be responsible for supplying the Zoning Administrator with postage paid envelopes addressed to adjacent property owners and neighborhood leaders as noted above. Any error in an owner's or neighborhood leader's list or any other procedural error or omission shall not invalidate the issuance of an otherwise properly issued permit.
- (c) The Zoning Administrator shall not render a decision on the application until 30 calendar days has elapsed following the date of the mailing of the notification letters. The 30-day notification period may be used by any interested party to discuss the proposed wireless communication transmission facility with the permit applicant. The permit applicant shall in good faith consider any comments from such adjoining property owners concerning landscaping and screening and other design issues of the facility.
- (h) Wireless Communications Transmission Facilities Data Base:

Any permit applicant shall submit the following information to the Zoning Administrator as part of the application process for any new or replacement tower or for any modifications to an existing tower. For this purpose, the changing, adding to or taking from antenna on any existing tower shall not be considered a modification to an existing tower.

  - 1. Street addresses for all existing wireless communications towers owned, leased, or operated by the permit applicant in Mecklenburg County.
  - 2. Height of all existing wireless communications towers owned, leased, or operated by the permit applicant in Mecklenburg County.
  - 3. The ground elevation above sea level for all existing wireless communications towers owned, leased, or operated by the permit applicant in Mecklenburg County, and

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4. The longitude and latitude for all existing wireless communications towers owned, leased, or operated by the permit applicant in Mecklenburg County.
- (i) Wireless communications transmission facilities may be installed on other non-wireless transmission towers (such as public utility towers, television towers and radio towers) as long as such facilities do not exceed 25 feet in height above the utility transmission tower height. Such facilities do not trigger the notification provisions or the separation or yard requirements, and are not required to conform to the concealment measures of Section 12.108(8)(j).
- (j) All new wireless communication transmission facilities located in or within 400 feet of a residential zoning district are subject to the following additional standards:
  1. The tower must be designed, constructed or integrated into or as a structure in such a manner that it no longer appears to be a wireless communication tower, for example, locate in other towers on buildings, in steeples or be disguised as trees.
  2. The tower must have indiscernible antennae.
  3. Concealment measures used on any given facility (tower, antennae, and building structures at base) must blend into the character of the area or neighborhood by using architectural treatment similar in design to existing structures.
  4. The use of a flagpole as the concealment measure shall only be applicable on a site used for institutional or non-residential uses.

Any wireless communication transmission facility lawfully operating as a conforming use shall not be rendered a non-conforming use by the subsequent rezoning to a residential district within 400 feet of such facility. This subsection (j) shall not apply to Section 12.108 (8) (d) and (e).

- (k) All new or replacement wireless communications transmission facilities as well as modifications to existing facilities shall comply with all applicable regulations of the Federal Communications Commission.

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### **PART 1: SUPPLEMENTAL DEVELOPMENT STANDARDS**

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- (l) Any wireless communications transmission facility that is unused for a continuous period of twelve months shall be removed by the tower owner or the property owner.
- (m) Wireless Communications Facilities, Towers and Antenna, as used in the preceding sections and sub-sections shall not include television and radio broadcast towers, personal or company owned and used communications towers and facilities or common carrier micro wave towers. It is the intent of this ordinance that Wireless Communications Facilities, Towers and Antenna include those operations, which are commonly referred to as Cellular and PCS services.

#### **Section 12.109. Clear sight triangles at street intersections.**

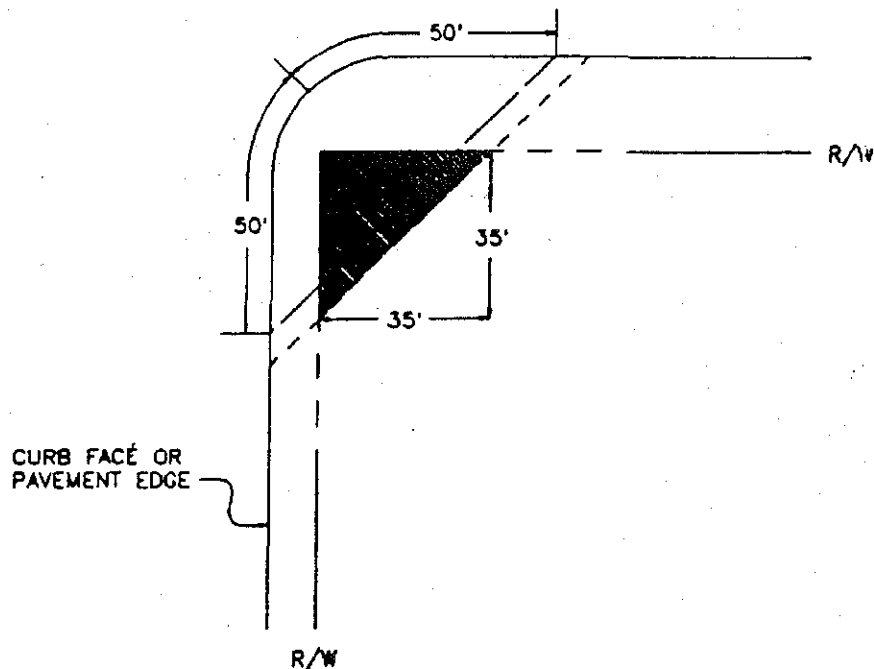
- (1) The minimum development standards set forth in this Section shall apply to land abutting street intersections delineated as follows:
  - (a) The triangle bounded on two sides by the curb (or pavement edge where there is no curb), measured in each direction along the curb or pavement edge for 50 feet from the midpoint of the radius of the curb or pavement edge, and on the third side by the diagonal line connecting the ends of the 50-foot sides as illustrated in Figure 12.109; and
  - (b) The triangle bounded on two sides by the intersecting right-of-way lines, measured 35 feet in each direction from their point of intersection, and on the third side by the diagonal line connecting the ends of the 35-foot sides, as illustrated in Figure 12.109; and

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Figure 12.109



- (c) On streets maintained by the State of North Carolina, additional sight distance requirements may apply.
- (2) Within the triangles identified in subsection (1) above, and except as provided in subsection (3) below, no structure, sign, plant, shrub, tree, berm, fence, wall, or other object of any kind shall be installed, constructed, set out or maintained so as to obstruct cross-visibility at a level between 30 and 72 inches above the level of the center of the street intersection.
- (3) The restrictions of this Section shall not apply to:
  - (a) Existing natural grades, which, by reason of natural topography, rise 30 or more inches above the level of the center of the adjacent intersection;
  - (b) Trees having limbs and foliage trimmed in such a manner that no limbs or foliage extend into the area between 30 and 72 inches above the level of the center of the abutting intersection; or

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### **PART 1: SUPPLEMENTAL DEVELOPMENT STANDARDS**

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- (c) Fire hydrants, public utility poles, street markers, governmental signs, and traffic control devices.
- (4) In other than 90-degree intersections or where grades mandate, the County Engineering staff may impose additional sight triangles under the standards adopted by the American Association of State Highway Transportation Officials.
- (5) The clear sight triangles at street intersection restrictions established in this Section shall not apply to structures located in the NS district.
- (6) The administration of this Section shall be under the Director of County Engineering who shall investigate violations, issue notices and orders and perform other duties required for enforcement under Chapter 8 of this ordinance.
- (7) The Director of County Engineering may waive all or part of these requirements of this Section where a waiver would not constitute a traffic hazard or a condition dangerous to public safety. A decision by the Director of County Engineering may be appealed to the Board of Commissioners.

#### **Section 12.110. Obstructions of public right-of-way.**

Except as otherwise permitted by these regulations, no structure shall be permitted which obstructs or otherwise interferes with public use of a street right-of-way or other public easement.

#### **Section 12.111. Development within minor stream floodplains.**

The Mecklenburg County Floodway Regulations govern development within the Regulatory Floodplain along those streams serving a drainage area of one square mile or more. However, streams or stream segments serving a drainage area of less than one square mile are also subject to periodic flooding which may result in loss of life, injuries and property damage, and health and safety hazards, all of which adversely affect the public health, safety and general welfare. These provisions are intended to minimize the threat of flood damage by assuring that all development will accommodate the passage of the floodwaters for the 100 year flood and will be located and/or flood proofed as to be reasonably protected from damage. Therefore, the following provisions apply to property within, abutting, or near those streams which serve a drainage area of 100 acres or more and which are not subject to the Mecklenburg County Floodway Regulations.

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### **PART 1: SUPPLEMENTAL DEVELOPMENT STANDARDS**

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- (1) The lowest usable and functional part of any residential structure that is located in whole or in part within the 100 year floodplain of a stream must be at an elevation at least 1 foot above the level of the 100 year flood.
- (2) The lowest usable and functional part of any nonresidential principal structure that is located in whole or in part within the 100 year floodplain of a stream must be at an elevation at least 1 foot above the 100 year flood or must be flood proofed at the time of construction by measures approved by the Superintendent of Building Inspection and in accordance with the U. S. Army Corps of Engineers Manual of Floodproofing Regulations or similarly acceptable standards.
- (3) The lowest usable and functional part of any accessory structure that is located in whole or in part within the 100 year floodplain of a stream must be an elevation at least 1 foot above the level of the 100 year flood or must be firmly anchored by measures approved by the Superintendent of Building Inspection to prevent flotation or movement. Heating and electrical equipment must be installed at an elevation at least 1 foot above the 100 year flood or must be flood proofed.
- (4) For purposes of this Section the phrase "...usable and functional part of any...structure..." includes living areas, basements, utility rooms, enclosed working and storage areas, and mechanical equipment such as furnaces, air conditioners, water pumps, electrical conduits and wiring. It does not include water lines or sanitary sewer traps and piping provided openings serving the structure are 1 foot above the 100 year flood elevation. Any openings (i.e. fixtures, etc) should be elevated.
- (5) The Mecklenburg County Engineer will advise the Zoning Administrator when a development under this Section is proposed, and will determine the floodplain and the height of the 100 year flood for the subject stream segment. Should a property owner not agree with the 100 year flood data provided by the County Engineer, an appeal may be filed with the Zoning Board of Adjustment.
- (6) Any fill material placed in the floodplain must be graded to drain on a minimum of 1% grade and be protected against erosion. Any fill on which a structure is to be located must be extended at grade 10 feet beyond the limits of the structure foundation and must have a side slope no steeper than a 2:1 horizontal to vertical slope.

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### **PART 1: SUPPLEMENTAL DEVELOPMENT STANDARDS**

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- (7) Where structures, fill material, or any artificial obstruction is placed in the floodplain, a plan prepared in accordance with the requirements of this Section must be submitted to the County Engineer for review and approval. In reviewing such a plan, the County Engineer will use standards contained in the current editions of the "Storm Drainage Design" and Charlotte-Mecklenburg Land Development Standards Manual and any other standards of the County Engineer currently in effect.

#### **Section 12.112. Existing Nonconforming Accessory Utility Structures.**

An existing nonconforming accessory utility structure such as a heating, ventilation, and air conditioning unit or backflow preventer may be replaced provided the replacement structure does not increase existing nonconforming yards or separation distances or exceed 42 inches in height if located in the required setback or the required yard along a public street.



## MECKLENBURG CODE

### **PART 2: OFF-STREET PARKING AND LOADING**

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#### **PART 2: OFF-STREET PARKING AND LOADING**

##### **Section 12.201. Purpose; parking plans.**

- (1) In order to relieve traffic congestion in the streets, to minimize any detrimental effects of off-street parking areas on adjacent properties, and to ensure the proper and uniform development of parking areas throughout Mecklenburg County, off-street parking and loading spaces for every use shall be provided in accordance with the standards established in this Part.
- (2) For any parking lot, garage, vehicle storage area operated on a commercial basis, reconfiguration of an existing parking lot or any other off-street parking area required under this Part (but excluding off-street parking for detached, duplex, triplex and quadraplex dwellings on a single lot), a plan shall be submitted to the Zoning Administrator to review for compliance with these regulations and any other applicable ordinances. Any such parking plan shall show the number of parking spaces, the percentage of required spaces to be designated for use only by compact cars, the arrangement of parking aisles, the location of driveway entrances, provisions for vehicular and pedestrian circulation, the location of sidewalks and curbs on or abutting to the property, the location of utilities, barriers, shelters, and signs, the location of landscaped areas and the types of vegetation to be located in them, typical cross sections of pavement, stormwater drainage facilities, and any other relevant information requested by the Zoning Administrator, as provided in these regulations. The Zoning Administrator shall forward all plans to the Mecklenburg County Engineering for review and comment.

##### **Section 12.202. Required number of off-street parking spaces.**

- (1) Except as otherwise provided in subsection (2) below and in Section 12.205, each use on a parcel shall be provided with at least the number of off-street parking spaces indicated for that use in Table 12.202. Parking requirements listed are for the principal use.
- (2) In the event that the number of parking spaces required under Table 12.202 cannot be placed on the parcel in accordance with these regulations without the demolition of an existing structure or damage of significant trees on the site or in the public right-of-way to accommodate a parking area, the Planning Director, in consultation with County Engineering, may authorize up to a 25 percent reduction in the total number of parking spaces required on the lot.

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### **PART 2: OFF-STREET PARKING AND LOADING**

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The Planning Director may issue such an authorization only upon the request of the applicant and only upon determining that the reduction in the number of required parking spaces will not unreasonably increase parking congestion along public streets or in parking areas located on nearby lots. After such authorization is granted, the Applicant shall not demolish or remove the existing structure or trees unless the full required amount of off-street parking is provided on the lot.

- (3) Use changes or additions may be made to existing buildings and uses that do not meet the minimum requirements for the number of off-street parking spaces if any such use changes or additions do not represent an additional parking requirement of more than 5 off-street parking spaces.
- (4) This Section shall not apply to the NS and UR districts established in these regulations.

# MECKLENBURG CODE

## PART 2: OFF-STREET PARKING AND LOADING

Table 12.202

### MINIMUM REQUIRED OFF-STREET PARKING SPACES, BY USE\*

PERMITTED USES	REQUIRED NUMBER OF SPACES
<b>RESIDENTIAL USES:</b>	
Bed & Breakfast (B & B's)	1 additional space per quest room
Boarding houses	1 additional space per boarding room
Dormitories	1 space per 2 residents
Dwellings, detached	2 spaces per unit
Dwellings, duplex	2 spaces per unit
Dwellings, triplex	1.5 spaces per unit
Dwellings, quadruplex	1.5 spaces per unit
Dwellings, attached	1.5 spaces per unit
Dwellings, multi-family	1.5 spaces per unit
Dwellings, multi-family elderly or disabled	.25 spaces per unit
Dwellings, accessory elderly or disabled	1 space per unit
Dwellings, low income	1 space per unit
Dwellings, mixed use	1 space per unit
Manufactured housing	2 spaces per unit
<b>INSTITUTIONAL USES:</b>	
Adult care centers	1 space per employee, plus 1 space per 6 adults
Child care centers	1 space per employee, plus 1 space per 10 children
Civic, social service or fraternal facilities	1 space per 250 square feet
Cultural facilities	1 space per 4 seats
Elementary, middle or junior high schools	1 space per classroom
Fire stations	1 space per 300 sq. ft., excluding apparatus room
Government buildings	1 space per 300 square feet
Group homes	2 spaces per unit
Health institutions	1.2 spaces per bed
High schools	1 space per classroom, plus 1 space per 5 students
Jails	1 space per 2 employees
Nursing homes, retirement homes, etc.	
Dependent living facility	1 space per 3 beds
Independent living facility	1.5 spaces per unit
Religious institutions	1 space per 4 seats
Stadiums, arenas or coliseums	1 space per 3 seats
Universities, colleges or junior colleges	1 space per 2 students
Other institutional uses	1 space per 250 square feet
<b>OFFICE AND BUSINESS USES:</b>	
Bus terminals and train stations	1 space per 4 seats in the terminal
Clinics	1 space per 200 square feet
Financial institutions	1 space per 200 square feet

\* - All square footage is gross square footage

# MECKLENBURG CODE

## PART 2: OFF-STREET PARKING AND LOADING

Table 12.202

### MINIMUM REQUIRED OFF-STREET PARKING SPACES, BY USE\*

PERMITTED USES	REQUIRED NUMBER OF SPACES
<b>OFFICE AND BUSINESS USES: (Continued)</b>	
Hotels/motels	
(a) Per room for rent	1 space per room or suite, plus
(b) Per meeting room capacity	1 space per 4 seats, plus
(c) Restaurant/entertainment facility	1 space per 250 square feet
Indoor recreation	
- Swimming pool	1 space per 75 square feet of water
- Tennis or racquet court	3 spaces per court
- Other indoor recreation	1 space per 200 square feet
Laboratories	1 space per 400 square feet
Marinas	1 space per boat slip
Medical offices	1 space per 200 square feet
Nightclubs, lounges and bars	1 space per 75 square feet
Offices	1 space per 300 square feet
Outdoor recreation	
- Driving range	1.2 spaces per tee
- Golf Course (9 and 18 holes)	90 spaces per 9 holes
- Par 3 golf course	40 spaces per 9 holes
- Riding academy	1 space per horse stall
- Swimming pool	1 space per 75 square feet of water
- Swimming pool (as part of planned dev.)	1 space per 100 square feet of water
- Tennis or racquet court	3 spaces per court
- Tennis or racquet court (as part of planned dev.)	2 spaces per court
Post offices	1 space per 400 square feet
Restaurants	1 space per 75 square feet
Retail establishments	
- Motion Picture Theatres	1 space per 3 seats
- Other retail establishments	1 space per 250 square feet
Shopping centers, greater than 50,000 square feet	1 space per 250 square feet
Wholesale establishments	.25 space per 1,000 square feet for the wholesaling portion plus 1 space per 400 square feet for any accessory office
Other business uses	1 space per 250 square feet
<b>INDUSTRIAL USES:</b>	
Airports	1 space per 4 seats in the terminal
Manufacturers and warehouses	.25 space per 1,000 square feet for the manufacturing of warehousing portion plus 1 space per 400 square feet for any accessory office
Other industrial uses	1 space per 400 square feet

\* - All square footage is gross square footage

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### **PART 2: OFF-STREET PARKING AND LOADING**

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#### **Section 12.203. Shared parking.**

- (1) Joint use of up to 50 percent of required parking spaces may be permitted for two or more uses located on the same parcel or adjacent parcels, provided that the developer can demonstrate that the uses will not substantially overlap in hours of operation or in demand for the shared spaces (See Section 12.206(1)).
- (2) Any sharing of required parking spaces by uses located on different parcels shall be guaranteed by a legally binding written agreement between the owner of the parking area and the owner of any use located on a different parcel and served by the parking area. The agreement shall be reviewed and approved in accordance with subsection (1) above and filed with the County Engineer.

#### **Section 12.204. Size of required parking spaces and aisles.**

- (1) Each required parking space shall meet the minimum dimensional requirements as set out in the Charlotte-Mecklenburg Land Development Standards Manual.
- (2) In parking lots with 20 or more spaces, no more than 25 percent of all required parking spaces shall be designed and designated for compact cars.
- (3) Each required parking space shall have direct and unrestricted access to an aisle of the minimum width as set out in the Charlotte-Mecklenburg Land Development Standards Manual.
- (4) Diagonal or perpendicular parking spaces shall be developed as set out in the Charlotte-Mecklenburg Land Development Standards Manual.
- (5) This section shall not apply to the UR districts.

#### **Section 12.205. Carpool spaces for certain employment uses.**

Where these regulations require at least 100 spaces to serve institutional, office and industrial uses on a parcel, a reduction in required parking is permitted provided a minimum of 15% of required parking spaces are dedicated for and restricted to use by carpools. The remaining number of parking spaces can be reduced by 2 for each carpool space provided. The owner may restrict the use of any or all carpool spaces to employees.

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### **PART 2: OFF-STREET PARKING AND LOADING**

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#### **Section 12.206. Location of required parking.**

- (1) Required off-street parking spaces for any use shall be located no more than 400 feet from the use they are intended to serve. This standard does not apply to parking spaces for auditoriums, stadiums, assembly halls, gymnasiums and other places of assembly, industrial, wholesaling and manufacturing establishments, and hospitals and any use in the Research Districts.
- (2) [RESERVED]
- (3) No off-street parking or driveways are permitted in the required setback or within any required side or rear yard which abuts a street in any district nor within five (5) feet of any exterior lot line. The space within the required setback, side, or rear yard abutting a street may not be used for maneuvering space for parking or unparking of vehicles, except that driveways providing access to the parking area may be installed across these setback and yard areas. It is the intent that these driveways be as nearly perpendicular to the street right-of-way as possible. The above restrictions shall not apply to residential units with individual driveways or driveways shared by no more than two residential units which provide direct vehicular access to the individual units and when located on a Class V, Class VI, or Class VI-L street, except that single family detached or duplex units may be located on a class III or class IV street.
- (4) This section shall not apply to the UR districts.

#### **Section 12.207. Parking barriers.**

Barriers, such as wheel blocks, curbs, walls, or fences, shall be located along the perimeter of parking lots, garages, and vehicle storage areas, except at entrances and exits indicated on approved parking plans. These barriers shall be designed and located to prevent parked vehicles from extending beyond property lines and from hanging over any sidewalk or other pedestrian path. All barriers shall be designed and located in accordance with the standards set out in the Charlotte-Mecklenburg Land Development Standards Manual.

#### **Section 12.208. Interior landscaping requirements.**

All off-street parking areas must be landscaped in accordance with the following requirements (Except in the RE-3 District):

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### PART 2: OFF-STREET PARKING AND LOADING

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- (1) Whenever the impervious cover on a site exceeds 10,000 square feet, an area equal to 10% of the total impervious surface must be provided for landscape purposes and tree planting. Internal tree planting is required at the rate of 1 tree per 10,000 square feet of impervious cover. Credit for existing trees may be given in determining necessary internal planting in accordance with these guidelines.
- (2) Trees must be planted within or adjacent to the parking areas, so that 75% or more of the parking spaces are 60 feet or less from a tree. Minimum unpaved landscaped area per tree shall be 200 square feet with such landscape area having a minimum dimension of 8 feet at the base of the tree. This minimum dimension does not apply to trees along the perimeter.
- (3) If a building permit is requested for an addition to a previously developed site, internal tree planting is still required for the entire site and the minimum planting area shall be 200 square feet per tree. However, only 5 percent of the total impervious cover must be used for landscape purposes. This applies only to additions equal to or greater than 1000 sq. ft. or 5% of the existing square footage, whichever is less.
- (4) Wheelstops, curbs or other barriers shall be provided only where trees might otherwise be damaged by vehicles.
- (5) The trees to be planted must be from the approved list of Appendix 1. Minimum tree caliper measured 6 inches above ground on all trees shall be 2 inches and the minimum height shall be 8 feet.
- (6) All trees planted along the perimeter of parking areas shall be large maturing trees.
- (7) A minimum of 50 percent of planted trees within parking areas shall also be large maturing trees. However, no trees identified as large maturing shall be planted within 20 feet of an electrical distribution line. This does not include low-voltage insulated or covered lines of 240 volts or less or telephone or cablevision lines.
- (8) Installation of required landscaping may be delayed per Section 12.306.
- (9) Modifications to these requirements may be made if unique site conditions exist on renovated or previously developed sites. A plan should be submitted

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### **PART 2: OFF-STREET PARKING AND LOADING**

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showing what is proposed instead of the standard requirements. The purpose and intent of this section must be demonstrated before a modification can be granted. The Zoning Administrator or designee may grant a modification.

#### **Section 12.209. Plant installation and maintenance standards.**

All new plant material installed as part of a landscaped area in accordance with Section 12.208 shall comply with all specifications for the measurement, quality, and installation of trees and shrubs set forth in the "American Standards for Nursery Stock" published by the American Association of Nurserymen.

#### **Section 12.210. Maintenance responsibility for landscaped areas.**

The plantings that constitute a landscaped area must be properly maintained in order for the landscaped area to fulfill the purposes for which it is established. The owner of the property shall be responsible for the maintenance of all plant material within the landscaped area. Such maintenance shall include all actions necessary to keep the landscaped areas free of litter and debris and to keep plantings healthy and orderly in appearance. Any required vegetation that constitutes part of a landscaped area shall be replaced in the event that it dies.

#### **Section 12.211. Parking lot screening requirements.**

Unless otherwise required by these regulations, all off-street parking for more than 10 automotive vehicles or loading area serving a residential or nonresidential use, except for any detached, duplex, triplex or quadraplex dwelling on a single lot, shall be screened in accordance with Section 12.303 from any street right-of-way or abutting lot located in any zoning district. This requirement does not apply to automotive sales lots.

#### **Section 12.212. Parking deck standards.**

This Section sets forth development standards to address parking decks as a principal or accessory use within any permitted zoning district except the UR districts. Development options which range from planting requirements to architectural treatments are proposed to lessen the impact of parking decks upon the street environment. All parking decks, unless otherwise provided, shall conform to one of the following development options:



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### PART 2: OFF-STREET PARKING AND LOADING

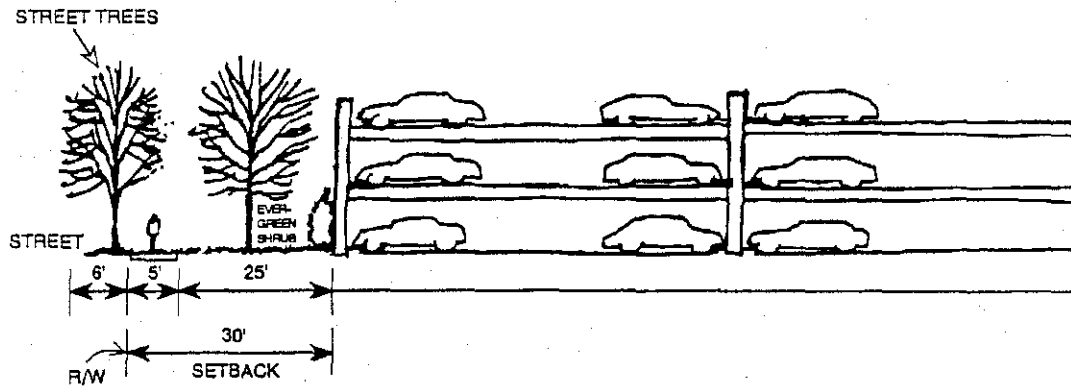
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- (1) Option A: Parking decks may be constructed to the following minimum standards indicated below and which are illustrated in Figure 12.212(a):
  - (a) Parking decks shall have a minimum setback of 30 feet from the public right-of-way and must meet any more restrictive setback or other yard requirements for the district;
  - (b) A minimum 9 foot clearance shall be maintained on the first level and any additional level that provides disabled parking spaces, and a minimum 7 foot clearance throughout the remainder of the parking deck to ensure the safe movement of vans and emergency vehicles;
  - (c) A minimum 25 foot planting strip shall be provided between the face of the parking deck and the sidewalk. The planting strip shall be planted as follows:
    - (i) Trees shall be planted at a rate of 1 tree per 30 linear feet of street frontage and shall have a minimum caliper of 2 inches measured 6 inches above ground at time of planting.
    - (ii) Evergreen shrubs meeting the requirements of Section 12.302(9)(c) shall be planted along the face of the parking deck with a maximum spacing of 5 feet on center.
  - (d) A minimum 5 foot wide sidewalk shall be provided with a minimum 6 foot wide planting strip between the sidewalk and the street.
- (2) Option B: Parking decks may be constructed to the following standards, provided that the parking deck is architecturally treated in a manner that avoids a monolithic appearance. This should be accomplished by treating the facade of the deck as a streetwall and articulating it through a variety of building materials and finishing that gives the deck a pedestrian scale. Development standards are as follows:
  - (a) Parking decks shall be setback 20 feet (15 feet from back of curb in Neighborhood Service district) and meet all yard requirements for the district;

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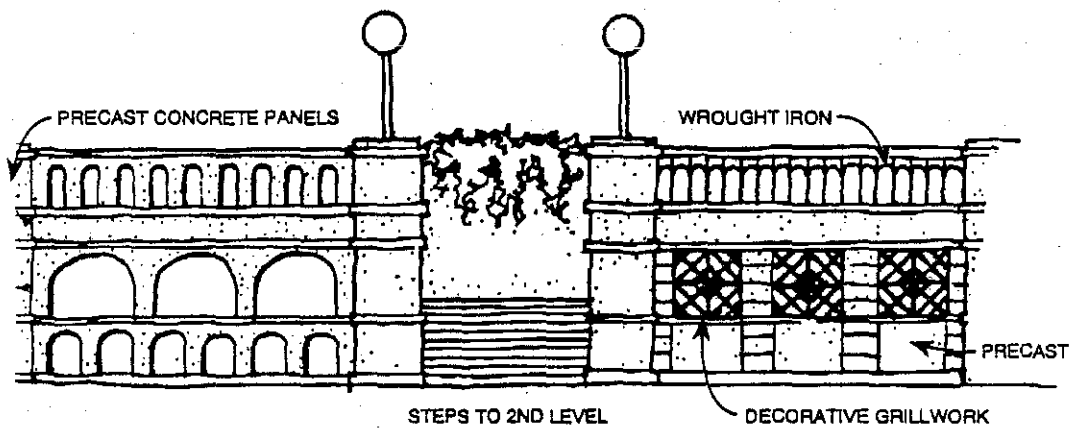
## PART 2: OFF-STREET PARKING AND LOADING

Figure 12. 212 (a)



### STREETWALL TREATMENT OPTIONS

Figure 12. 212 (b)



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### PART 2: OFF-STREET PARKING AND LOADING

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- (b) A minimum 9-foot clearance shall be maintained on the first level and any additional level that provides disabled parking spaces and a minimum 7-foot clearance throughout the remainder of the parking deck to ensure the safe movement of vehicles and emergency vehicles;
  - (c) The streetwall of the parking deck shall be treated in such a manner as to partially screen street level parking as well as to provide visual interest to the pedestrian. This can be accomplished through the use of articulated precast concrete panels, or ornamental grillwork as illustrated in Figure 12.212(b), or other means such as utilizing a variety of building materials such as brick or stone;
  - (d) If more than two floors of parking are provided above street level, the third floor above street level and higher floors must be recessed at least 20 feet from the setback of the first and second floors as illustrated in Figure 12.212(c);
  - (e) A minimum 12 foot wide planting strip shall be provided between the sidewalk and the face of the deck. The planting strip shall be planted with large maturing trees at a rate of one tree per 30 linear feet of street frontage or small maturing trees at the rate of 1 tree per 20 linear feet of street frontage;
  - (f) A minimum 5 foot sidewalk shall be provided with a minimum 6 foot wide planting strip between the sidewalk and the street; and
  - (g) In the Neighborhood Services district, the 15 foot setback from the back of the curb shall consist of a minimum 6 foot wide planting strip and minimum 9 foot wide sidewalk behind the planting strip as illustrated in Figure 12.212(e). The planting strip shall be planted with large maturing trees at a rate of 1 tree per 30 feet of street frontage. If overhead utilities exist which cannot be relocated or placed underground, then small maturing trees shall be used at a rate of 1 tree per 20 linear feet of street frontage.
- (3) Option C: Parking decks may be constructed to the following standards, provided that at least 50 percent of the street frontage of the first floor is used for retail or office use, as illustrated in Figures 12.212(d) and 12.212(e):
- (a) Parking deck shall be setback 20 feet (15 feet in the Neighborhood Service district);

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## PART 2: OFF-STREET PARKING AND LOADING

Figure 12. 212 (c)

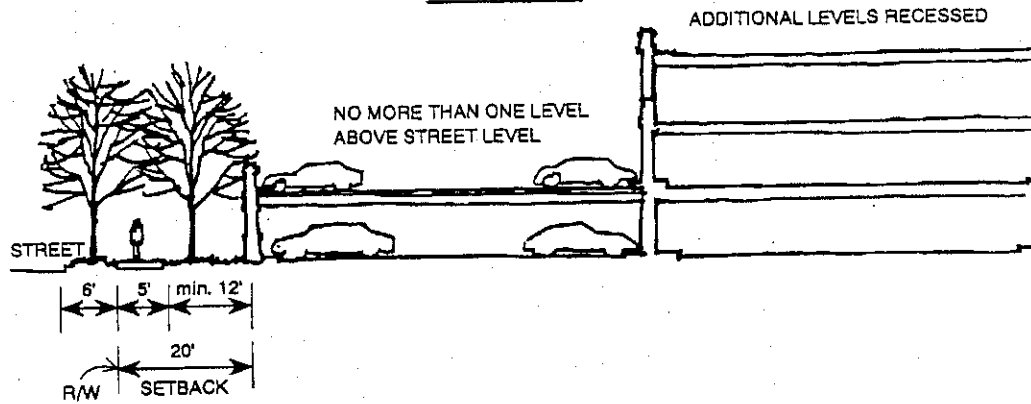
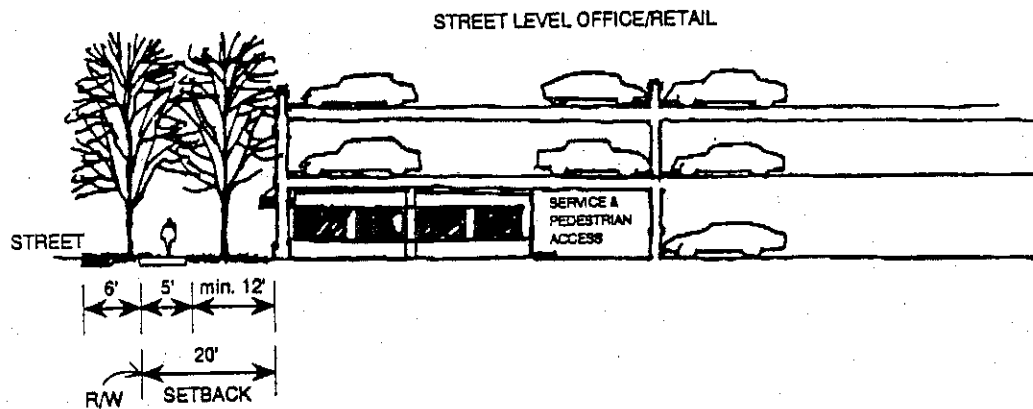


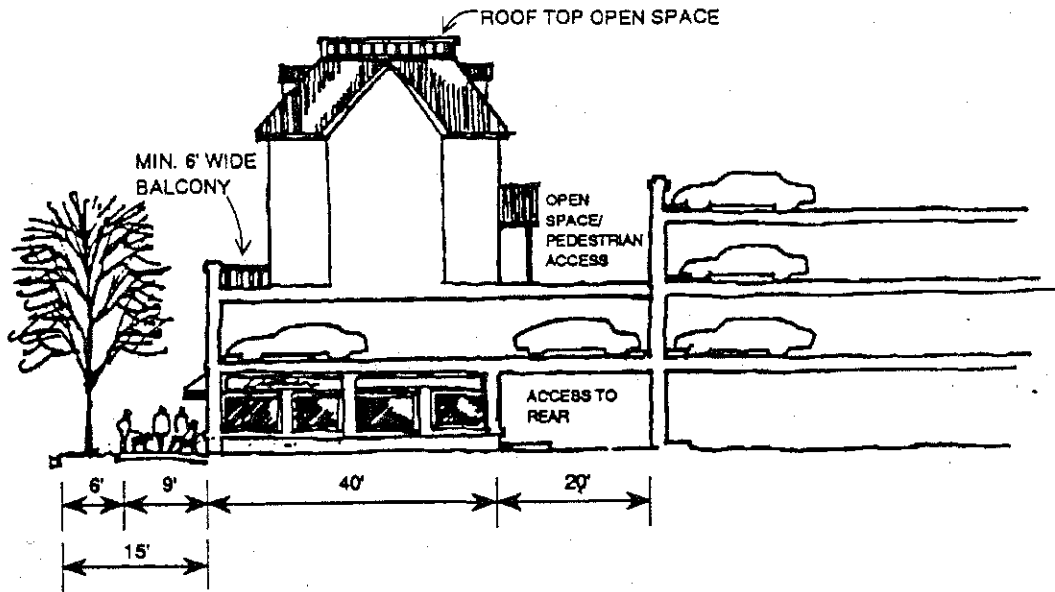
Figure 12. 212 (d)



## MECKLENBURG CODE

### PART 2: OFF-STREET PARKING AND LOADING

Figure 12.212(e)



- (b) A minimum 9 foot clearance shall be maintained on the first level and any additional level that provides disabled parking spaces, and a minimum 7 foot clearance throughout the remainder of the parking deck to ensure the safe movement of vehicles and emergency vehicles;
- (c) No more than two floors of parking are allowed above the street level use at the setback and subsequent floors shall be recessed a minimum of 20 feet;
- (d) A minimum 12 foot wide planting strip shall be provided between the sidewalk and the face of the deck. The planting strip shall be planted with large maturing trees at a rate of one tree per 30 linear feet of street frontage or small maturing trees at a rate of 1 tree per 20 linear feet of street frontage; and

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### **PART 2: OFF-STREET PARKING AND LOADING**

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- (e) In Neighborhood Services district, the 15-foot setback from the back of the curb shall consist of a minimum 6 foot wide planting strip and minimum of 8 foot wide sidewalk. The planting strip shall be planted with large maturing trees at a rate of one tree per 30 linear feet of street frontage. If overhead utilities exist and cannot be relocated or placed underground, then small maturing trees shall be used at a rate of 1 tree per 20 linear feet of street frontage.

#### **Section 12.213. Underground parking structures.**

Underground parking structures are permitted within any required setback, side yard, and rear yard on any lot in any research, institutional, office, business or industrial zoning district, provided no portion of the underground structure extends above grade more than 5 feet at any point nor more than 4 feet for 75 percent of its length along any lot line. A balustrade, parapet or railing may extend above the permitted structure height, provided it is not greater than 32 inches in height, is set back from the property line at least 3 feet and has openings equal to at least 30 percent of its surface along each side. Along any lot line abutting a street, "grade" means the elevation at the center line of the street. Along any lot line not abutting a street, "grade" means ground elevation at the property line. Such structures must conform to any corner site distance requirements, which may be in effect at the time the underground structure is built. An underground parking structure may encroach upon any area set aside for the buffer, screening or other planting requirements so long as there is at least 4 feet of soil between the above ground surface and the top of the underground parking structure. The requirements of this section do not apply to the UR districts.

#### **Section 12.214. Number, size, and location of loading spaces.**

- (1) Loading spaces of the size and number indicated shall be provided in accordance with Table 12.214.
- (2) Any loading space and any area required for maneuvering a vehicle into and out of the loading space shall be located entirely on the same lot as the use it serves, and not on any public right-of-way or other lot.

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## PART 2: OFF-STREET PARKING AND LOADING

Table 12.214

### REQUIRED LOADING SPACES, BY USE.

LAND USE	GROSS FLOOR AREA (Square Feet)	LOADING AND UNLOADING SPACES REQUIRED	
		10 feet X 25 feet	10 feet X 50 feet
Office, Restaurant, or Hotel or Motel:	10,000 – 99,999	1	0
	100,000 – 149,999	0	1
	150,000 and over	0	2
Retail establishment, Shopping center, or any Industrial use:	0 – 4,999	1	0
	5,000 – 19,999	0	1
	20,000 – 49,999	0	2
	50,000 – 79,999	0	3
	80,000 – 99,999	0	4
	100,000 – 149,999	0	5
	150,000 and over	0	6

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### **PART 2: OFF-STREET PARKING AND LOADING**

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#### **Section 12.215. Restriction on use of off-street parking and loading spaces.**

The storage of merchandise or materials, or the repair of motor vehicles or any kind of equipment except for the temporary storage of construction material and equipment while work is taking place on the structure where the off-street parking is located, is prohibited in all off-street parking and loading spaces, including required and unrequired spaces.

#### **Section 12.216. Configuration of off-street parking and loading ingress and egress.**

- (1) Access to and from off-street parking and loading spaces shall be provided by means of clearly limited and defined entrance and exit drives from public rights-of-way or private streets to clearly limited and defined maneuvering lanes which, in turn, provide access to individual off-street parking or loading spaces. Off-street parking and loading spaces must be designed so as not to interfere with the normal movement of vehicles and pedestrians on the public right-of-way.
- (2) Layout configurations which require backing directly onto a street from a parking or loading space are prohibited, except for any residential use as provided for in Section 12.206(3).

#### **Section 12.217. Driveways and street access.**

No commercial driveway or street connection to a public street shall be constructed, relocated or altered unless a driveway permit is obtained from the Mecklenburg County Engineering Department and the North Carolina Department of Transportation (State System Street).

#### **Section 12.218. Commercial vehicle parking in residential areas.**

Vehicles used primarily for commercial purposes and with more than two axles are prohibited from parking in residential districts. This shall not be construed as to prevent the temporary parking of delivery trucks, moving vans and similar vehicles, which deliver goods and services.



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### PART 3: BUFFERS AND SCREENING

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#### PART 3: BUFFERS AND SCREENING

##### Section 12.301. Purpose.

It is recognized that certain land uses, because of their character and intensity, may create an adverse impact when developed adjacent to other less intensive land uses. The general purposes of this Section are to establish regulations protecting and preserving the appearance, character and value of property within the County and to recognize that the transition between certain uses requires attention to protect a less intensive land uses in an abutting zoning district. The objectives are to identify those land use relationships between zoning districts that may be incompatible and to specify an appropriate buffer or screen, the function of which is to minimize any adverse impacts. Generally, the requirement for the buffer or screening is the responsibility of the more intensive land use. These provisions will not apply to developments in the UR, RE-1, RE-2, RE-3, and NS districts or to certain development on school sites as provided for in Section 9.203(7)(e) and 9.303(10)(e).

##### Section 12.302. Buffer requirements.

- (1) Buffers shall be required in accordance with Table 12.302(a) when any use is being developed abutting an existing developed lot or vacant lot in a more restrictive zoning district.
- (2) Buffer requirements may be reduced or waived in their entirety in accordance with the provisions of Section 12.304.
- (3) Buffer requirements include a minimum distance separation from the property line and required planting of trees and shrubs within the buffer. The minimum buffer requirements, which are based on the size of the lot are in accordance with Table 12.302(b):
- (4) One hundred (100%) percent of the applicable buffer requirements shall be the responsibility of the developing land use, except when a residential or institutional use is developed abutting an existing more intensive use in a less restrictive zoning district developed prior to the approval of this ordinance and for which no buffer is in place. In this case, the residential or institutional use shall be responsible for providing a minimum of 50 percent of the required buffer of the developing tract.
- (5) If an abutting parcel contains a required buffer or screen, it shall count towards the buffer requirements of the developing property, subject to the regulations in Section 12.304.

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### PART 3: BUFFERS AND SCREENING

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- (6) If the land use relationships between two abutting lots change so that a lesser buffer would be required under these regulations, the width of the buffer may be reduced accordingly.
- (7) If the required buffer abuts a public alley, up to ½ of the alley width can be used to satisfy the buffer width requirement in these regulations.
- (8) The width of any required buffer may be reduced by 25% if a wall, fence, or berm is provided that meets the following standards:
  - (a) Any fence or wall shall be constructed in a durable fashion of brick, stone, other masonry materials, wood posts and planks, or metal or other materials specifically designed as fencing materials, or any combination thereof as may be approved by the Zoning Administrator. Other materials may also be considered through the alternate buffer and screening process as detailed in Section 12.304. No more than 25 percent of the fence surface shall be left open and the finished side of the fence shall face the abutting property. A chain link fence with plastic, metal or wooden slats may not be used to satisfy the requirements of this section when abutting residential districts;
  - (b) Walls and fences shall be a minimum height of 6 feet;
  - (c) Berms shall be a minimum height of 4 feet with a maximum slope of 3:1. Berms in excess of 6 feet height shall have a maximum slope of 4:1 as measured from the exterior property line;
  - (d) Berms shall be stabilized to prevent erosion and landscaped; and
  - (e) Shrubs are not required if a fence or wall is built. If a berm is constructed, shrubs are required but the number may be reduced by 25%. However, the number of trees is not modified by the reduction of buffer width.
  - (f) Walls and fences must be located within the inner half of the buffer. However, the location of the fence or wall may be varied on sites that feature unusual topography as per Section 12.304.
- (9) Required trees and shrubs within the buffer shall meet the following standards:
  - (a) Forty percent of the required trees within the buffer shall be large maturing trees;

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## PART 3: BUFFERS AND SCREENING

Table 12.302(a).

### MINIMUM BUFFER REQUIREMENTS, BY DISTRICT CATEGORIES

	EXISTING ABUTTING ZONING DISTRICTS				
	SINGLE FAMILY ZONING	MULTI-FAMILY ZONING	INSTITUTIONAL ZONING	OFFICE ZONING	BUSINESS ZONING
<b>DEVELOPING USES</b>					
<b>1. MULTIFAMILY</b>  Attached and multifamily in one building with more than 12 units; Planned multifamily and attached developments and Manufactured housing parks.	C				
<b>2. INSTITUTIONAL</b>  <b>Low Intensity:</b> Civic, service and fraternal organizations; cultural facilities; Child care center; Dormitories; Elementary schools*; Group homes with more than 6 residents; and Nursing homes, rest homes and homes for the aged.	C	C			
<b>Medium Intensity:</b> Government buildings, less than 12,500 sq. ft.; Health institutions, less than 50,000 sq. ft.; Junior high and Middle schools*; Religious institutions, up to 750 seats; Stadiums and arenas, less than 5,000 seats and other institutional uses less than 50,000 sq. ft.	C	C	C		
<b>High Intensity:</b> Government buildings, 12,500 sq. ft. or more; Health institutions, 50,000 sq. ft. or more; High schools*; Religious institutions, 750 seats or more; and Stadiums and arenas, 5,000 seats or more; Universities, colleges and junior colleges; and other institutional uses more than 50,000 sq. ft.	B	B	C		

#### DISTRICT CATEGORIES

1. Single Family Zoning - R-2, R-3, R-4, R-5, R-6, and R-8
2. Multi-family Zoning - R-8MF, R-12MF, R-17MF, R-22MF, R-43MF, MX-1, MX-2, and R-MH
3. Institutional Zoning - INST.
4. Office Zoning - O-1, O-2, O-3 and MX-3
5. Business Zoning - B-1, B-2, B-D, BP, CC and NS

Sq. Ft. - Square Feet

\*Except that buffers shall not be required to separate adjacent public elementary schools, junior high or middle schools; senior high schools; or public parks and greenways.

# MECKLENBURG CODE

## PART 3: BUFFERS AND SCREENING

Table 12.302(a).

### MINIMUM BUFFER REQUIREMENTS, BY DISTRICT CATEGORIES

	EXISTING ABUTTING ZONING DISTRICTS				
	SINGLE FAMILY ZONING	MULTI-FAMILY ZONING	INSTITUTIONAL ZONING	OFFICE ZONING	BUSINESS ZONING
<b>DEVELOPING USES</b>					
<b>3. RESEARCH (See Sect. 9.505(6))</b>					
<b>4. OFFICE</b>					
Clinics, up to 50,000 sq. ft.	C	C	C		
Clinics, more than 50,000 sq. ft.	B	B	B		
Offices, up to 50,000 sq. ft.	C	C	C		
Offices, more than 50,000 sq. ft.	B	B	B		
Other office uses, up to 50,000 sq. ft.	C	C	C		
Other office uses, more than 50,000 sq. ft.	B	B	B		
<b>5. BUSINESS</b>					
Amusement, commercial, outdoor	C	C	C		
Retail, Shopping Centers and Restaurants, up to 50,000 sq. ft.	B	B	C		
Retail, Shopping Centers and Restaurants, more than 50,000 sq. ft.	B	B	C		
Wholesale trade	B	B	B		
Other business uses	B	B	B		
<b>6. INDUSTRIAL</b>					
Airport	A	A	A	A	A
Heavy manufacturing	A	A	A	B	B
Light manufacturing	A	A	A	C	C
Warehousing	A	A	A	C	C
Other industrial uses	A	A	A	B	B

#### DISTRICT CATEGORIES

1. Single Family Zoning - R-2, R-3, R-4, R-5, R-6, and R-8
2. Multi-family Zoning - R-8MF, R-12MF, R-17MF, R-22MF, R-43MF, MX-1, MX-2, and R-MH
3. Institutional Zoning - INST.
4. Office Zoning - O-1, O-2, O-3 and MX-3.
5. Business Zoning - B-1, B-2, B-D, BP, CC and NS

Sq. Ft. - Square Feet

Table 12.302(b).

**BUFFER REQUIREMENTS**  
(Minimum Widths and Required Plantings)

ACRES		less than 0.5	0.5	1.0	1.5	2.0	2.5	3.0	3.5	4.0	4.5	5.0	5.5	6.0	6.5	7.0	7.5	8.0	8.5	9.0	9.5	10 or more
A CLASS	WIDTH (ft.)*	40	43	46	49	52	55	58	61	64	67	70	73	76	79	82	85	88	91	94	97	100
	TREES (per 100 ft.)	9	---	---	---	---	---	> 10	---	---	---	---	---	---	---	> 11	---	---	---	---	---	> 12
	SHRUBS (per 100 ft.)**	60	<---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	> 60
B CLASS	WIDTH (ft.)*	22	25	27	30	33	36	38	41	43	46	49	51	54	57	59	62	65	67	70	72	75
	TREES (per 100 ft.)	6	---	---	---	> 7	---	---	---	> 8	---	---	---	> 9	---	---	---	> 10	---	---	---	> 12
	SHRUBS (per 100 ft.)**	40	<---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	> 40
C CLASS	WIDTH (ft.)*	10	12	14	16	18	20	22	24	26	28	30	32	34	36	38	40	42	44	46	48	50
	TREES (per 100 ft.)	3	---	---	> 4	---	---	> 5	---	---	> 6	---	---	> 7	---	---	---	> 8	---	---	---	> 9
	SHRUBS (per 100 ft.)**	20	<---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	> 20
ACRES		less than 0.5	0.5	1.0	1.5	2.0	2.5	3.0	3.5	4.0	4.5	5.0	5.5	6.0	6.5	7.0	7.5	8.0	8.5	9.0	9.5	10 or more

\* - The minimum width of a buffer may be reduced an additional 25% if a fence or wall is constructed in accordance with these regulations.

\*\* - Shrubs are not required if a fence or wall is constructed in accordance with these regulations.

ft. - Feet

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### **PART 3: BUFFERS AND SCREENING**

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- (b) All trees shall have a minimum caliper of 2 inches measured 6 inches above ground at the time of planting;
- (c) Shrubs shall be evergreen and at least 2½ feet tall when planted with an average height of 5 to 6 feet to be expected as normal growth within four years. However, 25% of the shrubs may vary from the above standard. The allowed variations are as follows:
  - (i) Shrubs may be deciduous; or
  - (ii) Shrubs may be 2 feet tall when planted, provided an average height of 3 to 4 feet is expected as normal growth within four years.

Shrubs planted on a berm may be of a lesser height, provided the combined height of the berms and plantings is at least 6 feet after 4 years;

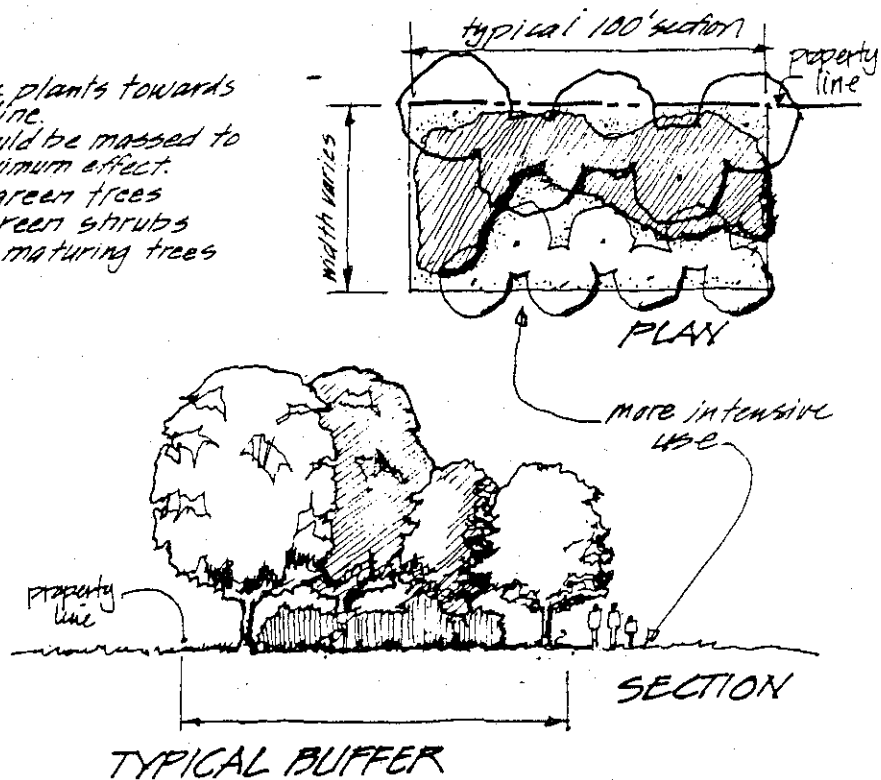
- (d) Shrubs and trees shall be on the approved plant list in Appendix 1;
  - (e) All specifications for the measurement, quality, and installation of trees and shrubs shall be in accordance with the "American Standards for Nursery Stock" published by the American Association of Nurserymen, and free of disease; and
  - (f) Twenty-five percent of all trees within the buffer shall be evergreen.
- (10) Guidelines for landscaping buffers are as follows:
- (a) The arrangement of trees and shrubs in the buffer area shall be done in a manner that provides a visual separation between abutting land uses. Shrubs shall be massed in rows or groups to achieve the maximum screening effect; and
  - (b) Guidelines for the arrangement of plant materials are illustrated in Figures 12.302.
- (11) In the event that it can be demonstrated that existing vegetation meets the intent of this Section, but the plant materials are not on the approved list, the Zoning Administrator may waive the requirements for plant materials. If a plant material is not on the approved list, the Zoning Administrator may determine whether it is acceptable.

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## PART 3: BUFFERS AND SCREENING

Figure 12.302

- concentrate plants towards property line.
- plants should be massed to achieve maximum effect.
- 25% evergreen trees
- 75% evergreen shrubs
- 40% large maturing trees



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### PART 3: BUFFERS AND SCREENING

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- (12) Required buffers shall not be disturbed for any reason except for required driveways, sidewalks, or other pedestrian or bicycle paths, walls, fences, or required landscaping, landscaping maintenance and replacement, or maintenance and construction of berms or utility lines. However, utility lines construction must meet the following requirements:
  - (a) The removal of any tree larger than 8 inches caliper shall require the approval of the Zoning Administrator;
  - (b) If utility lines run longitudinally within a buffer yard, the width of the buffer yard shall be increased by the same amount that is cleared for placement of the utility lines; and
  - (c) To the extent possible, the path cleared for the utility lines shall be replaced with plant materials which are consistent with those that existed prior in the buffer yard.
- (13) Any required buffer abutting a park or greenway shall be waived in its entirety, if the property owner dedicates the land set aside for the required full buffer width to the County for incorporation into the park or greenway. However, such land dedication must be acceptable to the Parks and Recreation Department.

#### **Section 12.303. Screening requirements.**

The provisions of this Section must be met at the time that land is developed or land and structures are redeveloped. A buffer required in Section 12.302 may be used to meet the requirements of this Section. The requirements of this Section do not apply to lots or portions of lots, which are vacant or undeveloped.

- (1) The following uses must be screened from abutting property and from public view from a public street:
  - (a) Parking lots for more than 10 automotive vehicles and parking decks, excluding new and used automotive sales lots and parking areas for detached, duplex, triplex or quadraplex dwellings on a single lot;
  - (b) Dumpsters or trash handling areas;
  - (c) Service entrances or utility structures associated with a building, except in the area where such use abuts other service entrances or utility structures; and



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### PART 3: BUFFERS AND SCREENING

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- (d) Loading docks or spaces, except in the area where such use abuts other loading docks and spaces.
  - (e) Outdoor storage of materials, stock and equipment; and
  - (f) Any other uses for which screening is required under these regulations.
- (2) Any screening or buffer areas used to comply with the provisions of this Section or other ordinance provisions for uses other than parking decks must consist of a planted area which is at least 5 feet wide. This area may contain any type screening materials sufficient to separate visually the land uses, provided such materials meet the requirements of this Section. If only a wall or fence is used, then the area devoted to the screen need only be wide enough to accommodate the wall or fence and allow for its maintenance. The composition of the screening material and its placement on the lot will be left up to the discretion of the property owner, so long as the purpose and requirements of this Section are satisfied. The following list contains specific standards to be used in installing screening:
- (a) Any fence or wall used for screening shall be constructed in a durable fashion of brick, stone, other masonry materials wood posts and planks or metal or other materials specifically designed as fencing materials or any combination thereof as may be approved by the Zoning Administrator. Other materials may also be considered through the alternate buffer and screening process as detailed in Section 12.304. No more than 25 percent of the fence surface shall be left open and the finished side of the fence shall face the abutting property. A chain link fence with plastic, metal or wooden slats may not be used to satisfy the requirements of this section when abutting residential districts, and public streets;
  - (b) The maximum height for a wall or fence which is located along a side yard in a residential district is 6 feet;
  - (c) The maximum height for a wall, fence, or an earth berm, which is located in any required setback in a residential district, is 5 feet, unless it is part of a zero-lot line subdivision, then it may be 6 feet;
  - (d) The minimum height for screening will be whatever is sufficient to separate visually the uses, but not less than 4 feet;

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### **PART 3: BUFFERS AND SCREENING**

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- (e) The height of any screening materials on a corner lot must also comply with the provisions of Section 12.109;
- (f) Any earth berm used to meet the requirements of this Section must be a minimum of 4 feet with a maximum slope of 3:1. Berms in excess of 6 feet in height shall have a maximum slope of 4:1 as measured from the exterior property line; and
- (g) Shrubs used in any screening or landscaping must be evergreen, at least 2 to 2½ feet tall with a minimum spread of 2 feet when planted and no further apart than 5 feet. They must be of a variety and adequately maintained so that an average height of 5 to 6 feet could be expected as normal growth within 4 years of planting. The average expected height may be reduced to 4 feet for screening along public streets. Shrubs and trees shall be on the approved plant list in Appendix 1.

#### **Section 12.304. Alternative buffer and screening requirements**

In the event that the unusual topography or elevation of a development site, the size of the parcel to be developed, the soil or other sub-surface condition on the site, or the presence of required buffer or screening on adjacent developed property would make strict adherence to the requirements of this Part serve no meaningful purpose or would make it physically impossible to install and maintain the required buffer or screen, the Zoning Administrator may alter the requirements of this Part as long as the existing features of the development site comply with the spirit and intent of this Part. Such an alteration may occur only at the request of the property owner, who shall submit a plan to the Zoning Administrator showing existing site features that would buffer or screen the proposed use and any additional buffer materials the property owner will plant or construct to buffer or screen the proposed use. The Zoning Administrator shall not alter the requirements of this Part unless the developer demonstrates that existing site features and any additional buffer materials will screen the proposed use as effectively as the required buffer or screening. In deciding whether to approve such a plan, the Zoning Administrator shall consult with the Planning Director.

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### **PART 3: BUFFERS AND SCREENING**

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#### **Section 12.305. Maintenance responsibility for buffers and screening.**

In order for any buffers or screening to fulfill the purpose for which it was established it must be properly maintained. The owner of the property where buffers or screening is required will be responsible for the maintenance of all buffers and screening materials. Any required plant materials such as shrubs and trees, which may die, must be replaced in compliance with the minimum standards of this Section and fences or walls should be repaired. The Zoning Administrator may reduce or waive the requirement that plant materials be replaced if the buffer or screening which remains effectively buffers or screens the site. All buffers, screening and landscaping areas must be protected from damage by motor vehicles or pedestrians, which could reduce the effectiveness of the screening.

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### **PART 4: ACCESSORY USES AND STRUCTURES**

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#### **PART 4: ACCESSORY USES AND STRUCTURES**

##### **Section 12.401. General requirements.**

No land or structure shall be used, developed, or occupied unless all accessory uses and structures conform to all applicable requirements of these regulations. The remaining sections of this Part establish additional requirements and restrictions for particular accessory uses and structures. Any accessory use or structure may be approved in conjunction with approval of the principal use. No accessory use or structure shall be approved, established, or constructed before the principal use is approved in accordance with these regulations.

##### **Section 12.402. Outdoor lighting.**

The following restrictions shall apply to any outdoor lighting located in any district:

- (1) All outdoor lighting for any nonresidential use shall be located, screened, or shielded so that abutting lots located in any residential zoning district are not directly illuminated.
- (2) All outdoor lighting shall be located, screened or shielded in a manner as not to cause glare or impair the vision of motorists.

##### **Section 12.403. Dumpsters, trash handling areas, and service entrances.**

The following requirements shall apply to all dumpsters, trash handling areas and service entrances accessory to any multi-family or nonresidential use:

- (1) Except as provided in subsection (2) below, any such accessory use or structure shall be screened on three sides by a fence, wall or planting materials from the public view from public streets and any abutting properties located in a residential, research, office, or business zoning district in accordance with Section 12.303.
- (2) Screening in accordance with Section 12.303 shall not be required where any buffer, as set out in Section 12.302, separates such accessory uses and structures from the public street or abutting property.

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### **PART 4: ACCESSORY USES AND STRUCTURES**

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#### **Section 12.404. Wastewater treatment facilities.**

A wastewater treatment facility shall be permitted as an accessory use in any district in accordance with the following requirements:

- (1) The facility shall be constructed and operated to comply with all applicable local, state, and federal regulations.
- (2) No aboveground structure for the treatment or disposal of wastewater and no surface disposal of wastewater shall be located within 300 feet of any residential structure, either existing or under construction, in any district.

#### **Section 12.405. Land clearing and inert debris landfills (LCID): on-site.**

On-site LCID landfills shall be permitted as an accessory use in any zoning district in accordance with the following requirements:

- (1) Any on-site LCID landfill must obtain approval and comply with the size, siting, operational standards and notice by recordation requirements of the State of North Carolina.
- (2) Any such site may not be operated for more than 12 months, after which time it must be closed in an approved fashion; provided, however, operation of such site may be extended an additional 6 months if it remains in active use at the end of the 12 month period and such site is at least 300 feet from an occupied dwelling.
- (3) The location of any such site must be indicated on any required final subdivision plat. Further, any parcel or lot, which contains any part of any such site, must have notification of the existence and extent of the site recorded as part of the deed for the lot or parcel, even if no subdivision plan is required for development of the property.
- (4) No portion of any such site may be located within 15 feet of any exterior property lines. This includes structures, equipment storage, parking areas and fill areas, except that access drives may cross this area.
- (5) Any on-site (LCID) landfill site, which is located in an industrial zoning district, is exempted from the 12 month requirement, provided that no portion of the landfill is located within 100 feet of any adjoining residentially zoned or used property.

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### **PART 4: ACCESSORY USES AND STRUCTURES**

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#### **Section 12.406. Fences and walls in residential districts.**

The following restrictions shall apply to all fences and walls located in any residential zoning district, except for fences and walls surrounding public utility structures or radio, television, or microwave transmission or relay towers:

- (1) No fence or wall located in the required setback shall be built to a height greater than 5 feet above grade, unless it is a part of a zero lot line subdivision, then it may be 6 feet.
- (2) No fence or wall located in the required side yard between the required setback and established rear yard shall be built to a height greater than 6 feet above grade.
- (3) No fence or wall located in the established rear yard shall be greater in height than 8 feet above grade height in the rear yard.
- (4) Any fence or wall serving as a retaining wall shall be solid cement, masonry or wood and constructed to the standards of the State Building Code.
- (5) The capital of a fence post or column may extend up to 2 feet above the maximum height limit.
- (6) No fence or wall shall be constructed within a storm drainage easement, which will block or materially impede the flow of storm water runoff.

**[Editor's Note:** Any fence or wall constructed within the site distance triangle at an intersection must conform to the cross visibility requirement regulated in Section 12.109 of these regulations.]

#### **Section 12.407. Elderly and disabled housing.**

Elderly and disabled housing shall be permitted as an accessory to any single family detached dwelling unit in accordance with the following requirements:

- (1) Elderly and disabled housing may be attached, within or separate from the principal dwelling.
- (2) The principal use of the lot shall be a detached single family dwelling.
- (3) No more than one elderly or disabled units shall be located on a lot.

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### **PART 4: ACCESSORY USES AND STRUCTURES**

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- (4) The elderly and disabled housing and principal dwelling shall be owned by the same person.
- (5) The elderly and disabled housing shall not be served by a driveway separate from that serving the principal dwelling.
- (6) The elderly and disabled housing shall have a floor area no greater than 50% of the principal structure and under no circumstances cover more than 30% of the rear yard.
- (7) Detached elderly and disabled housing shall be located in the rear yard and not be any closer than 15 feet to a rear property line or along any side property line within the required side yard dimension.
- (8) If the elderly and disabled housing is in a detached accessory structure, then the minimum lot size shall be 2 times the minimum for the district and the structure shall be no taller, as measured from grade, than the principal dwelling.
- (9) The occupant of an elderly or disabled housing unit must be at least 55 years old or disabled and related to the owner of the principal dwelling by blood, marriage or adoption.
- (10) Roof and exterior wall materials and finishes of the elderly housing or disabled housing must be comparable in composition and appearance to that of the principal dwelling on the lot.
- (11) The owner of elderly and disabled housing must register annually with the Zoning Administrator.

#### **Section 12.408. Customary home occupations.**

A customary home occupation shall be permitted as an accessory to any dwelling unit in accordance with the following requirements:

- (1) The home occupation must be clearly incidental to the residential use of the dwelling and must not change the essential residential character of the dwelling.
- (2) Use of the dwelling for this purpose must be limited to 25 percent of one floor of the principal building.

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### **PART 4: ACCESSORY USES AND STRUCTURES**

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- (3) No accessory building or outside storage may be used in connection with the home occupation.
- (4) No chemical, mechanical or electrical equipment that is not normally a part of domestic or household equipment may be used primarily for commercial purposes, with the exception of medical, dental and office equipment used for professional purposes.
- (5) Machinery that causes noises or other interference in radio or television reception is prohibited.
- (6) No internal or external alterations inconsistent with the residential use of the building will be permitted.
- (7) Only residents of the dwelling may be engaged in the home occupation.
- (8) No display of products may be visible from the street and only articles made on the premises may be sold on the premises.
- (9) The number of vehicles used by clients, patrons, or business related visitors to any home occupation shall be limited to two at any given time.
- (10) Vehicles used primarily as passenger vehicles only will be permitted in connection with the conduct of the customary home occupation.
- (11) Signs are subject to the regulations in Chapter 13.

#### **Section 12.409. Marinas.**

A marina shall be permitted as an accessory to any residential use in accordance with the following requirements:

- (1) No sale of goods or services or other commercial activities shall occur at the marina.
- (2) The number of boat slips shall not exceed 110 percent of the number of dwelling units in the residential development which the marina serves.
- (3) Any off-street parking, service, and outdoor storage areas shall be separated by a Class C buffer from any abutting lot located in a residential zoning district (See Section 12.302).



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### **PART 4: ACCESSORY USES AND STRUCTURES**

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- (4) Marinas may include any pump out facilities required by Federal or State Water Quality Regulations.
- (5) Any accessory marina serving more than 50 dwelling units shall have a boat launching facility for use by residents only.
- (6) Accessory marinas shall adhere to pier and water facilities development standards in Section 12.515.

#### **Section 12.410. Private kennels.**

Pens, runs, cages, houses, or other facilities for the keeping of any dogs, cats and other small animals shall be permitted as an accessory use in any zoning district, except INST, RE-1, RE-2, B-D and BP, in accordance with the following requirements:

- (1) Any structure for the keeping of animals that is not completely enclosed, except for fences along property lines, shall be located between the principal structure and the rear lot line, shall occupy no more than 20 percent of the rear yard and shall be located no closer than 10 feet to any side lot line.
- (2) Extensions of or additions to property line fences to confine animals to a part of the property abutting the lot line shall not be permitted.
- (3) No such accessory use shall be operated for commercial purposes.

#### **Section 12.411. Private stables.**

Structures, pasture areas, corrals, and other enclosed areas for the keeping of horses shall be permitted as an accessory use in any zoning district, except INST, RE-1, RE-2, B-D and BP, in accordance with the following requirements:

- (1) Minimum lot size shall be 1 acre.
- (2) Maximum number of horses is 1 horse per acre.
- (3) All structures for the keeping and maintenance of animals, equipment, or manure and all manure piles, pits, or bins shall be located at least 100 feet from any lot line.
- (4) There shall be no outdoor storage of equipment related to training or maintenance of horses.

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### **PART 4: ACCESSORY USES AND STRUCTURES**

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- (5) No such accessory use shall be operated for commercial purposes.

#### **Section 12.412. Guest houses and employee quarters.**

A detached guest house or employee quarters shall be permitted as an accessory to any detached single family dwelling unit in accordance with the following requirements:

- (1) The guest house or employee quarters should be clearly subordinate to the principal structure.
- (2) The minimum lot size for the lot on which the guest house or employee quarters is located shall be 2 times the minimum lot requirement for the district.
- (3) Guest houses and employee quarters shall have floor area no greater than 50% of the principal structure.
- (4) No more than one housing unit serving as a guest house or employee quarters shall be located on a lot.
- (5) Guest houses or employee quarters shall be owned by the same person who owns the principal dwelling.
- (6) Guest houses or employee quarters shall not be served by a driveway separate from that serving the principal dwelling.
- (7) Guest houses or employee quarters shall be located in the rear yard and not be any closer than 15 feet to a rear property line or along any side property line within the required side yard dimension.
- (8) Guest houses and employee quarters shall be no taller than the principal dwelling as measured from grade.

#### **Section 12.413. Drive-in service windows and other drive-through uses.**

A drive-in service window shall be permitted only as an accessory use in the MX-2, MX-3, INST, RE-1, RE-2, O-1, O-2, O-3, B-1, B-2, BP, CC, I-1 and I-2 zoning districts. Approval will be granted if it is determined that the drive-in window and its associated operational characteristics will not create a traffic hazard either with respect to traffic congestion, the adequacy and safety of entry and exit points, and the on-site vehicular circulation pattern. Facilities must be developed in accordance with the following requirements:

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- (1) A plan for a proposed drive-in facility must be approved by the County Engineer.
- (2) The amount of stacking distance provided on the lot shall be in accordance with the minimum vehicle storage requirements in Table 12.413 below. No portion of the required vehicle stacking distance is permitted within public rights-of-way.
- (3) A separate circulation drive must be established for the drive-in service window. The drive-through lane must be distinctly marked by special striping, pavement markings or traffic islands.
- (4) Menu boards and other signage associated with drive-in service windows will be governed by Chapter 13.

Table 12.413

#### MINIMUM VEHICLE STORAGE REQUIREMENTS\*

<u>TYPE OF FACILITY</u>	<u>VEHICLE STORAGE</u>
Bank	6 spaces per window (1)
Restaurant	8 spaces per window (2)
Single Vehicle Automatic	
Accessory Use Car Wash	4 spaces per wash line
Automatic Car Wash	10 spaces per wash line
Self-service Car Wash	3 spaces per wash line
Drive-in Theater	15% of the total parking capacity
Service Stations	4 spaces per service pump island
Dry Cleaners	3 spaces per window (2)
Other Uses	5 spaces per window

\*(1 vehicle space equals 20 feet)

#### FOOTNOTES TO TABLE 12.413:

- (1) This requirement will be reduced to 3 spaces per window for savings and loan institutions and credit unions. For banks with more than 5 drive-up windows, the storage requirements shall not exceed a total of 20 vehicles.
- (2) As measured from the pick-up window.

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### **PART 4: ACCESSORY USES AND STRUCTURES**

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#### **Section 12.414. Automobile, truck and trailer rental.**

- (1) Automobile rental shall be permitted as an accessory use where the principal use is an airport, automobile dealership, hotel or motel or in any district where automobile rental is permitted as a principal use.
- (2) Where the principal use is a hotel or motel, automobile rental shall be permitted as an accessory use only in accordance with the following requirements:
  - (a) No sign advertising the rental of automobiles shall be located outside the hotel or motel building; and
  - (b) No more than 10 automobiles, which are not currently leased to customers, shall be parked on the same property as the hotel or motel.
- (3) Truck and trailer rental is permitted as an accessory use in any district where it is permitted as a principal use.

#### **Section 12.415. Helistops, limited.**

A helistop, limited shall be permitted as an accessory use only in the O-1, O-2, O-3, RE-1, RE-2, CC, INST, B-2, B-D, BP, I-1, and I-2 zoning districts provided it complies with all applicable Federal Aviation Administration regulations.

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### **PART 5: SPECIAL REQUIREMENTS FOR CERTAIN USES**

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#### **PART 5: SPECIAL REQUIREMENTS FOR CERTAIN USES**

##### **Section 12.501. Purpose.**

This Part provides for the regulation of certain land uses which because of their utilitarian nature or unique locational requirements may be found in a number of zoning districts. The circumstances under which these uses are allowed and what approval process is required are indicated for each use.

##### **Section 12.502. Adult care center, adult care homes, child care center and child care homes.**

For the purposes of this ordinance, facilities for the temporary care of adults and children are divided into four classes - adult care center, adult care home, child care center, and child care home. Adult care centers serve more than 6 adults and adult care homes up to 6 adults. A child care center serves more than 15 children and a child care home serves between 6 and 15 children. The development requirements for each class of facility is indicated below:

- (1) Child care centers and homes, registered by the North Carolina Department of Human Resources, may be established as a principal or accessory use in the multi-family, UR-2, UR-3, institutional, research, office, business and light industrial (I-1) zoning districts, and as an accessory use in the heavy industrial (I-2) zoning district. Child care centers are permitted as accessory uses in religious institutions, elementary, junior and senior high schools and government buildings permitted in single family zoning districts.
- (2) Child care homes registered with the North Carolina Department of Human Resources may be established as a permitted use in the single family zoning districts. All child care facilities shall meet the following standards:
  - (a) Play space must be provided in accordance with the regulations of the North Carolina Department of Human Resources;
  - (b) Any required outdoor play space as required by the Department of Human Resources must be fenced or otherwise enclosed on all sides and may not include driveways, parking areas or land otherwise unsuited for children's play space and may not be in the required setback nor within

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### **PART 5: SPECIAL REQUIREMENTS FOR CERTAIN USES**

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any required buffer or screening area. Fences must comply with the fence regulations in Section 12.406;

- (c) In single family zoning districts, the small child care home must be clearly incidental to the residential use of the dwelling and must not change the essential residential character of the dwelling;
  - (d) Setback, yard and height requirements will be the minimum required for the zoning district in which it is located; and
  - (e) There is no limit on the hours of operation of a child care center, but no outdoor play shall be permitted after sundown.
- (3) Adult care centers at homes, registered with the North Carolina Department of Human Resources, may be established as a principal use or as an accessory use in the multi-family, UR-3, institutional, office, business, and light industrial (I-1) zoning districts and as an accessory use in the heavy industrial (I-2) zoning district. An adult care home may be established as a permitted use in the single family zoning district. All facilities must meet the setback, yard and height requirements, which will be the minimum, required for the zoning district in which it is located.

#### **Section 12.503. Land clearing and inert debris landfill (LCID): off-site.**

A "land clearing and debris landfill (LCID): off-site" is an off-site facility for the disposal of inert debris, land clearing debris, yard trash and untreated and unpainted wood as defined in **PART 2: DEFINITIONS**. Off-site LCID are permitted in those zoning districts so specified in this ordinance, subject to the provisions of this section. Disposal operations may not commence until the provisions of subsection 12.503(3) have been met.

- (1) Application. Applications for an off-site LCID zoning permit must be submitted to the Zoning Administrator, who will consider and determine entitlement to the permit based upon the regulations contained in this Section 12.503. Before a decision is rendered there shall be a notification period and a public forum as described in Section 4.106. Public notification process for certain land uses. Applications for minor changes or modifications which will not alter the basic relationship to surrounding properties will be submitted to the Zoning Administrator who will consider and determine entitlement based upon these

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### PART 5: SPECIAL REQUIREMENTS FOR CERTAIN USES

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same regulations. Additions to any existing building or structure of 10% or 1,000 square feet, whichever is less, will not require the notification period and public forum. However, if additional land is being considered as part of the request, the notification period and public forum requirements will apply.

- (2) Findings. As a prerequisite to the approval of a off-site LCID permit or the modification of an existing off-site LCID zoning permit, the Zoning Administrator must satisfy himself that the following regulations have been met or, in his opinion, will be met:
- (a) That the application specifies the anticipated future use of the property upon the cessation of off-site LCID activities, which anticipated future use must not be inconsistent with the Mecklenburg County 2005 Generalized Land Use Plan or with any more detailed plan for the area which may be adopted by the Mecklenburg County Board of Commissioners;
  - (b) That the application includes a plan with provisions for the property owner to create a reserve fund, to be held by the property owner, to finance the initial capital expenses of establishing the anticipated future use of the property. Such capital expenses shall be in the minimum amount of \$1,000.00 times the number of acres in the total off-site LCID site;
  - (c) That no portion of any such off-site LCID site may be located within 75 feet of any exterior property line. This includes structures, equipment storage, parking areas, and fill areas, except that access drives and utility lines and pipes may cross this area;
  - (d) That the actual fill area must be located at least 300 feet from existing structures used as private dwellings and structures for private dwellings under construction at the time of the application. The 300-foot requirement from a residential structure may be waived if the residential structure and the off-site LCID are under common ownership and the owner of the property or properties waives the separation requirement in writing. Roads for ingress to and from the site, existing and supplied screening, and fences and gates may be located anywhere within the site;
  - (e) That vehicular access to the facility will be paved and will be provided only from any Class I, II, III, III-C, or IV street or from any street built

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to commercial or industrial standards which leads directly from a Class I, II, III, III-C or IV street;

- (f) That a metal fence and gate will be constructed at the entrance to the off-site LCID site;
  - (g) That all access driveways which serve the site for ingress or egress must be wide enough to accommodate two lanes of traffic, and that an area on the site will be provided between the entrance off the street and the location of the landfilling activities to accommodate a minimum of ten vehicles; and
  - (h) That no filling of any type will occur in any portion of a regulatory flood plain, including both the floodway and the floodway fringe area.
- (3) Operational requirements. Findings that the applicant has fulfilled or has appropriate plans to fulfill all requirements of the preceding Section 12.503 paragraphs and subparagraphs shall authorize the issuance of a off-site LCID zoning permit or modification of an existing permit by the Zoning Administrator. Nevertheless, off-site LCID operations upon the site shall not commence (or continue) until the applicant has delivered to the Zoning Administrator written approval or a valid permit from the Mecklenburg County Department of Environmental Protection and any approvals or permits required by the State of North Carolina.

The property owner must place funds in the reserve fund annually in amounts equal to (a) \$1,000.00 per acre in the total off-site LCID site increased by an assumed annual inflationary rate of five percent, divided by (b) the number of years the off-site LCID is anticipated to be open. The first such annual payment into the reserve fund must be made by the property owner prior to the commencement of landfilling operations. The evidence of such payment, in the form of a notarized statement by the property owner, must be presented to the Zoning Administrator prior to the commencement of landfilling operations. On or before each subsequent annual anniversary date of the first such notarized statement, the property owner must make the required annual payment into the reserve fund and present to the Zoning Administrator a notarized statement from the property owner showing that the payment has been made in advance for the next year of operation of the off-site LCID, and showing the total amount held in the reserve fund. In addition, if the property owner prepares annual financial



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statements, a copy of such annual financial statement, showing the amount held in the reserve fund, must be sent annually to the Zoning Administrator during each year the landfill is in operation.

In the event that the off-site LCID operations at the site cease prior to the estimated number of years of operation, prior to ceasing operations the property owner must pay all remaining amounts into the reserve fund and present to the Zoning Administrator a notarized statement showing that such payment has been made and showing the total amount in the reserve fund.

Use of the site for any purpose is limited to the hours of 7:00 a.m. to 6:00 p.m. Monday through Saturday if the site adjoins or is across the street from any property, which contains any existing residential units.

No more than 25 percent of the total area to be filled may be used actively for filling at any one time.

- (4) Compliance by existing off-site LCID. Any off-site LCID which existed prior to May 1, 1989, but which did not obtain a permit under the previous zoning ordinance must obtain a permit as required by this Section according to the following schedule, or cease operating:

Size of Site	Compliance required within this time after May 1, 1989
0-10 acres	2 years
over 10 acres, but under 20 acres	3 years
over 20 acres, but under 30 acres	4 years
over 30 acres	5 years

#### **Section 12.504. Public utility structures.**

Public utility structures are permitted within any zoning district as a principal use subject to the following specific conditions:

- (1) Lots must conform to minimum setback and yard requirements of the zoning district in which they are located. Unmanned utility structures with internal floor space of less than 300 square feet are exempted from the minimum lot size requirement.

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### **PART 5: SPECIAL REQUIREMENTS FOR CERTAIN USES**

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- (2) Electric and gas substations and sewage treatment plants will be separated by a Class A buffer from the street and any abutting property located in a residential zoning district, and screened from any use in any other district, in accordance with Section 12.302.
- (3) Control houses, pump and lift stations, cellular transmission facilities and other similar uses shall be screened in accordance with Section 12.303 from the street and any abutting property located in a residential zoning district.
- (4) A fence not easily climbable or comparable safety devices must be installed and maintained in order to make the facility inaccessible to the public.
- (5) The design of buildings, structures and facilities on a site should conform as closely as possible to the character of the area or neighborhood.
- (6) Any public utility structures not specifically listed are exempt from the requirements of this Section.
- (7) Wireless communications transmission facilities including, but not limited to, transmission structures, equipment shelters and related facilities may be established in accordance with the provisions of subsection 12.108(8) and the provisions of this Section. Wireless Communications transmission facilities may also be established as accessory or secondary uses in accordance with the provisions of subsection 12.108(8).

#### **Section 12.505. [RESERVED]**

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#### **Section 12.506. Religious institutions in residential zoning districts.**

Churches, synagogues, temples, mosques and other places of religious worship, along with their accessory uses, are permitted in residential zoning districts subject to the following development approvals based upon size limitations:

	<u>Permitted Districts</u>
Religious Institutions, less than 750 seats in the largest place of assembly	All residential zoning districts
Religious Institutions, 750 to 1200 seats in the largest place of assembly	Multi-family and MX zoning districts

All religious institutions in residential zoning districts must meet the standards of this Section and all other requirements of these regulations:

- (1) Maximum floor area ratio is .50.
- (2) Minimum open space is 25%.
- (3) The principal building and accessory uses must be on a contiguous site.
- (4) Offices associated with the activities or business of the religious institution will occupy no more than 25 percent of the total floor area of buildings on the lot. In cases where the total floor area developed on the site is less than 4,000 square feet, office activities may occupy as much as 1,200 square feet.
- (5) All buildings, outdoor recreational facilities, and off-street parking and service areas will be separated by a Class C buffer for religious institutions less than 750 seats, and a Class B buffer for religious institutions between 750 and 1,200 seats, which abut property located in a residential zoning district (See Section 12.302).
- (6) The use will be located on a lot that fronts a collector, minor thoroughfare or major thoroughfare.
- (7) Primary vehicular access to the use will not be provided by way of a residential local (Class VI) street.
- (8) [RESERVED]

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- (9) Office and non-office accessory uses which are permitted in residential districts under these provisions shall meet the following requirements in addition to any other applicable requirements of these regulations:
  - (a) No merchandise or merchandise display window shall be visible from outside the building;
  - (b) No business or identification sign pertaining to the accessory uses shall be visible from outside the building;
  - (c) All parking shall be screened in accordance with Section 12.303; and
  - (d) Accessory uses must not violate the yards, separation or buffer requirements, which apply to the principal structure(s).
- (10) Except as noted above, accessory uses shall be governed by other provisions of these regulations for the underlying district. Where accessory uses such as television stations, radio stations, printing presses, or sports complexes are forbidden in association with non-religious uses, they shall also be forbidden in association with religious uses. This provision shall in no way restrict accessory use family life centers and multipurpose facilities, a part of whose function may include recreation and sports activities.

#### **Section 12.507. Sanitary landfills.**

A sanitary landfill is a facility for the disposal of solid waste. Sanitary landfills are an essential component of the disposal of solid waste. Sanitary landfills are permitted in those zoning districts so specified in this ordinance, subject to the provisions of this section. Disposal operations may not commence until the provisions of subsection 12.507(3) have been met.

- (1) Application. Applications for a sanitary landfill zoning permit must be submitted to the Zoning Administrator, who will consider and determine entitlement to the permit based upon the regulations contained in this Section 12.507. Before a decision is rendered there shall be a notification period and public forum as described in Section 4.106: Public notification process for certain land uses. Applications for minor changes or modifications, which will not alter the basic relationship to surrounding properties, will be submitted to the Zoning Administrator who will consider and determine entitlement based upon these same regulations. Additions to any existing building or structure of 10% or 1,000 square feet, whichever is less, will not require the notification period

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and public forum. However, if additional land is being considered, the notification period and public forum requirements will apply.

- (2) Findings. As a prerequisite to the approval of a sanitary landfill zoning permit or of the modification of an existing sanitary landfill zoning permit, the Zoning Administrator must satisfy himself that the following regulations have been met or, in his opinion, will be met:
- (a) That the site contain at least 150 acres;
  - (b) That the application specifies the anticipated future use of the property upon the cessation of land filling activities, which anticipated future use must not be inconsistent with the Mecklenburg County 2005 Generalized Land Use Plan or with any more detailed plan for the area which may be adopted by the Mecklenburg County Board of Commissioners.
  - (c) That the application includes a plan with provisions for the property owner to create a reserve fund, to be held by the property owner, to finance the initial capital expenses of establishing the anticipated future use of the property. Such capital expenses shall be in the minimum amount of \$1,000.00 times the number of acres in the total landfill site.
  - (d) That a 500 foot minimum distance will exist between disposal areas on the site and existing structures used as private dwellings and structures for private dwellings under construction at the time of the application, and wells related to such private dwellings. That a 300 foot minimum distance will exist between all adjoining property lines and disposal areas. Roads for ingress and egress to and from the site, existing and supplied screening, fences and gates, utility lines and pipes, and monitoring wells and monitoring devices may be located anywhere within the site. All other activities on the site including structures, must be located at least 100 feet from any adjoining property lines;
  - (e) That existing trees and vegetation will be maintained within 100 feet of adjoining property lines and within 100 feet of any public street right-of-way, except existing trees and vegetation may be removed within the areas where access roads are to be built, where fences and gates are to be located, where utility lines and pipes are to be located, and where monitoring wells and monitoring devices are to be located. That where the natural growth within 100 feet of the adjoining property line or rights-of-way is inadequate as a reasonably effective screen, such areas

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within 100 feet of the adjoining property lines or rights-of-way must meet the requirements of Table 12.302(b).

- (f) That vehicular access to the facility will be paved and will be provided only from Class I, II, III, III-C, or IV streets or from any street built to commercial or industrial standards which leads directly from a Class I, II, III, III-C or IV street;
  - (g) That a metal fence and gate will be constructed at the entrance to the landfill site; and
  - (h) That all access driveways, which serve the site for ingress or egress, will be at least 24 feet wide. That the length of all ingress driveways from the property line to the nearest landfill scale measured along the driveway centerline will be a minimum of 200 feet.
- (3) Operational requirements. Findings by the Zoning Administrator that the applicant has fulfilled or has appropriate plans to fulfill all requirements of the preceding Section 12.507 paragraphs and subparagraphs shall authorize the Zoning Administrator to issue a sanitary landfill zoning permit or modification of an existing permit. Nevertheless, landfill operations upon the site will not commence (or continue) until the applicant has delivered to the Zoning Administrator copies of permits required by the North Carolina Solid Waste Management Rules.

The property owner must place funds in the reserve fund annually in amounts equal to (a) \$1,000.00 per acre in the total landfill site increased by an assumed annual inflationary rate of five percent, divided by (b) the number of years the landfill is anticipated to be open. The first such annual payment into the reserve fund must be made by the property owner prior to the commencement of land filling operations. The evidence of such payment, in the form of a notarized statement by the property owner, must be presented to the Zoning Administrator prior to the commencement of land filling operations. On or before each subsequent annual anniversary date of the first such notarized statement, the property owner must make the required annual payment into the reserve fund and present to the Zoning Administrator a notarized statement from the property owner showing that the payment has been made in advance for the next year of operation of the sanitary landfill, and showing the total amount held in the reserve fund. In addition, if the property owner prepares annual financial statements, a copy of such annual financial statement, showing

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the amount held in the reserve fund, must be sent annually to the Zoning Administrator during each year the landfill is in operation.

In the event that the land filling operations at the site cease prior to the estimated number of years of operation, prior to ceasing operations the property owner must pay all remaining amounts into the reserve fund and present to the Zoning Administrator a notarized statement showing that such payment has been made and showing the total amount in the reserve fund.

Landfill sites may not be operated on Sunday. The landfill may not be operated earlier than 7:00 a.m. or later than 6:00 p.m. on any other day. These restrictions shall not apply to landfills located in industrial districts.

#### **Section 12.508. Cemeteries, public and private.**

Private or public cemeteries are permitted in all zoning districts in accordance with the requirements listed below:

- (1) Tombstones, crypts, monuments and mausoleums must be located at least 25 feet from any side or rear lot line which adjoins lots in a residential zoning district and at least 10 feet from any side or rear lot line which adjoins lots in nonresidential zoning districts. In any case, they must be at least 40 feet from any street right-of-way.
- (2) Buildings for the maintenance, management, rent and/or sale of cemetery lots must be located at least 100 feet from any lot lines which adjoin lots in any residential district. Otherwise any such buildings must conform to the requirements for principal uses in the zoning district where they are located.
- (3) Crematory services may be provided for human corpses as an accessory use within cemetery use property of 100 acres or more in residential districts subject to the following prescribed conditions:
  - (a) All applicable local, state, and federal laws and regulations shall be complied with.
  - (b) The cremator shall be enclosed within a building meeting building and fire code requirements.
  - (c) The placement of crematory facilities within the property in any residential district shall be 100 ft. or more from any exterior property line.

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#### **Section 12.509. Public utility transmission and distribution lines.**

All electricity, telephone, CATV, and other utility distribution lines, which deliver service to the end user from a transmission line providing service to an area larger than the individual parcel or project area in developing or redeveloping areas, shall be installed underground in all zoning districts unless terrain, subsurface or surface obstructions inhibit installation. This provision does not apply to the Research, Institutional and BP districts.

#### **Section 12.510. Turkey shoots.**

Turkey shoots, established as a temporary use only during the months of October, November and December may be permitted in any zoning district and are subject to the following provisions and any other applicable provisions relating to the use and discharge of firearms in Mecklenburg County:

- (1) No firing point may be located less than 200 feet in any direction from any property line. The minimum distance from any firing point, measured in the direction of fire to the nearest property line, may not be less than 300 feet or 300 yards from a dwelling, school, church, any other occupied building, park or recreation area or any other type of public gathering place, whichever is greater. A turkey shoot, operated by a recognized gun club, meeting the standards as recommended by the National Rifle Association, or an equally recognized firearms safety authority for the type and caliber of firearms being fired are exempt from the above requirements.
- (2) The property where the turkey shoot is located must be fenced, posted or otherwise restricted so that access to the site is controlled to insure the safety of contestants, spectators and the public at large.
- (3) Operating hours for turkey shoots located within or adjacent to residentially zoned areas is restricted to the hours between 8:00 A.M. and 6:00 P.M., Monday through Saturday.
- (4) A permit for a turkey shoot will be valid only for the months of October, November and December of the year in which it is issued.
- (5) An identification sign, limited to 40 square feet, may be permitted upon the premises of the turkey shoot in accordance with the provisions of the district in.



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which it is located. This sign must be removed upon the termination of the permit governing the turkey shoot

- (6) The equivalent of two off-street parking spaces per firing point must be provided.
- (7) All locations for turkey shoots must be approved by the Mecklenburg County Police Department and the Zoning Administrator.

#### **Section 12.511. Overnight camping trailer parks.**

Overnight camping trailer parks are permitted in the B-2 district provided that:

- (1) The use will locate on a lot that fronts a collector, minor thoroughfare or major thoroughfare.
- (2) All buildings, outdoor recreational facilities, and off-street parking and service areas will be separated by a Class C buffer from any abutting property located in a residential zoning district (See Section 12.302).
- (3) Any structure will be back from the street no less than any existing dwelling on an adjacent lot.

#### **Section 12.512. Riding academies and boarding stables.**

Riding academies are permitted in the B-2 district provided that:

- (1) All buildings and structures related to care of animals and to the conduct of the academies must be located at least 100 feet from any lot in an abutting residential district or residential use.
- (2) Maximum number of horses boarded is 2 per acre.
- (3) The use will locate on a lot that fronts a collector, minor thoroughfare or major thoroughfare.
- (4) All buildings, structures and off-street parking and service areas will be separated by a Class C buffer from any abutting property located in a residential zoning district (See Section 12.302).

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#### **Section 12.513. Bus stop shelters.**

Bus stop shelters may be constructed and maintained in any zoning district, in conformance with the standards listed below.

- (1) Bus stop shelters may be located within any street right-of-way or within the required setback of property, which abuts a street, but may not be within thirty-five feet of an intersection or located so that they might obstruct the vision of drivers on the street as regulated in Section 12.109. However, only governmental signs are permitted in association with a bus stop shelter.
- (2) A schematic plan must be submitted and approved by the Charlotte Department of Transportation and Planning Commission staff for the construction of a bus shelter. The plan must include the following information.
  - (a) The location of the proposed shelter relative to street, property, and setback lines; and
  - (b) The size and design of the shelter, including all four elevations, building materials, and any public convenience or safety features such as a telephone, lighting, heating or trash containers.
- (3) A building permit will be issued for a bus stop shelter only after all of the following conditions are met:
  - (a) The plan has been approved by the Charlotte Department of Transportation regarding the design, location, construction, and transit service used for the shelter; and
  - (b) The plan has been approved by the Planning Commission staff regarding the integration of the shelter with the surrounding properties and its impact on nearby residential areas.
- (4) A bus stop shelter may be removed if the Charlotte Department of Transportation determines that it no longer serves the best interest of the public.

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#### **Section 12.514. Equestrian oriented subdivisions.**

Equestrian oriented subdivisions are residential developments which are designed with particular emphasis placed on equestrian activities and which provide such facilities as non-profit community stables, riding rings, pastures, and riding trails. In addition, private stables may be located on individual residential lots. Equestrian oriented subdivisions are permitted in all residential zoning districts subject to the provisions listed below.

- (1) All buildings and structures related to the care of horses and to the operation of the riding facilities must be located at least 100 feet from any residential property line at the perimeter of the development.
- (2) Sites for community riding stables and similar facilities will be subject to the normal lot and yard requirements of the zoning district, and subsection (1) above.
- (3) Private stables for less than 4 horses on residential lots must be located in accordance with the requirements for accessory structures in subsection (2) above.
- (4) Generally, riding trails should be located in the interior of the development and should not extend along abutting residential property lines. Where a proposed trail is to be located along the exterior property line of the project, the trail must be a minimum of 30 feet wide with adequate fencing provided to confine all equestrian activities to the project.
- (5) All stables and riding areas must be maintained according to the standards and requirements of the Mecklenburg County Health Department.
- (6) An equestrian oriented subdivision may be established through the submission of the subdivision plans to the Charlotte-Mecklenburg Planning Commission. The Planning Commission will approve the plans in accordance with the provisions of this Section, all applicable provisions of the Subdivision Ordinance of Mecklenburg County, and the additional standards listed below.
  - (a) Lots that will have private stables must be designated and the general area in which such stables may be located must be indicated; and
  - (b) All proposed community riding facilities, including community stables, riding rings, pastures, and riding trails must be indicated on the plans. A written statement describing the proposed means of ownership and

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proposed program for maintenance of these facilities and a copy of the proposed maintenance program must be included. A copy of the proposed maintenance program will be kept on file at the Zoning Administrator's office.

#### **Section 12.515. Special requirements for facilities located on or adjacent to the Catawba River and its impoundments (Lake Norman, Lake Wylie and Mountain Island Lake).**

The purpose of this Section is to provide supplemental restrictions to protect and enhance water quality, safety, and public recreational opportunities on the Catawba River and its impoundments (Lake Norman, Lake Wylie, Mountain Island Lake within Mecklenburg County). These requirements shall apply to the surface waters of the Catawba River and its impoundments and all land areas within 1,000 feet of their shorelines. In the case of Lake Norman, the regulatory boundary shall be measured as 1,000 feet horizontally and upland of the designated full pond level of 760 feet contour elevation. This contour elevation shall also serve as the standard from which all related measurements will be taken. In the case of the Catawba River and its other impoundments, the shoreline shall be the mean high water mark. The restrictions of this Part shall be supplemental to any other standards established in these regulations and governing any individual property on or adjacent to the Catawba River and its impoundments.

- (1) In addition to the uses permitted in the underlying district elsewhere in these regulations, the following uses shall be permitted as of right provided they meet all requirements of this Part and all other requirements established in these regulations:
  - (a) Piers.
  - (b) Moorings and floats.
  - (c) Marine railways.
  - (d) Breakwaters.
  - (e) Swimming areas.
  - (f) Boat houses
- (2) Piers and other shoreline projections must be located and constructed within the area described by and in accordance with the standards below:

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- (a) A projection over the water may be established at each of the two property lines on the shoreline. Each projection shall be perpendicular to a line connecting two points on the shoreline where a 10-foot radius from that property corner intersects the shoreline at 760 foot contour on Lake Norman or mean high water mark on the other lakes, as illustrated in Figure 12.515(a). Two or more abutting property owners may apply for a permit for a common pier facility and may use all or any part of the individual areas as defined above.
- (b) Piers, floats, pilings, buoys and all other appurtenances used to berth a boat at a pier shall not extend over the water more than 80 feet from the shore, except that a pier may extend from the shore for the distance needed to reach a water depth of 10 feet below full pond level, but in no event greater than 120 feet from the shore. Piers for a commercial marina may extend the distance to reach a water depth of 15 feet, but no greater than 180 feet from the shore. When located in a cove, a pier shall not extend more than one third ( $1/3$ ) of the width of the cove as measured from the shore at the point of proposed construction to the closest point on the opposite shore, as illustrated in Figure 12.515(b).
- (c) Piers serving more than 50 dwelling units must also have a boat launching facility;
- (d) All piers shall be designed so that the top of the decking will be at least one foot above the water surface when at full pond level;
- (e) All piers and docks shall have two white reflectors located at least six inches above full pond level on the furthest corners of the extension of the pier into the water, reflecting light parallel to the shoreline in each direction and directly across the lake or river in line with the shore from each corner. White reflectors shall be placed on each side of the pier at intervals of 15 feet or less, six inches above the water, beginning at its outermost extension into the water, and extending to the shoreline at full pond level; and
- (f) Where a pier cannot be constructed within the above described area, due to existing non-conforming piers on nearby property or to unusual property configuration, the property owner may apply for, and the Board of Adjustment may grant a variance from this requirement. In granting the variance, the Board of Adjustment must find that the construction of pier facilities on other properties would not be preempted.

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Figure 12. 515 (a)

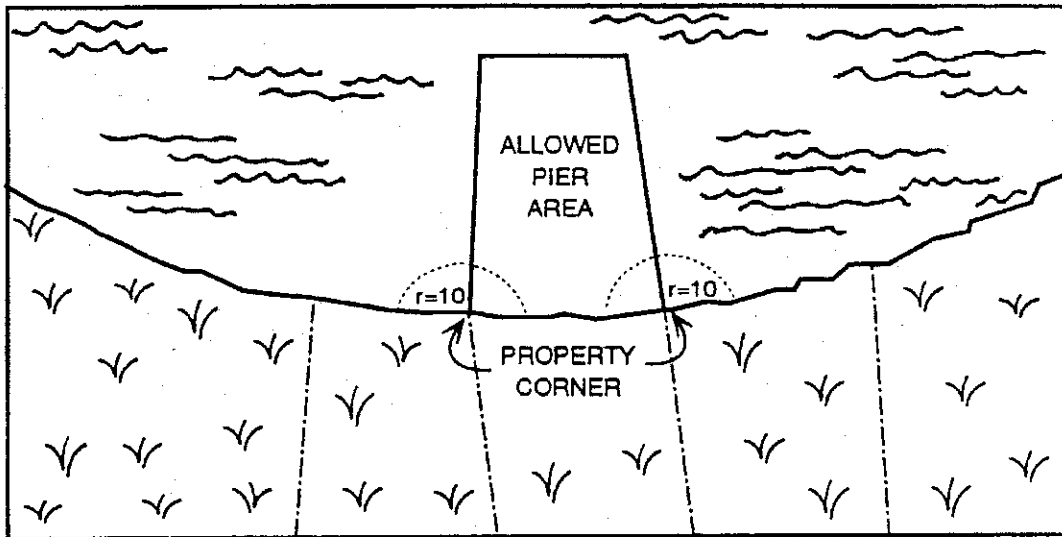
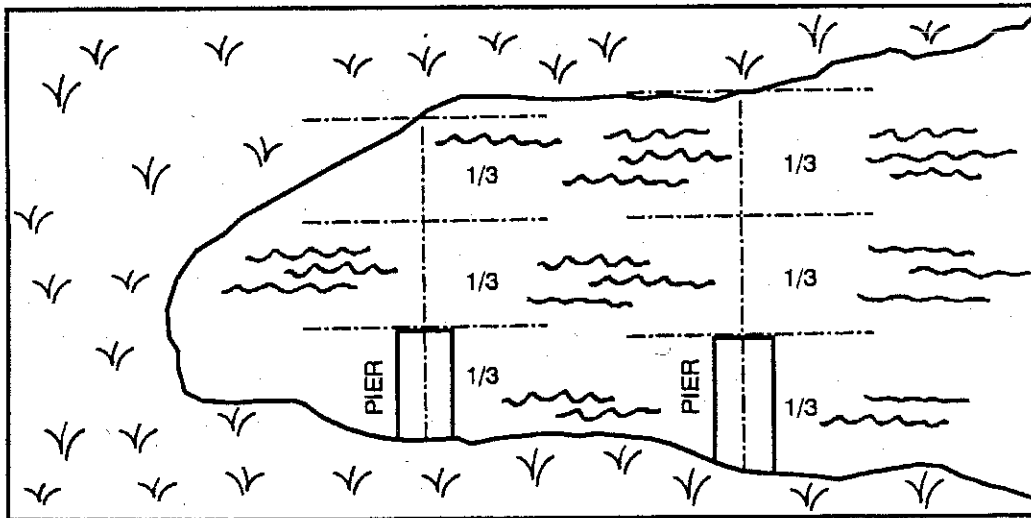


Figure 12. 515 (b)



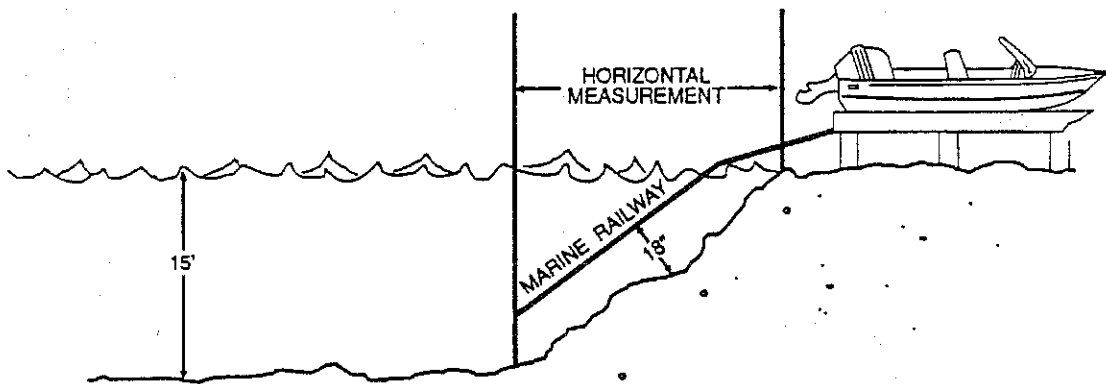
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- (3) Moorings and floats placed in the water for navigational purposes shall only be so placed with the express written approval of the Lake Norman Marine Commission or the North Carolina Wildlife Commission, whoever has jurisdiction. Moorings and floats placed for the purpose of mooring boats shall be separated on every side from any other mooring or float by a distance of at least 50 feet and shall be located so as to permit unobstructed passage of boats over the water. Moorings and floats shall not be anchored in such a manner as to deny or obstruct access to the water from boat docks, boathouses, or boat launching ramps. Moorings and floats shall conform with the Uniform State Waterway Marking System.
- (4) Marine railways shall have permanent signs complying with the requirements of the North Carolina Wildlife Commission Uniform State Waterway Marker System designating the location of the marine railway. Marine railways shall not extend above the normal or natural lake bed or river bed more than 18 inches between a horizontal measurement extending from the full pond level to a water depth of 15 feet below the full pond level, as diagramed in Figure 12.515(c).

Figure 12.515(c)



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- (5) Breakwaters constructed for the purpose of protecting docks, piers, or other facilities, shall be placed to protect the particular facility for its width only and shall not obstruct or cause the obstruction of passage over the waters. Breakwaters shall be located and marked so as not to be a hazard to boating.
- (6) Areas specifically designated for swimming areas shall not be defined in water deeper than 15 feet and shall not extend more than 80 feet from the shoreline. Swimming areas shall remain confined within the projection of the side lot lines of the lot on which the area is located and shall meet the side yard requirements of the underlying zoning district within which the lot is located. Public swimming areas shall be, and private swimming areas may be, marked and protected in conformance with North Carolina Wildlife Commission regulations.
- (7) Special requirements for other uses along the Catawba River and its impoundments are as follows:
  - (a) All principal structures, except for boathouses, piers, walkways, breakwaters, and marine railways, shall be located at least 40 feet landward from the full pond level;
  - (b) All filling operations shall be designed by a registered engineer and, if conducted within the waters of Lake Norman, reviewed by the Lake Norman Marine Commission, the Federal Energy Regulatory Commission, the property owner, and approved by Duke Power Company before beginning the fill. Any fill shall not be placed above the full pond level without proper and adequate riprapping to prevent the fill material from being eroded into the water. Fill shall be compacted to reach 90% maximum dry density using the Standard Proctor Test as defined by ASTM D698 66T. Fill areas shall not obstruct access to the water, be a hazard to passage over the waters, or a nuisance to adjacent property owners;
  - (c) Dredging shall not be conducted in such a way that the dredge spoil is placed back in the water so as to reduce water depth in areas outside of the dredged area. All dredging activities in Lake Norman shall be reported to the Lake Norman Marine Commission and the owner or his engineer, and approved by Duke Power Company prior to the beginning of any dredging;
  - (d) Signs, other than navigational signs, shall not unduly obstruct the view of water from any adjacent shore front property and shall not be placed in



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the water or within 25 feet of the shoreline. When lighted, signs shall have fixed, non-moving, indirect or internal lighting. Off-site advertising signs placed or maintained to be visible from the water area are prohibited;

- (e) Lights installed for purposes other than navigation shall not inhibit vision in any way nor be so bright that they may cause night blindness for boat operators on the water. Lighting which offers navigational aid on Lake Norman, whether public or private, shall require approval by the Lake Norman Marine Commission; and
  - (f) Overhead transmission lines shall be located at least 48 feet above the full pond level.
- (8) Special procedures for review and approval of uses in and along Lake Norman. The following requirements shall apply to uses in and along the shoreline of Lake Norman:
- (a) The Zoning Administrator shall submit one copy of any plans for a pier, mooring, float, marine railway, breakwater, sign, or swimming area to the Lake Norman Marine Commission for review and approval in accordance with adopted standards of the Lake Norman Marine Commission. Failure of the Lake Norman Marine Commission to respond to the plans within 30 days after receiving them shall be interpreted as an approval.
  - (b) The Zoning Administrator shall refer requests for variances from the requirements of this Part to the Lake Norman Marine Commission for its written opinion. The Lake Norman Marine Commission will evaluate the variance request as to the potential effect of the request on public recreation and water safety. The Zoning Administrator shall transmit the Lake Norman Marine Commission's opinions to the Board of Adjustment along with other pertinent information.

#### **Section 12.516. Open space recreational uses.**

Open space recreational uses, such as but not limited to, hot air balloon rides, bungee jumping, parachute jumping (not including airplane take-off or landing), polo matches, activities involving various athletic and ball fields and similar outdoor recreation, shall be permitted in all zoning districts subject to the following requirements.

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- (1) Such uses shall not involve the use of motorized vehicles, such as dirt bikes, go-carts, motorcycles, and similar uses.
- (2) The recreational use shall be temporary in nature. For purposes of this Section temporary shall mean seasonal, certain hours of the day and/or week. It is intended that the use shall only operate at the site a minority of the time. In this regard the use shall not be allowed to operate more than 180 days per year. The operator of the use shall be required to maintain an account of the days and hours of operation and shall make such records available upon request.
- (3) The use shall not involve or require the construction of a permanent building unless the building is permitted in the underlying zoning district.
- (4) A minimum of five acres shall be required for the use, and, further, no portion of the use shall be allowed to be closer than fifty feet to any adjoining line.
- (5) Ancillary support activities, such as the provision of food and beverages, parking and other concessions or vending operations shall be permitted on a temporary basis and only during the operation of the use.
- (6) Any signage which identifies the use shall be in accordance with the standards of the underlying zoning district. Furthermore, an area to support a minimum of eight off-street parking spaces shall be provided.

#### **Section 12.517. Group homes.**

This ordinance provides for the location of group homes in a wide variety of residential and non-residential districts. However, the public has an interest in assuring that a concentration of group homes within neighborhoods or along streets in residential districts be minimized. Accordingly the following standard will apply to the location of group homes in single family residential districts. New group homes must be separated from existing group homes in a single family residential district by a distance of 800' measured from the closest point of each lot property line in a straight line. This standard will not apply in circumstances when the sites are separated by a major thoroughfare, major topographical feature such as a major stream floodway, or by major non-residential or public uses such as a park, school, church, or shopping or office area.

#### **Section 12.518. Adult establishments.**

Studies have shown that lowered property values and increased crime rates tend to accompany

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and are brought about by the concentration of adult establishments as defined herein. Regulation of these uses is necessary to insure that these effects do not contribute to the blighting of surrounding neighborhoods and to protect the integrity of the County's schools, churches, child care centers, parks and playgrounds which are typically areas in which juveniles congregate. It is the intent of this provision to establish reasonable regulations to prevent a concentration of adult establishments within the County of Mecklenburg and to separate adult establishments from those sensitive uses listed below.

Adult establishments are permitted in the B-2, I-1, and I-2 districts subject to the following requirements:

- (a) Any structure in which an adult bookstore or adult mini motion picture theatre establishment is the principal or accessory use shall be separated by a distance of at least 1,500 feet from any residential district, school, church, child care center, park or playground. An adult establishment lawfully operating as a conforming use is not rendered a nonconforming use by the subsequent location of a residential district, school, church, child care center, park or playground within the 1,500 foot separation distance.
- (b) Any structure in which an adult establishment, other than an adult bookstore or adult mini motion picture theatre, is the principal or accessory use shall be separated by a distance of at least 1,000 feet from any residential district, school, church, child care center, park or playground. An adult establishment lawfully operating as a conforming use is not rendered a nonconforming use by the subsequent location of a residential district, school, church, child care center, park or playground within the 1,000 foot separation distance.
- (c) Any structure in which an adult bookstore or adult mini motion picture theatre establishment principal or accessory use shall be separated by a distance of at least 1,000 feet from any other adult establishment.
- (d) Any structure in which an adult establishment, other than an adult bookstore or adult mini motion picture theatre, is the principal or accessory use shall be separated by a distance of at least 500 feet from any other adult establishment.
- (e) The distance for the separation from residential zoning and protected uses shall be measured in a straight line from the closest edge of the building occupied by an adult use to the nearest residential zoning district or to the property line of a protected use. The distance for the separation between adult uses shall be measured in a straight line from the closest edges of the buildings occupied by adult uses.

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- (f) No more than one adult establishment may be located within the same structure.
- (g) In addition to the standards set forth in Section 5.108, before granting a variance from the separation requirements set forth in subsection (a) or (b) of this section, the Board of Adjustment shall find that thoroughfares, traffic circulation patterns, structures or other natural or man-made geographic or topographic features are likely to provide an adequate measure of protection for the protected zoning or use from any secondary effects of the adult establishment.

#### **Section 12.519. Outdoor seasonal sales.**

Outdoor seasonal sales are temporary uses which include but are not limited to Christmas tree sales, pumpkin sales, plant sales, fresh produce sales and similar uses. Outdoor seasonal sales are not intended to include the sale of manufactured items such as furniture, bedding, automobile parts or household goods. Such sales are permitted in all nonresidential zoning districts as a use by right subject to the standards of the underlying zoning district. Outdoor seasonal sales shall be permitted in all residential districts subject to the following conditions:

- (1) Any operator of a seasonal sales use must receive a permit from the Zoning Administrator which describes the type of sales involved and the duration of the sales operation.
- (2) Such sales shall not operate more than a total of 45 days out of the year. The owner of the seasonal sales lot shall be required to maintain an account of the days of all sales operations and shall make such records available upon request of the Zoning Administrator.
- (3) The use may only be located on a vacant lot or on a lot occupied by a nonresidential use such as a church or school. The use shall not operate as an accessory to a principal residential use on a lot. In addition, the use shall not be located on a lot, which adjoins a residential use unless the lot is located on a major thoroughfare.
- (4) The use shall be located on a Class III, III-C, or IV street.
- (5) The use shall not involve or require the construction of a permanent building.
- (6) Any signage, which identifies the use, shall be in accordance with the underlying zoning district.
- (7) Five off-street parking spaces shall be provided for the use.

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- (8) The use, including all sale items, parking and maneuvering shall observe a setback of 15 feet and sale items shall not be located in the sight distance triangle.
- (9) The operator is responsible for the removal of any vestige upon cessation of the seasonal sale including signage.

#### **Section 12.520. Boarding houses.**

Boarding houses are permitted in all Single Family, Multi-Family, and Office districts, the UR-1, B-1, B-2, districts, and the Mixed Use (MX-1, MX-2, and MX-3) conditional districts subject to the following standards that apply to the applicable districts:

- (1) The property owner or lessee must reside on the same premises as the boarding house with the structure serving as their permanent residence.
- (2) Number of boarders and boarding rooms permitted.
  - (a) All Single Family and Mixed Use districts and UR-1 district, - limited to 4 boarders in no more than 2 bedrooms.
  - (b) All other districts where permitted - maximum of 8 boarders in no more than 4 bedrooms.
  - (c) Elderly and disabled housing when permitted as an accessory to any single family detached dwelling unit will not count as part of the permitted number of boarders or boarding rooms, nor can they be used for boarding rooms.
- (3) The quarters to be utilized by the boarders and the occupants of the premises shall be in the principal residential structure. Separate structures, accessory buildings and garages are not permitted to be used as boarding rooms. No separate exterior doorways for individual boarding rooms shall be permitted.
- (4) Any signage, which identifies the use, shall be in accordance with the underlying zoning district.
- (5) The location of parking for boarders shall comply with Section 12.206 as a single family detached dwelling unit, except any additional parking beyond what

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can be accommodated in a driveway no wider than to sufficiently park 2 cars must be out of the required setback and yards as specified in Section 12.206. Parking for boarders shall not be served by a separate driveway from that serving the principal residential structure.

- (6) The Zoning Board of Adjustment shall not have jurisdiction to vary any of these standards, but shall have jurisdiction to interpret the standards as applied to a particular situation.

**(EDITOR'S NOTE:** This ordinance became effective July 18, 1995. Any lawful uses of any structures that purport to be "boarding houses or room renting" as a permissible use under the Zoning Ordinance before the effective date of this ordinance, shall have eighteen (18) months either to come into compliance with this provision as a boarding house or to undertake another permitted use in the particular zoning district. Otherwise, the use of the premises shall be unlawful.)

#### **Section 12.521. Bed & Breakfasts (B & B's).**

Bed and Breakfasts (B & B's) are permitted in all Single Family, Multi-Family, and Office districts, the UR-1, B-1, B-2, and the Mixed Use (MX-1, MX-2, and MX-3) conditional districts subject to the following standards that apply to the applicable districts:

- (1) Access to a bed and breakfast in any Single Family and the Mixed Use (MX-1, MX-2, MX-3) conditional districts shall be provided by a street other than a local (Class VI) or local limited (Class VI-L). B & B's in any other district may have access by any class of street.
- (2) Number of guest rooms permitted;
  - (a) All Single Family and Mixed Use districts and the UR-1 district - limited to 4.
  - (b) All other districts where permitted - maximum of 8.
  - (c) Elderly and disabled housing when permitted as an accessory to any single family detached dwelling unit will not count as part of the number of bed and breakfast guest rooms, nor can they be used to house guests.
- (3) The quarters to be utilized by the guests and the occupants of the premises shall be in the principal residential structure. Separate structures, accessory

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### **PART 5: SPECIAL REQUIREMENTS FOR CERTAIN USES**

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buildings and garages are not permitted to be used as living units or sleeping rooms for bed and breakfast guests. No separate exterior doorways for individual guest rooms shall be permitted, unless the separate doorway was part of the original architecture of the house and was in existence prior to the adoption date of this provision.

- (4) Guests are limited to a length of stay of no more than 7 consecutive days. The resident owner shall keep a current guest register including names, permanent addresses, dates of occupancy, and motor vehicle license number of all guests.
- (5) B & B's may provide food service, but only to guests lodging in the facility. No food preparation will be allowed in any guest bedroom.
- (6) Any signage, which identifies the use, shall be in accordance with the underlying zoning district.
- (7) The location of parking shall comply with Section 12.206 as a single family detached dwelling unit, except any additional parking beyond what can be accommodated in a driveway no wider than to sufficiently park 2 cars must be out of the required setback and yards as specified in Section 12.206. Parking for guests shall not be served by a separate driveway from that serving the principal residential structure.
- (8) The Zoning Board of Adjustment shall not have jurisdiction to vary any of these standards, but shall have jurisdiction to interpret questions regarding the use of the property.

#### **Section 12.522. [RESERVED]**

#### **Section 12.523. Beneficial fill sites.**

Beneficial fill sites with an operational area (i.e. planned disposal area) of one-fourth acre or more in size are permitted in all zoning districts in accordance with the requirements listed below:

- (1) The "Operational Guidelines for Beneficial Fill Sites" approved by the Board of County Commissioners must be followed.

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- (2) Any such site may not be operated for more than 12 months, after which time it must be closed in an approved fashion.
- (3) Vehicular access to the site must be paved and will be provided from any Class II, III, III-C, IV or V-C street. Access from any other street classification will require a variance from the Zoning Board of Adjustment. The Zoning Administrator will cause the site to be posted with a notice at least 14 calendar days prior to the hearing stating the proposed use, date of hearing and where additional information can be obtained.
- (4) The site may be operated only between the hours of 8:00 a.m. and 6:00 p.m. Monday through Saturday.
- (5) Final fill elevations must match or compliment adjacent surrounding topography. The final contours and drainage patterns of the fill area may not adversely affect adjacent properties.
- (6) No fill, which includes used asphalt, may be placed in any portion of a regulatory flood plain, including both the floodway and floodway fringe area.
- (7) No portion of any such site may be located within 15 feet of any exterior property lines. This includes structures, equipment storage, parking areas and fill areas, however, during closure of the site, the buffer area may be filled if necessary to match or compliment adjacent surrounding topography.
- (8) The location of any such site must be indicated on any required final subdivision plat. Further, any parcel or lot, which contains any part of any such site, must have notification of the existence and extent of the site recorded as part of the deed for the lot or parcel, even if no subdivision plan is required for the development of the property.
- (9) Fill activity is not exempt from and must comply with, all other applicable Federal, State, and local laws, ordinances, rules, and regulations, including, but not limited to, other zoning restrictions, flood plain restrictions, wetland restrictions, mining regulations, sedimentation and erosion control regulations.

Beneficial fill sites of less than one-fourth acre on one parcel do not require a zoning permit or site approval and are exempt from this section, except for condition (4), (5), (6), (7) and (9) above. In addition condition (8) is required if it contains material such as concrete, concrete block, brick or used asphalt.



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#### **Section 12.524. Construction and Demolition (C & D) landfill.**

Construction and demolition (C & D) landfills are permitted in those districts so specified in this ordinance subject to the same provisions of **Section 12.507. Sanitary landfill**, except that the minimum acreage requirement is not applicable.

#### **Section 12.525. Medical waste disposal facilities.**

- (1) Intent. Thousands of cubic feet of medical waste are handled in Mecklenburg County and its environs in pursuit of health care for area citizens each year. Therefore, it is incumbent upon local government to assume its responsible role in the management of these materials. Starting from this premise, the purposes of these regulations are:
  - (a) To assure that medical waste disposal facilities are sited in a manner consistent with the public health, safety and welfare;
  - (b) To assure that the risks to the community are minimized to the greatest extent reasonably possible; and
  - (c) To assure that the decisions with regard to the siting of medical waste disposal facilities are made in an objective fashion.
- (2) Definitions. For purposes of these regulations the following terms are defined:
  - (a) Medical waste means any solid waste which is generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biological matter, but does not include any hazardous waste identified or listed pursuant to the most current North Carolina General Statutes, radioactive waste, household waste as defined in Federal Regulations or those substances excluded from the definition of "Solid Waste" in the latest General Statutes. In the event that the definition of "Medical Waste" as defined therein is amended to include additional wastes within the definition of "Medical Waste" as defined therein is amended to include additional wastes within the definition to "Medical Waste", this definition shall be automatically amended to include said additional wastes;
  - (b) A medical waste disposal facility is a building, structure or use of land devoted, or intended to be devoted, to the storage, treatment or disposal

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of medical waste and that contains process equipment for the treatment of medical waste;

- (c) Process equipment means any equipment or device for treating medical waste which requires any type of state or local permit in order to treat medical waste; and
  - (d) Treatment means any process, including steam sterilization, chemical treatment, incineration or other methods approved by the North Carolina Commission for Health Services, which changes the character or composition of medical waste so as to render it noninfectious.
- (3) Application. Applications for medical waste disposal facility zoning permit must be submitted to the Zoning Administrator, who will consider and determine entitlement to the permit based upon the regulations contained in this Section. Before a decision is rendered there shall be a notification period and a public forum as described in Section 4.106. Public notification process for certain land uses. Applications for minor changes or modifications, which will not alter the basic relationship to surrounding properties, will be submitted to the Zoning Administrator who will consider and determine entitlement based upon these same regulations but without the notification period and public forum. Additions to any existing building or structure of 10% or 1,000 square feet, whichever is less, will not require the notification period and public forum. However, if additional land is being considered, the notification period and public forum requirements will apply.

Applications for medical waste disposal facility must include the following information:

- (a) Maps of the area within 500 feet of the exterior property lines of the proposed site, and including the proposed site, which show:
  - (i) all dwelling units, places of public assembly, other principal buildings and structures and streets;
  - (ii) all significant topographical features;
  - (iii) all surface water;
  - (iv) all sanitary sewer systems;

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- (v) all storm water management system; and
    - (vi) all wells.
  - (b) An engineering certification for the proposed site concerning the factors of:
    - (i) surface water drainage;
    - (ii) flooding; and
    - (iii) prevailing wind direction.
  - (c) Copies of applications (or permits if they have been received) to the appropriate local, state and/or federal agencies for any of the following permits which are required for the facility:
    - (i) air quality permits;
    - (ii) solid waste permits; and
    - (iii) waste water disposal permits.
  - (d) A certification from the Mecklenburg County Director of Environmental Protection that the facility and its operations as proposed are consistent with the best commercially available design specifications and operating practices.
- (4) Special Requirements. Medical waste disposal facilities as a principal use may be permitted within the General Industrial (I-2) district and are subject to all appropriate provisions of these regulations and the following supplementary requirements. Medical waste disposal facilities as an accessory use may be permitted within the institutional district, office districts, business districts and industrial districts, and are subject to all appropriate provisions of this ordinance and the following supplementary requirements.
  - (a) All storage, treatment and loading facilities handling medical waste as a principal use must be located at least 300 feet from any property zoned residential or used for residential purposes; as an accessory use, 100 feet;

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### **PART 5: SPECIAL REQUIREMENTS FOR CERTAIN USES**

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- (b) Fences, which are not easily climbed and are a minimum of 7 feet high must be installed as safety devices around all portions of the facility directly involved in the storage and handling of medical waste;
  - (c) Access to medical waste disposal facilities must not make use of any residential collector or residential local streets;
  - (d) All surface water and ground water on the site must be controlled so as to minimize to the greatest extent reasonable the probability of contamination from medical waste;
  - (e) All sanitary sewer and storm water management systems on the site must be protected so as to minimize to the greatest extent reasonable the probability of contamination by medical waste; and
  - (f) After approval for the zoning permit, the facility must be operated in accordance with all applicable provisions of the appropriate state and federal legislation and must hold the proper valid permit(s) issued by the appropriate state and federal agencies governing the facility's operation.
- (5) Findings. As a prerequisite to approval of an application for a medical waste disposal facility zoning permit, the Zoning Administrator must find that the material presented with the application establishes:
- (a) That safe and adequate access to the facility for general, service and emergency purposes will not require the use of any residential collector or residential local streets;
  - (b) That the operation of the facility will not produce fumes, odors, noise, dust, smoke or gases which will substantially adversely affect nearby properties; and
  - (c) That all surface water, ground water, sanitary sewer systems and storm water management systems will be controlled so as to minimize to the greatest extent reasonable the probability of contamination by medical waste.

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### PART 5: SPECIAL REQUIREMENTS FOR CERTAIN USES

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#### **Section 12.526. Solid Waste Transfer Stations.**

A solid waste transfer station is a facility, which receives and temporarily stores solid waste as defined by this ordinance at a location other than the generation site, and which facilitates the transfer of accumulated solid waste to another facility for further processing or disposal. This term does not include recycling centers or portable storage containers used for the collection of municipal waste.

Solid waste transfer stations may be established in the General Industrial (I-2) district subject to the requirements of this section:

- (1) Applications for a solid waste transfer station must be submitted to the Zoning Administrator, who will consider and determine entitlement to the permit based upon the regulations contained in this Section. Before a decision is rendered there shall be a notification period and public forum as described in Section 4.106. Public notification process for certain land uses. Application for minor changes or modifications, which will not alter the basic relationship to surrounding properties, will be submitted to the Zoning Administrator who will consider and determine entitlement based upon these same regulations. Additions to any existing building or structure of 10% or 1,000 square feet, whichever is less, will not require the notification period and public forum. However, if additional land is being considered, the notification period and public forum requirements will apply.
- (2) Minimum site size is 10 acres.
- (3) All on-site processing and transferring of solid waste will be conducted entirely within an enclosed building(s). An enclosed building for these purposes is one in which the walls, doors and roof are made of solid materials but may contain windows and skylights.
- (4) Doors to the building(s) shall remain closed except to temporarily allow transport trucks to enter and exit the building.
- (5) Vehicle access to the site will be paved and will be provided only from any Class I, II, III, III-C or IV street or from any street built to commercial or industrial standards which leads directly from Class I, II, III, III-C or IV street. Acceleration/deceleration lanes will be provided unless the appropriate transportation department determines they are not suitable at that particular

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### **PART 5: SPECIAL REQUIREMENTS FOR CERTAIN USES**

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location. All access driveways, which serve the site for ingress or egress, must be wide enough to accommodate two lanes of traffic. An area on the site must be provided between the entrance off the street and the solid waste transfer building to accommodate a minimum of ten vehicles and no vehicles will be allowed to back up on any public right-of-way.

- (6) All activities of a solid waste transfer station must be located a minimum of 50 feet from any exterior property line, except the minimum shall be increased to 500 feet from any residential zoning district or from any lot line of property used for a residential dwelling unit.
- (7) All existing trees and vegetation on the solid waste transfer station site are to remain in an undisturbed condition, for the distances specified in item 6 above. Where the natural growth is inadequate to materially screen the site from the view of adjoining properties and from a public street, vegetation will be provided according to Class A buffer requirements. When the site is adjoining residentially zoned property, the exterior 100 feet must contain vegetation equivalent to a Class A buffer adjacent to the exterior property. When adjacent to any nonresidential zoning district, a 50-foot Class A buffer will be provided at the exterior property line. This 50-foot buffer can be the same minimum distance separation as stated above. The access to the site and utilities serving the site may cross all of these areas, however, underground utility areas will be replanted after installation. It is the intent of this provision that these driveways and utilities be basically in a straight line and as nearly perpendicular to the property line as possible.
- (8) When solid waste transfer stations are adjoining any residential zoning district, the facility may not be operated on Sunday or earlier than 7:00 a.m. or later than 6:00 p.m. on any other day.
- (9) Solid waste transfer stations must be served by public water and sewer facilities.

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### PART 6: STORMWATER DRAINAGE

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#### PART 6: STORMWATER DRAINAGE

##### Section 12.601. Drainage plan approval required.

- (1) No development or use of land, which involves or would create more than 20,000 square feet of impervious ground cover, except for land developed or used for agricultural purposes, shall be permitted without the submission and approval of a drainage plan, in accordance with the requirements of this Part. No certificate of occupancy, or building permit for such development shall be issued until the drainage plan is approved by the County Engineer.
- (2) Impervious ground cover in existence prior to July 2, 1979 of these regulations shall not be used in measuring the 20,000 square feet identified in Subsection (1) above.

##### Section 12.602. Required contents of drainage plan.

The drainage plan submitted for approval under this Part shall include a site plan showing existing and proposed buildings, stormwater drainage facilities and impervious ground cover; site construction plans and grading plans and drainage system; drainage facility design data, including a drainage area map, engineering calculations, area of impervious cover, and total land area; and any other appropriate information requested by the County Engineer.

##### Section 12.603. Standards for plan approval.

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

- (1) The County Engineer shall review the drainage plan for compliance with the standards contained in the current edition of the Charlotte-Mecklenburg Land Development Standards Manual, the Charlotte-Mecklenburg Storm Water Design Manual, which is to be adopted in its entirety pursuant to G.S. 153A-47, and all other relevant and appropriate standards established by the Engineering Department.
- (2) All storm water collection and drainage systems shall be designed in compliance with the Charlotte-Mecklenburg Land Development Standards Manual.

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### **PART 7: NUISANCES**

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#### **PART 7: NUISANCES**

##### **Section 12.701. Noise.**

No use shall be operated so as to generate recurring noises that are unreasonably loud, cause injury, or create a nuisance to any person of ordinary sensitivities. No nonresidential use shall be operated so as to generate any noise in an adjacent residential, research, office, or institutional district, as detected in that district without instruments, that is louder than the noise which could be generally expected from uses permitted in that district. Noise occurring activities shall also be in conformance with the County Code.

##### **Section 12.702. Fumes and odors.**

No use shall emit fumes, gasses, or odors in concentrations or amounts that cause injury or create a nuisance to any person of ordinary sensitivities on another property.

##### **Section 12.703. Vibration.**

No use shall be operated so as to generate inherent or recurring ground vibrations detectable at the property line, which create a nuisance to any person of ordinary sensitivities on another property.



## MECKLENBURG CODE

### PART 8: S.W.I.M. (SURFACE WATER IMPROVEMENT AND MANAGEMENT) STREAM BUFFERS

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### PART 8: S.W.I.M. (SURFACE WATER IMPROVEMENT AND MANAGEMENT) STREAM BUFFERS

#### Section 12.801. Purpose.

The purpose of the stream buffer network in Mecklenburg County is to ensure that the stream and adjacent lands will fulfill their natural functions. Stream systems are comprised of the stream and their drainage basins. Streams have the primary natural functions of conveying storm and ground water, storing floodwater and supporting aquatic and other life. Vegetated lands adjacent to the stream channel in the drainage basin serve as a "buffer" to protect the stream system's ability to fulfill its natural functions. Primary natural functions of the buffer include:

- Protect water quality by filtering pollutants;
- Provide storage for floodwaters;
- Allow channels to meander naturally; and
- Provide suitable habitats for wildlife.

#### Section 12.802. Definitions.

For the purposes of Chapter 12, Part 8, the following words and phrases shall be defined as specified below.

- (1) Best Management Practices (BMPs): A structural or nonstructural management-based practice used singularly or in combination to reduce non-point source input to receiving waters in order to achieve water quality protection goals.

Non-structural BMPs. Non-engineered methods to control the amount of non-point source pollution. These may include land-use controls and vegetated buffers.

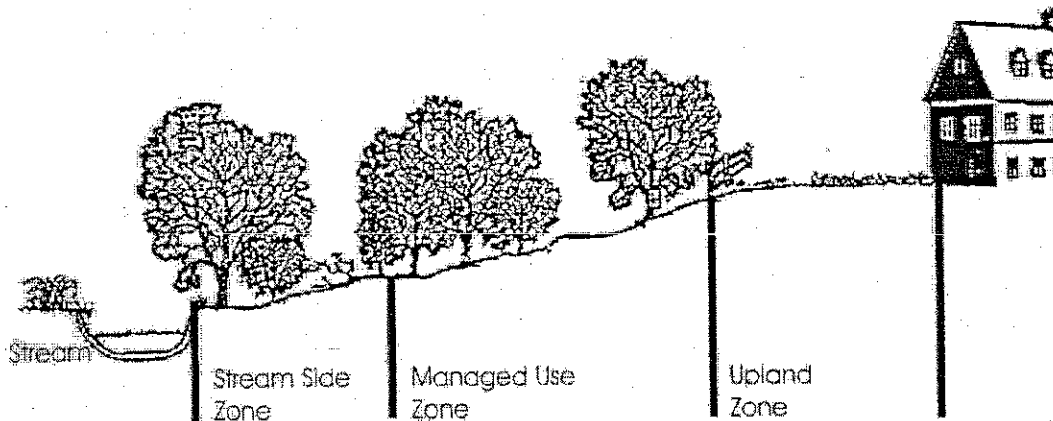
Structural BMPs. Engineered structures that are designed to reduce the delivery of pollutants from their source or to divert contaminants away from the water supply. These may include wet detention ponds, detention basins, grass swales and ditches, and infiltration devices.

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### PART 8: S.W.I.M. (SURFACE WATER IMPROVEMENT AND MANAGEMENT) STREAM BUFFERS

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- (2) Buffer: A natural or vegetated area through which storm water runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants.
- (3) Buffer Zones: The stream buffer is comprised of three (3) zones as shown below.



- (4) Buffer Widths: Viewed aerially, the stream buffer width is measured horizontally on a line perpendicular to the surface water, landward from the top of the bank on each side of the stream.
- (5) Drainage Basin: The area of land, which drains to a given point on a body of water.
- (6) Floodplain Land Use Map (FLUM): A locally developed floodplain map, which is used for regulation of new development.

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### PART 8: S.W.I.M. (SURFACE WATER IMPROVEMENT AND MANAGEMENT) STREAM BUFFERS

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- (7) FLUM Floodway: The channel of a stream or other watercourse draining equal to or greater than 640 acres (Federal Emergency Management Agency (FEMA) regulated) 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 0.1 feet, based on July 1999 land use conditions.
- (8) FLUM Floodway Encroachment Lines: The lateral limits of a floodway district, based on July 1999 land use conditions, as shown on the Floodplain Land Use Map (FLUM), along streams or other bodies of water, within which, in the direction of the stream or other body of water, no structure or fill may be added, unless specifically permitted herein. Their purpose is to preserve the flood-carrying capacity of the floodway. Their location is such that the floodway between them including the channel will handle the base flood flow.
- (9) FEMA Fringe: The land area of a stream draining equal to or greater than 640 acres located between the limits of the FLUM floodway encroachment lines and the maximum elevation subject to inundation by the base (1% chance) flood based on July 1999 land use conditions.
- (10) 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.
- (11) Mitigation: Actions taken either on-site or off-site as allowed by this Part to offset the effects of temporary or permanent loss of the buffer.
- (12) Stream: A drainage feature on the land surface for conveying water. As used in this Part, the main channel of the Catawba River, Lake Norman, Mountain Island Lake and Lake Wylie, is not a stream and this Part does not apply.
- (13) Top Of Bank: The landward edge of the stream channel during high water or bankfull conditions at the point where the water begins to overflow onto the floodplain.

#### Section 12.803. Applicability.

- (1) All properties shall be subject to the buffer requirements of this PART 8 except those properties, which, as of the effective date of November 9, 1999, fit into

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### PART 8: S.W.I.M. (SURFACE WATER IMPROVEMENT AND MANAGEMENT) STREAM BUFFERS

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one of the following categories:

- (a) Have been issued a Certificate of Building Code Compliance.
  - (b) Have a valid building permit.
  - (c) Have been subdivided by a recorded subdivision plat.
  - (d) Have been described by metes and bounds in a recorded deed which:
    - If to be used for **residential** purposes:  
Are 1 acre or less in size.
    - If to be used for **nonresidential** purposes:  
Are 4 acres or less in size if located on a non-FEMA regulated floodway, or  
Are 7 acres or less in size if located on a FEMA regulated floodway.
  - (e) Are included on a valid preliminary subdivision plan.
  - (f) Have otherwise secured a vested property right under State law or local ordinance.
- (2) Redevelopment or expansions to uses included in the above categories are not subject to the buffer requirements of this Part unless it would result in an increase in the total impervious area within the buffer.
- (3) In the event that stream buffers are required by another Section of this Ordinance, the more stringent stream buffer requirements apply.

#### **Section 12.804. Buffer Standards.**

Required stream buffer widths vary based on the size of the upstream drainage basin. Mecklenburg County's Geographic Information System (GIS) will serve as a tool to delineate the size of drainage basins and specify the corresponding buffer widths. S.W.I.M. stream buffer requirements specified in this PART 8 begin at the point where the stream drains 100

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### PART 8: S.W.I.M. (SURFACE WATER IMPROVEMENT AND MANAGEMENT) STREAM BUFFERS

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acres or greater. Refer to the Charlotte-Mecklenburg Storm Water Design Manual for optional buffers on streams which drain less than 100 acres.

(1) Buffer widths for streams draining equal to and greater than 100 acres

Buffers are required for streams draining areas equal to or greater than 100 acres as specified below. Buffer widths for these streams are measured horizontally on a line perpendicular to the surface water, landward from the top of the bank on each side of the stream.

Drainage Area Designation	Stream Side Zone	Managed Use Zone	Upland Zone	Total Width of Buffer on each side of Stream
$\geq 100$ acres	20 feet	None	15 feet	35 feet
$\geq 300$ acres	20 feet	20 feet	10 feet	50 feet
$\geq 640$ acres <sup>(1)</sup>	30 feet	45 feet	25 feet PLUS 50% of the <u>area</u> of the FEMA fringe beyond 100 feet	100 feet PLUS 50% of the <u>area</u> of the FEMA fringe beyond 100 feet

#### FOOTNOTES:

<sup>(1)</sup> Buffer widths for drainage areas of  $\geq 640$  acres:

1. The FEMA fringe and FLUM floodway encroachment lines will be used for floodplain and buffer calculations.
2. If the floodplain is less than 100 feet wide, the total width of the buffer on that side of the stream will be 100 feet except as provided in 4. below.
3. The landowner/developer has discretion to designate the buffer zone beyond the 100-foot minimum. The additional buffer area beyond 100 feet must be contiguous with at least a portion of the required 100-foot buffer and be configured in such a manner as to benefit water quality.
4. So long as the total buffer width is maintained, the buffer may vary in width on either side of the stream based on individual stream side topography provided that the owner(s) control both sides of the stream and the stream side zone is maintained on both sides of the stream.
5. Buffer requirements do not apply to the main channel of the Catawba River including Lake Norman, Mountain Island Lake and Lake Wylie.

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### PART 8: S.W.I.M. (SURFACE WATER IMPROVEMENT AND MANAGEMENT) STREAM BUFFERS

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#### (2) Buffer description

Buffer function, vegetation and use vary according to the different buffer zones as described in the following table.

Characteristics	Stream Side Zone	Managed Use Zone	Upland Zone
Function	Protect the integrity of the ecosystems	Provide distance between upland development and the stream side zone	Prevent encroachment and filter runoff
Vegetative Targets <sup>(1)</sup>	<b><u>Undisturbed (no cutting or clearing allowed)</u></b> - If existing tree density is inadequate, reforestation is encouraged	<b><u>Limited clearing</u></b> - Existing tree density must be retained to a minimum of 8 healthy trees of a minimum 6 inch caliper per 1000 square feet - If existing tree density is inadequate, reforestation is encouraged	<b><u>Grass</u></b> or other herbaceous ground cover allowed - Forest is encouraged
Uses <sup>(2)</sup>	<b><u>Very restricted</u></b> - Permitted uses limited to: flood control structures and bank stabilization as well as installation of utilities and road crossings with stabilization of disturbed areas as specified in Section 12.806.2	<b><u>Restricted</u></b> - Permitted uses limited to: all uses allowed in the Stream Side Zone, as well as storm water best management practices (BMPs), bike paths, and greenway trails (not to exceed 10 feet in width)	<b><u>Restricted</u></b> - Permitted uses limited to: all uses allowed in the Stream Side and Managed Use Zones, as well as grading for lawns, gardens, and gazebos and storage buildings (non-commercial and not to exceed 150 square feet)

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#### FOOTNOTES:

- (1) Re-vegetation of disturbed buffers is required as specified in the Charlotte-Mecklenburg Land Development Standards Manual when such disturbances result in the failure of the buffer system to comply with the vegetative targets specified above. The manual also contains recommended tree densities for each zone for voluntary reforestation efforts.
- (2) Fill material cannot be brought into the buffer. Grading is allowed only in the Upland Zone. Commercial buildings or occupied structures are not allowed in the buffer. Permitted uses within the buffer zones should be coordinated to ensure minimal disturbance of the buffer system. For example, if it is necessary to install utilities within the buffer, every attempt should be made to build greenway trails so they follow the cleared areas instead of additional clearing.

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#### (3) Diffuse flow requirement

Diffuse flow of runoff shall be maintained in the buffer by dispersing concentrated flow and reestablishing vegetation. Techniques for providing diffuse flow are specified in the Charlotte-Mecklenburg Land Development Standards Manual.

- (a) Concentrated runoff from ditches or other manmade conveyances shall be converted to diffuse flow before the runoff enters the buffer.
- (b) Periodic corrective action to restore diffuse flow shall be taken by the property owner as necessary to prevent the formation of erosion gullies.

#### (4) Ponds

Ponds, which intersect the stream channel, shall have the same buffers as the original stream measured from the top of the bank of the pond. Buffer requirements shall not apply to wet ponds used as structural BMPs.

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#### (5) Buffer delineation

The following buffer delineations are required:

- (a) Streams and buffer boundaries including all buffer zones must be clearly delineated on all construction plans, including grading and clearing plans, erosion, drainage and sediment control plans and site plans.
- (b) Outside buffer boundaries must be clearly marked on-site prior to any land disturbing activities.
- (c) The outside boundary of the buffer must be permanently marked at highway stream crossings.
- (d) Streams and buffer boundaries including the delineation of each buffer zone must be specified on all surveys and record plats.
- (e) Buffer requirements must be referenced in homeowners' association documents.

#### Section 12.805. Incentives.

##### (1) Purpose

The purpose of this section is to set forth incentives to offset restrictions that buffer requirements place on development. These incentives promote open space development that incorporates smaller lot sizes to minimize total impervious area within the development, reduce total construction costs, conserve natural areas, provide community recreational space, and promote protection of streams.

##### (2) Reduction in lot size

Allow a one-for-one credit in lot size reduction in addition to what is allowed in Section 9.205(4)(a) provided this is not below the minimum requirement for the next lower zoning classification.



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(3) Relax lot setback requirements

For all lots within a development requiring a SWIM buffer, setback requirements as specified in Section 9.205(4) are reduced as follows:

- (a) Front setbacks can be reduced to a minimum of 15 feet for all lots except front loaded garages must maintain a minimum setback of 20 feet.
- (b) Rear setbacks can be 100 % within a SWIM buffer. Rear setbacks can be reduced to 30 feet on all internal lots. Rear yards forming the outer boundary of a project must conform to the minimum of subsection 9.205(1)(g) for the zoning district in which the development is located.
- (c) Side setbacks can be reduced to a minimum of 3 feet provided all fire code requirements are satisfied.

(4) Open space

SWIM buffer areas can be used toward satisfying the required open space minimums for the development if dedicated.

(5) Density bonus

In addition to the provisions 2 through 4 above:

- (a) Single family development projects may be granted a density bonus provided the entire required SWIM buffer area or the entire SWIM buffer area plus any additional buffer area is dedicated as common open space. Such dedication must be to a homeowners' association or a public or private agency that agrees to accept ownership and maintenance responsibilities for the space. The density bonus is calculated as follows:

The entire dedicated buffer area in acres multiplied by the maximum residential density number of the underlying zoning district.

- (b) Lots within single family projects that meet the above density bonus need not meet the minimum lot width requirements set out in subsection

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9.205(1) provided that each lot meets the minimum lot width requirements set forth in Table 9.205(5).

#### Section 12.806. Mitigation.

(1) Purpose

The purpose of this section is to set forth the basis on which mitigation is required for unavoidable or approved buffer impacts within any of the buffer zones. This mitigation basis shall allow the property owner or other entity the opportunity to disturb a buffer, provided that steps are taken to offset the buffer loss. Prior to any buffer impact, any person or entity seeking approval of a buffer impact shall submit the requisite site and mitigation information for approval to the Mecklenburg County Department of Environmental Protection as specified below, to the extent approval is required by this Part.

(2) Buffer impacts not requiring mitigation

The following buffer impacts do not require mitigation or specific plan approval but are required to comply with the specifications provided in the Charlotte-Mecklenburg Land Development Standards Manual for stabilization of disturbed areas to minimize negative water quality impacts.

- (a) Road crossings for connectivity or transportation links where the Charlotte-Mecklenburg Planning Commission has granted site plan approval.
- (b) Utility crossings.
- (c) Parallel water and sewer utility installation as approved by Charlotte-Mecklenburg Utilities.
- (d) Public paths and trails parallel to the stream outside the Stream Side Zone and stream crossings. Pathways must use existing and proposed utility alignments or previously cleared areas and minimize tree cutting to the maximum extent practicable. To the extent possible, pathways shall preserve existing drainage patterns and avoid drainage structures that concentrate storm water.

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- (e) Incidental drainage improvements/repairs for maintenance.
- (f) Individual pedestrian paths connecting homeowners to the stream in the form of narrow, pervious footpaths with minimal tree disturbance.
- (g) New domesticated animal trails (farming) where existing trails are lost as a result of action beyond the farmer's control. Stream crossings should be constructed and maintained to minimize impacts to the Stream Side Zone with fencing perpendicular and through the buffer to direct animal movement.
- (h) Mitigation approved by a state or federal agency acting pursuant to Sections 401 or 404 of the federal Clean Water Act.

(3) Buffer impacts requiring mitigation

Impacts to stream buffers not specified in Section 12.806.2, proposed to allow development or other land use in a buffer, shall be required to mitigate or offset the proposed impact in accordance with this Section. Buffer impacts requiring mitigation and plan approval include:

- Filling or piping of streams
- Removal of vegetation from the Stream Side or Managed Use Zones other than as specified by Section 12.804.2 "Vegetative Targets."
- Paths proposed within the Stream Side Zone
- Stream relocations
- Fences and walls requiring tree removal in the Stream Side or Managed Use Zones
- Other buffer impacts not permitted under Section 12.804.2.

The landowner or other entity proposing any of the impacts specified above shall prepare and submit for approval a site specific plan to the Mecklenburg County Department of Environmental Protection. This site plan shall show the extent of the proposed impact and clearly specify the proposed mitigation technique.

(4) Pre-approved mitigation techniques

The following techniques are available to landowners for mitigation of buffer impacts, upon review and approval of a specific site mitigation plan by the

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Mecklenburg County Department of Environmental Protection. Mitigation techniques must have an equal or greater benefit to water quality than the diminution in water quality resulting from the buffer impacts as determined by the Mecklenburg County Department of Environmental Protection. Specifications for these pre-approved mitigation techniques are provided in the Charlotte-Mecklenburg Land Development Standards Manual.

- (a) Installation of Structural BMPs: The installation of an on-site structural BMP designed to achieve specified pollutant removal targets will allow for stream buffer impacts on the specific site. The BMP should remain outside the Stream Side Zone if practical. A detailed BMP design plan must be submitted to the Mecklenburg County Department of Environmental Protection for approval based on specifications and pollutant removal targets contained in the Charlotte-Mecklenburg Land Development Standards Manual. This plan must also include a long term maintenance strategy for the BMP complete with the establishment of adequate financing to support the proposed maintenance practices.
- (b) Stream Restoration: The owner may restore and preserve the buffer area on any stream of equivalent or greater drainage area the condition of which is determined to be qualified for restoration by the Mecklenburg County Department of Environmental Protection on a 1:1 basis in linear feet of stream utilizing square feet of buffer area impacted. This restoration shall include stream bank improvements and Stream Side and Managed Use Zone re-vegetation, in accordance with the Charlotte-Mecklenburg Land Development Standards Manual.
- (c) Stream Preservation: The owner may purchase, fee simple, other stream segments at equivalent or greater drainage area on a 1:1 linear feet basis utilizing square feet of buffer area impacted, and convey fee simple and absolute title to the land to the City/County or other conservation organization.
- (d) Wetlands Restoration: On a 2:1 acreage basis for disturbed stream and buffer area (2 acres of wetland for each acre of disturbed area), the owner may provide a combination of the preservation and/or restoration of wetlands with protective easements, and the implementation of structural or non-structural BMPs to achieve specific pollutant removal targets within the impacted area as specified in the Charlotte-Mecklenburg Land Development Standards Manual.

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- (e) Bottom Land Hardwood Preservation: On a 2:1 acreage basis for impacted stream and buffer area (2 acres of bottomland hardwood for each acre of disturbed area), the owner may provide a combination of the preservation of existing bottom land hardwood forest or other specifically approved natural heritage area by conservation easement or other legal instrument, and the implementation of structural or non-structural BMPs to achieve specific pollutant removal targets within the impacted area as specified in the Charlotte-Mecklenburg Land Development Standards Manual.
  - (f) Controlled Impervious Cover: The owner may commit to, and provide, a specific site development plan that limits overall site impervious cover equal to or less than 24%. Development on this basis shall allow for stream buffer impacts on the specific site. Preservation of the Stream Side Zone is encouraged.
  - (g) Open Space Development: The submission of a specific site development plan which preserves 50% of the total land area as undisturbed open space shall allow for stream buffer impacts on the specific site.
  - (h) Mitigation Credits: The purchase of mitigation credits on a 1:1 basis utilizing linear feet of stream impacted square feet of buffer area impacted at the prevailing rate of purchase as established by the Mecklenburg County Department of Environmental Protection shall allow for stream buffer impacts on the specific site. Mitigation credits purchased under any other program (i.e., U.S. Army Corp of Engineers) shall not cover this requirement unless the issuing agency agrees to relinquish the funds to the appropriate City/County agency.
- (5) Other mitigation techniques

No provision of this Part shall prevent the creative development of alternative mitigation plans. The owner shall submit such plan with proposed buffer impacts and detailed mitigation information to the Mecklenburg County Department of Environmental Protection for approval. The criteria used to judge the acceptability of any alternative plan shall be the degree to which the plan addresses the preservation of the four primary natural functions of stream buffers. Such plans may be submitted in conjunction with a mitigation plan submission to the U.S. Army Corp of Engineers and N.C. Department of Environment and Natural Resources for proposed stream or wetland impacts.

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The Mecklenburg County Department of Environmental Protection, when considering proposed mitigation alternatives, shall give equal weight to proposals which utilize the preservation of unique or endangered habitat or natural areas against proposed buffer impacts.

(6) Posting of financial security required for structural BMPs

When structural BMPs (wet detention ponds and other BMPs) are approved for mitigation of a buffer disturbance, the approval shall be subject to the owner filing a surety bond or letter of credit or making other financial arrangements which are acceptable to the Mecklenburg County Department of Environmental Protection, in a form which is satisfactory to the County Attorney, guaranteeing the installation and maintenance of the required structural BMPs until the issuance of certificates of occupancy for seventy-five percent (75%) of all construction which might reasonably be anticipated to be built within the area which drains into the BMPs, allowing credit for improvements completed prior to the submission of the final plat. At such time that this level of occupancy is achieved, written notice thereof must be given by the owner to the Mecklenburg County Department of Environmental Protection. The owner must also verify the adequacy of the maintenance plan for the BMPs including the necessary financing to support the proposed maintenance practices. The Mecklenburg County Department of Environmental Protection will inspect the structural BMPs and verify the effectiveness of the maintenance plan and if found satisfactory, will within 30 days of the date of the notice notify the owner in writing.

(7) Maintenance responsibilities for structural BMPs - Civil Penalties

Maintenance of all structural BMPs shall be the responsibility of the property owner or his designee. Any person who fails to maintain the required BMPs in accordance with the approved maintenance plan shall be subject to a civil penalty of not more than \$500. Each day that the violation continues shall constitute a separate violation. No penalties shall be assessed until the person alleged to be in violation has been notified in writing of the violation by registered or certified mail, return receipt requested, or by other means which are reasonably calculated to give actual notice. The notice shall describe the nature of the violation with reasonable particularity, specify a reasonable time period within which the violation must be corrected, and warn that failure to correct the violation within the time period shall result in assessment of a civil penalty or other enforcement action.

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#### Section 12.807. Appeals and Variances.

Appeals and variances from this Part shall be heard by the Charlotte-Mecklenburg Storm Water Advisory Committee and shall be subject to Part 2 of Chapter 5 of these regulations.





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## CHAPTER 13:

### SIGNS

#### **Section 13.101. Intent and purpose.**

The purpose of this Section is intended to accomplish the following objectives:

- (1) To ensure that signs are designed, constructed, installed, and maintained so that public safety and traffic safety are not compromised.
- (2) To minimize the distractions and the obstructing-of-view that contributes to traffic hazards and endanger public safety.
- (3) To encourage a high standard for signs in order that they should be appropriate to and enhance the aesthetic appearance and attractiveness of the community and, further, create an aesthetic environment that contributes to the ability of the community to attract sources of economic development and growth.
- (4) To allow for adequate and effective signs for communicating identification while preventing signs from dominating the visual appearance of the area in which they are located.

#### **Section 13.102. Definitions.**

For the purposes of these regulations, the following words and phrases shall be defined as specified below.

(A1) Amortization.

A provision requiring nonconforming signs, as determined in Section 13.112 of these regulations, to either become conforming or be removed within a set period of time, otherwise known as the amortization period.

(A2) Awning.

A structure made of cloth, metal, or other material affixed to a building in such a manner that the structure may be raised or retracted from a building to a flat position against the building, but not a canopy.

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(B1) Building wall.

The entire surface area, including windows and doors, of an exterior wall of a building. For the purposes of these regulations, the area of a wall will be calculated for only the first three stories, or 45 feet in height of a building, whichever is less.

(C1) Canopy.

A permanent structure other than an awning made of cloth, metal or other material attached or unattached to a building for the purpose of providing shelter to patrons or automobiles, or as a decorative feature on a building wall. A canopy is not a completely enclosed structure.

(C2) Changeable copy.

Copy that is or can be changed manually in the field or through mechanical means. [e.g., readerboards with changeable letters.]

(C3) Commercial message.

A message placed or caused to be placed before the public by a person or business enterprise directly involved in the manufacture or sale of the products, property, accommodations, services, attractions, or activities that are offered or exist for sale or for hire.

(C4) Copy.

Any words, letters, numbers, figures, characters, symbols, logos, or insignia that are used on a sign display surface area.

(F1) Farm product sales.

Seasonal sale of farm products raised on the premises where products are raised as an accessory to an agricultural use.

(G1) Grade.

The height of the top of the curb, or if no curb exists, the height of the edge of pavement in the lane of travel adjacent to the sign.

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(L1) Linear frontage.

The length of a property abutting a public right-of-way from one side lot line to another.

(L2) Logo.

A business trademark or symbol.

(O1) Outparcel.

A parcel of land associated with a shopping center or multi-tenant property development, which is designated on an approved site plan as a location for a free standing structure with an intended use such as, but not limited to banks, saving and loans, dry cleaners, service stations, vehicle repair garages, offices, restaurants, retail establishments, or combination of uses thereof and adjoins the shopping center or multi-tenant property development or the parking and service drives associated with it on any side, other than the side fronting the public right-of-way.

(P1) Parapet.

That portion of a building wall or false front that extends above the roof line.

(P2) Planned development.

A tract of land under single, corporation, partnership, or association ownership, planned and developed as an integral unit in a single development operation or a definitely programmed series of development operations and according to an approved development plan.

(P3) Premises.

A parcel of real property with a separate and distinct number of designation shown on a recorded plat, record of survey, parcel map, subdivision map, or a parcel legally created or established pursuant to applicable zoning. Outparcels of shopping centers shall be considered on the premises of the shopping center for the purpose of these regulations.

(R1) Roof line.

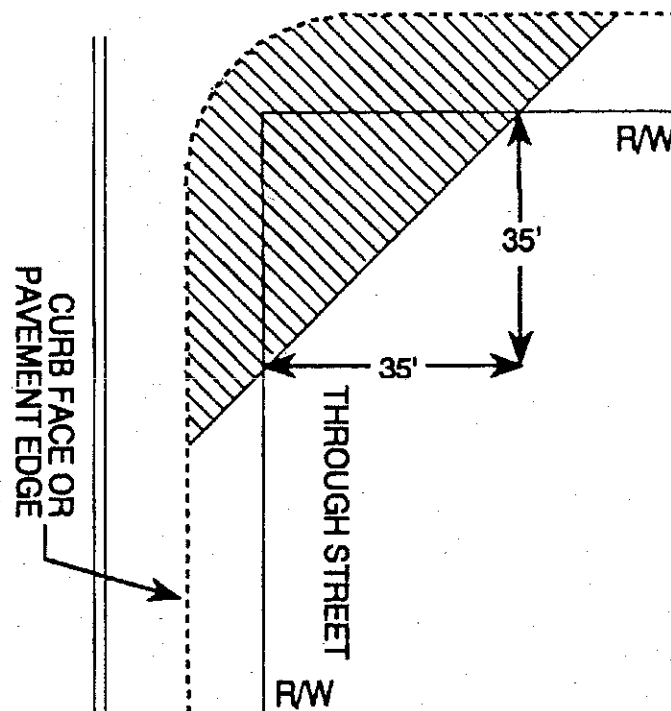
The highest point of a flat roof and mansard roof and the lowest point of a pitched roof, excluding any cupolas, chimneys or other minor projections.

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### (S1) Sight distance triangle.

The triangular area formed by a diagonal line connecting two points located on intersecting right-of-way lines (or a right-of-way line and the curb or a driveway), each point being 35 feet from the intersection, and the two intersecting right-of-way lines (or a right-of-way line and a driveway), or 50 feet back from the curb line, whichever is greater. On some occasions, the County Engineering Department may require additional sight zones as deemed necessary to provide adequate safety for motorist.

**Sight Distance Triangle**



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### (S2) Sign.

Any object, device, or structure, or part thereof, situated outdoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images. Signs do not include the flag or emblem of any nation, organization of nations, state, city, or any fraternal, religious or civic organizations; works of art which in no way identify a product; or scoreboards located on athletic fields.

### (S3) Sign face area.

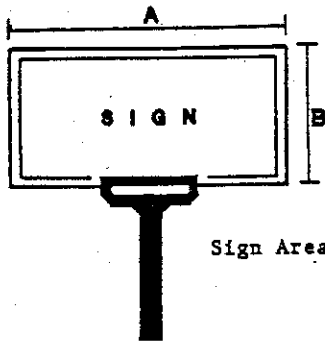
The area within a single, continuous perimeter enclosing the extreme limits of characters, lettering, logos, illustrations, or ornamentations, together with any material or color forming an integral part of the display or to differentiate the sign from the background to which it is placed. Structural supports bearing no sign copy shall not be included in the sign area. If a sign is attached to an entrance wall or fence, only that portion of that wall or fence onto which the sign face or letters are placed shall be calculated in the sign area. Only one side of a sign shall be included in the calculation.

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## SIGN AREA MEASUREMENT



Ground Sign  
Sign Area = (A)x(B)



Sign Area = (A)x(B)

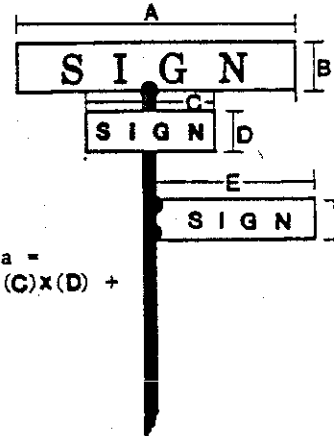
## Pole Signs



Sign Area =  $\pi R^2$

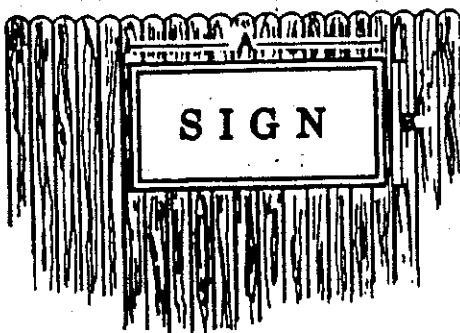


Wall Sign  
Sign Area = (A)x(B)



Sign Area =  
(A)x(B) + (C)x(D) +  
(E)x(F)

## Fence Sign



Sign Area = (A)x(B)

## Store Front

individual letters attached to wall



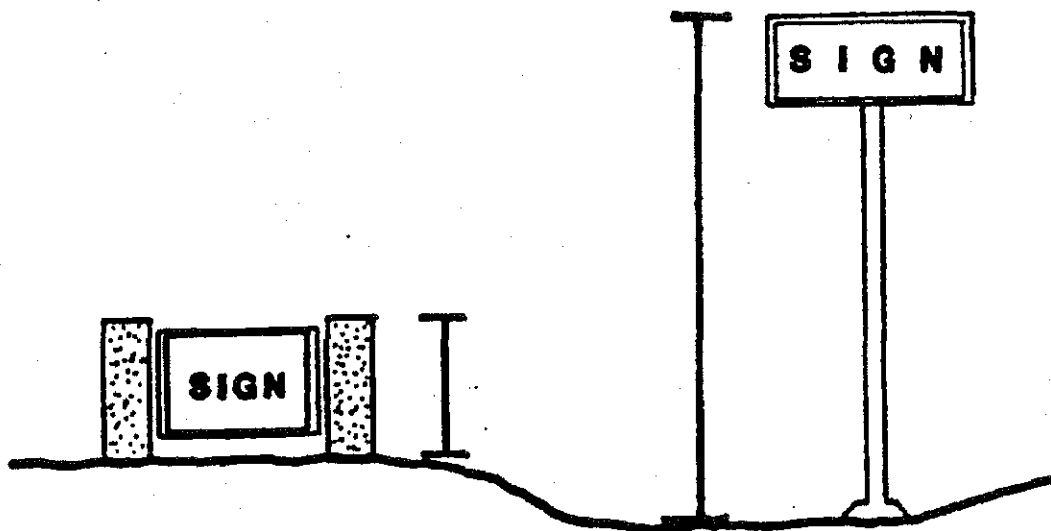
Sign Area = (A)x(B)

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(S4) Sign height.

The distance measured from the highest point of a sign to the base of the sign at the ground.



(S5) Sign structure or support.

Any structure that supports or is capable of supporting a sign, including decorative cover.

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(S6) Special event.

A planned, temporary activity.

(S7) Sign types.

The following are types of signs included in these regulations:

(a) Banner

A sign intended to be hung either with or without a frame, possessing characters, letters, illustrations, or ornamentations applied to plastic or fabric of any kind, excluding flags and emblems of political, professional, religious, education, or corporate organizations.

(b) Bulletin Board

A sign used to announce meetings or programs to be held on the premises of a church, school, auditorium, library, museum, community recreation center, or similar noncommercial places of public assembly.

(c) Business Sign

A sign that directs attention to a business, profession, or industry located upon the premises where the sign is displayed; to type of products sold, manufactured or assembled; and/or to services or entertainment offered on said premises, but not a sign pertaining to the preceding if such activity is only minor and incidental to the principal use of the premises.

(d) Campaign or Election Sign

A sign that advertises a candidate or issue to be voted upon on a definite election day.

(e) Canopy and Awning Signs

A sign attached to or painted or printed onto a canopy or awning. For the purposes of these regulations, the permitted size of a canopy or awning sign will be calculated on the basis of the size of the building wall to which the canopy is attached. It will, for measuring purposes, be considered a wall sign.

(f) Construction Sign

A sign placed at a construction site identifying or announcing the project or the name of the architect, engineer, contractor, financier, or others involved in the development of the project.



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- (g) Detached Sign  
Any sign that is not affixed or attached to a building and is securely and permanently mounted in the ground. Such sign may be a ground mounted sign, pole sign, or monument sign.
- (h) Directional or Instructional Sign: On-Premises  
A sign designed to guide vehicular and/or pedestrian traffic by using such words as "Entrance", "Exit", "Parking", "One-Way", or similar directional instruction, but not including any advertising message. The name or logo of the business or use to which the sign is giving direction may also be included on the sign.
- (i) Directional Development Sign: Off-Premises  
A sign used to direct traffic from Class II or III streets to unified developments such as residential subdivisions, apartments or condominium projects shopping centers, office/business/ industrial parks, and/or churches that are located on Class IV or V streets.
- (j) Directory Sign  
A secondary sign on which the names and locations of occupants or the use of a building or property is identified.
- (k) Ground Mounted Sign  
A sign which extends from the ground or which has a support which places the bottom thereof less than 2 feet from the ground.
- (l) Government Sign  
Any temporary or permanent sign erected and maintained for any governmental purposes.
- (m) Flag  
A piece of durable fabric of distinctive design attached to a permanent pole that is used as a symbol or decorative feature.
- (n) Flashing Sign  
A sign that uses an intermittent or flashing light source to attract attention.
- (o) Identification Sign  
A sign which displays only the name, address, and/or crest, or insignia, trademark, occupation or profession of an occupant or the name of any building on the premises.

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- (p) Illuminated Sign  
A sign either internally or externally illuminated.
- (q) Incidental Sign  
A sign used in conjunction with equipment or other functional elements of a use or operation. These shall include, but not be limited to drive through window menu boards, and signs on automatic teller machines, gas pumps, vending machines, or newspaper delivery boxes.
- (r) Memorial Sign or Plaque  
A sign designating names of buildings and/or date of erection and other items such as architect, contractor, or others involved in the building's creation, cut into or attached to a building surface.
- (s) Monument Sign  
A monolithic sign in which the bottom of the sign is flush with the ground and the vertical dimension of the sign is greater than the horizontal dimension.
- (t) Nonconforming Sign  
Any sign which was lawfully erected in compliance with applicable code provisions and maintained prior to the effective date of these regulations, and which fails to conform to all applicable standards and restrictions of these regulations.
- (u) Off-Premises Sign  
A sign that directs attention to a business commodity, service, or establishment conducted, sold, or offered at a location other than the premises on which the sign is erected.
- (v) On-Premises Sign  
A sign that directs attention to a business commodity, service, or establishment conducted, sold, or offered on the premises on which the sign is erected.
- (w) Outdoor Advertising Sign  
A type of sign, generally, but not limited to, a rigidly assembled sign, display, or devise, usually free standing, that is affixed to the ground or to a building, the primary purpose of which is to display advertising posters. Such signs commonly referred to as "billboards" are generally designed so that the copy or poster on the sign can be changed frequently and the advertising space is for lease.

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- (x) Planned Development Sign  
A sign used in conjunction with an approved planned residential, office, businesses, industrial or mixed use development.
- (y) Pole Sign  
A detached sign erected and maintained on a freestanding frame, mast, or pole and not attached to any building but not including ground-mounted signs.
- (z) Portable or Movable Sign  
A sign that is not permanently attached to the ground, a structure, or a building that can easily be moved from one location or another. [For example, a sign on wheels.]
- (aa) Projecting Sign  
Any sign other than a wall, awning, canopy, or marquee sign, which is affixed to a building and is supported only by the wall on which the sign is mounted.
- (ab) Public Interest Sign  
A sign on private property that displays information pertinent to the safety or legal responsibilities of the general public such as warning and no trespassing signs.
- (ac) Real Estate Sign  
A sign that is used to offer for sale, lease, or rent the premises upon which such sign is placed.
- (ad) Primary Sign  
The main or principal sign located on a premises.
- (ae) Roof Sign  
A sign erected or maintained in whole or in part upon, over, or above the roof or parapet of a building.
- (af) Secondary Sign  
A sign used in addition to a primary sign on a premises.
- (ag) Sponsorship Signs  
A sign employed by a school or by a civic, fraternal, religious, charitable or similar organization, which identifies the sponsor (by name, address and/or logo, crest, insignia, trademark or emblem only) of recreational or sports facilities

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provided on the premises where such signs are displayed. "Sponsorship Fence Signs" shall mean sponsorship signs affixed to permanent fencing.

"Sponsorship Light Pole Signs" shall mean sponsorship signs affixed to permanent light poles. "Facility" shall mean the entire premises of an elementary or secondary school or a recreational or sports facility.

(ah) Temporary Sign

A sign which is not permanently installed in the ground or affixed to any structure or building, and which is erected for a period of time as permitted in this ordinance.

(ai) Temporary Planned Development Sign

A sign that pertains to the development of a new subdivision, planned multi-family development, planned shopping center, industrial, office, or business park, or similar land parcel.

(aj) Vehicular Sign

Signs on parked vehicles visible from the public right-of-way where the primary purpose of the vehicle is to advertise a product or to direct people to a business or activity located on the same or nearby property. For the purposes of these regulations, vehicular signs shall not include business logos, identification or advertising on vehicles primarily used for other business purposes.

(ak) Wall Sign

Any sign directly attached to an exterior wall or exterior parapet of a building or dependent upon a building for its support with its exposed face parallel or approximately parallel to the plane of the building or structure on which the sign is affixed. Signs directly painted on walls shall be considered wall signs.

(al) Window Sign

Any sign attached to or directly applied onto a window or glass door of a building intended for viewing from the exterior of such building.

### Section 13.103. Procedures.

(1) Permit Required

Except as otherwise provided in this ordinance, it shall be unlawful for any person to erect, construct, enlarge, move or replace any sign or cause the same to be done, without first obtaining a sign permit for such sign from the Zoning Administrator as required by these regulations.

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Notwithstanding the above, changing or replacing the permanent copy on an existing lawful sign shall not require a permit, provided the copy change does not change the nature of the sign such as to render the sign in violation of these regulations.

### (2) Application and Issuance of Permit

Applications for permits shall contain or have attached to the following information:

- (a) The street name and street number of the building of the structure to which the sign is to be erected, or the tax parcel number for the zoning lot onto which the sign is to be located;
- (b) Names, addresses, and telephone numbers of the applicant, owner of the property on which the sign is to be erected or affixed, the owner of the sign, and the licensed contractor erecting or affixing the sign;
- (c) If the applicant is not the owner of the property on which the sign will be located, written permission from the property owner or a designated representative stating agreement that the sign may be erected on the parcel for which the permit has been applied shall be required;
- (d) A site or plat plan of the property involved, showing accurate placement of the proposed sign;
- (e) Two (2) blueprints or inked, scaled drawings of the plans and specifications of the sign to be erected or affixed as deemed necessary by the Zoning Administrator. Such plans may include but shall not be limited to details of dimensions, materials, copy, and size of the proposed sign. For wall signs, dimensions of the building wall on which the sign is to be affixed and the location and the size of existing wall signs shall also be included;
- (f) Applications for permits for outdoor advertising signs, in addition to the above information, shall contain a survey prepared by a registered surveyor showing at least the following: the location of all outdoor advertising signs within 1,000 feet on the same side of the street and within 500 feet on the opposite side of the street; structures within 20 feet; residential districts and institutional uses within 500 feet; and applicable setbacks and side or rear yards in the zoning district;

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- (g) Locations of addresses in accordance with the City of Charlotte or Mecklenburg County Street Address Ordinances. No permit for a sign shall be issued unless the provisions of the Street Address Ordinances have been met or will be met with the erection of the sign; and
- (h) Other information as the Zoning Administrator may require to determine full compliance with this and other applicable codes.
- (i) An applicant for a permit for sponsorship sign(s) may submit one application that covers multiple proposed sponsorship signs for one or more athletic fields within a given Facility. In such cases, the copy for each individual sponsorship sign shall not be required.

### (3) Issuance of Permits

Upon the filing of an application for a sign permit, the Zoning Administrator shall examine the plans and specifications, and as deemed necessary, may inspect the premises upon which the sign is proposed to be erected or affixed. If the proposed sign is in compliance with all the requirements of these regulations and other applicable codes, a permit may be issued. Any permit issued in accordance with this Section shall automatically become null and void unless the work for which it was issued has visibly been started within 6 months of the date of issue or if the work authorized by it is suspended or abandoned for one year.

### (4) Fees

To obtain a sign permit, all fees, in accordance with the associated fee schedule shall be paid.

### (5) Final Inspection

Upon notification of completion by the permit holder, the Building Standards Department shall make a final inspection of the sign to verify conformance with applicable codes.

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### Section 13.104. General provisions.

The following provisions shall apply to all signs.

(1) Construction Standards

All signs shall be constructed and installed in accordance with the applicable provisions of the North Carolina State Building Code.

(2) Electrical Standards

All illuminated signs shall be installed in accordance with the applicable provisions of the North Carolina State Electrical Code and all detached signs shall be so illuminated by an underground electrical source.

(3) Maintenance of Signs

All signs shall be maintained in good structural and aesthetic condition. Deficiencies such as chipped paint, broken plastic, missing letters and exposed light bulbs shall be evidence of a lack of maintenance. The Zoning Administrator shall enforce this provision in accordance with Section 13.113 of these regulations.

(4) Content

If a commercial sign is allowed by any provision of these regulations, then a noncommercial sign shall likewise be permitted subject to the applicable standards herein. In addition, any commercial sign permitted by these regulations may display or publish noncommercial message. This includes signs requiring and not requiring a permit.

### Section 13.105. Prohibited signs.

The following signs are prohibited under any circumstance:

- (1) Signs extending into the public right-of-way other than those permanent signs approved by the County Engineering Department and/or the North Carolina Department of Transportation. This item also does not apply to on-premises, planned development identification signs as regulated in Section 13.110. Creation of Special Sign Regulations, (5) On-Premises, Planned Development Identification Signs in Medians.

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- (2) Roof signs.
- (3) Portable signs.
- (4) Flashing, fluttering, swinging, or rotating signs other than time and/or temperature signs.
- (5) Signs that are similar in color, design, and appearance to traffic control signs.
- (6) Vehicular signs as defined in Section 13.102.
- (7) Off-premise signs other than those permitted in Section 13.111 of these regulations.
- (8) Nonconforming signs, except as permitted in Section 13.112 of these regulations.
- (9) Other signs not expressly allowed by these regulations.

### **Section 13.106. Signs not requiring a permit.**

The following types of signs are exempted from permit requirements and allowed in all zones, but shall be in conformance with all other requirements of these regulations.

- (1) Memorial signs, plaques, or grave markers that are noncommercial in nature.
- (2) Public interest signs.
- (3) On premises directional and instructional signs not exceeding 6 square feet in area, unless such sign is a monument sign in which case it shall not exceed 9 square feet.
- (4) Identification signs not exceeding 1½ square feet in area, that indicate the name and/or address of the occupant.
- (5) Window signs with a total copy area not exceeding 50 percent of the window or glass door onto which the sign(s) are located, except in residential districts, limited to one non-illuminated sign per building not exceeding 1½ square feet in area.



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- (6) Incidental signs, however in no case shall a drive-in service window menu board sign be oriented to the public right-of-way or exceed 32 square feet in size.
- (7) Flags on permanent poles.
- (8) Campaign or Election signs provided:
  - (a) Individual signs shall not exceed 16 square feet in area;
  - (b) All signs shall be removed within 7 days after the election for which they were made;
  - (c) Prior to the erection of any campaign or election sign, the candidate or an authorized representative shall post a bond with Building Standards in the amount of \$50.00 guaranteeing the removal of such signs within 7 days after the election for which they are used;
  - (d) Property owners shall be held responsible for violations; and
  - (e) No signs shall be permitted in the public right-of-way.
- (9) Real estate signs other than temporary planned development signs, provided:
  - (a) Signs advertising individual single family lots and duplexes under 3 acres in size or individual units within attached housing shall not exceed 6 square feet. Rider signs not exceeding a total of 2 square feet in sign face area shall be permitted in addition to the 6 square feet;
  - (b) Signs advertising all other uses shall not exceed one square foot for every 5 linear feet of frontage of the advertised property, up to a maximum of 64 square feet in sign face area;
  - (c) Only one sign per street front of the advertised property shall be erected;
  - (d) Properties having a continuous frontage in excess of 850 linear feet may be allowed an additional sign so long as such sign is no closer than 850 feet from another real estate sign on the property;
  - (e) Signs shall not be illuminated; and
  - (f) Signs shall be removed within 7 days after the sale is closed or, rent or lease transaction is finalized.

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- (10) Construction signs, other than temporary project development signs provided:
- (a) Signs located on single family lots or duplex lots shall not exceed 6 square feet in area. Rider signs not exceeding 2 square feet in area shall be permitted in addition to the 6 square feet;
  - (b) Signs for all other uses shall not exceed one square foot for every 5 linear feet of frontage of property under construction, up to a maximum of 64 square feet in sign area;
  - (c) Signs are confined to the site of construction;
  - (d) Only one sign per street front of the property under construction shall be erected;
  - (e) Signs shall not be illuminated; and
  - (f) Signs shall be removed within 7 days after the completion of a project.
- (11) Temporary farm products signs provided:
- (a) Signs are located on the premises where the products are sold in conjunction with a permitted farm use in that district;
  - (b) Signs shall not exceed 32 square feet in area;
  - (c) Only one sign shall be erected; and
  - (d) Signs shall be removed within 7 days of the termination of sale activities.
- (12) Temporary special event signs or banners for religious, charitable, civic, fraternal, or similar organizations, provided:
- (a) No more than one sign per street front shall be permitted per event;
  - (b) Signs shall be located on the property on which the event will occur; and
  - (c) Signs shall be erected no sooner than 14 days before and removed 7 days after the event.

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(13) Temporary banners in non-residential districts, provided:

- (a) Only one banner per establishment shall be allowed at a time;
- (b) All banners shall be attached in total to a building wall or permanent canopy extending from a building;
- (c) No paper banners shall be allowed;
- (d) Banners shall be erected for a period not to exceed 2 weeks;
- (e) No more than 6 such signs per establishment shall be erected within a calendar year; and
- (f) No banner shall extend above the second floor level of a building or 45 feet above grade, whichever is less.

(14) Freestanding, temporary off-premises real estate signs.

Signs providing information as to the location of real estate that is for sale or for rent shall be allowed subject to the following:

- (a) No sign shall exceed 3 square feet in area or 4 feet in height;
- (b) Such signs shall not exceed 2 in number per property being advertised and shall not be located further than one half mile from the property being advertised;
- (c) Such a sign shall not be located closer than 11 feet from the edge of any public street in accordance with code subsection 10-17, nor shall it violate the sight distance triangle requirements specified in 13.102.(S1) herein;
- (d) It shall be unlawful to place a temporary, off-premises real estate sign before 8:00 a.m. of a holiday or of a Saturday or to allow a sign to remain after 6:00 p.m., on a Sunday or a designated holiday.

If such a sign continues to remain after 6:00 p.m, it shall be deemed an abandoned sign and shall be subject to penalties established in Section 13.113 herein. Such signs may be removed by a designee of the County and destroyed if not retrieved within 24 hours after the sign owner has been notified that the sign has been removed; and

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- (e) Nothing in this provision shall be construed to authorize the posting of such signs upon trees, utility poles, traffic control signs, lights or devises in any place or manner prohibited by the provisions herein.

### **Section 13.107. Temporary signs requiring permits.**

The following temporary signs shall be allowed subject to the applicable standards in lieu of real estate or construction signs.

- (1) Temporary Planned Development Signs, provided:
  - (a) Only one primary sign and two secondary signs shall be allowed per street front of development;
  - (b) The maximum sign face area of a primary sign shall not exceed 48 square feet for residential districts, and 64 square feet in nonresidential districts;
  - (c) The maximum sign face area of secondary signs shall not exceed 12 square feet;
  - (d) Only one permit shall be required for all temporary planned development signs for each planned development. Permits shall be valid until a project is completed or two years, whichever comes first. Completion shall be evidenced by the issuance of all certificates of occupancy for a development by the Zoning Administrator. If a project is not completed in two years, a new permit must be obtained. However, in no instance shall more than 5 permits be issued for a development. Additional permits shall not allow secondary signs. All secondary signs shall be removed when the first permit issued expires; and
  - (e) Temporary directional signs within a planned development, but not visible from the road(s) fronting the overall development shall be permitted so long as such signs do not exceed 12 square feet in sign area, and signs are removed upon completion of the portion of the project to which the signs are giving direction.

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### **Section 13.108. Specifications for permanent signs requiring a permit.**

The following are general specifications applicable to the various permanent signs permitted. Additional specifications regarding size, number, location, and permitted types of signs are set forth in Section 13.109, District Regulations.

#### **(1) Wall Signs**

Wall signs shall be permitted on the wall of a building as follows:

- (a) Signs may be located on any building wall of a nonresidential structure so long as the maximum sign surface area of all signs on one wall does not exceed 10% of the area of the building wall to which the sign is attached up to a maximum of 200 square feet;
- (b) The size and number of wall signs in residential districts shall be regulated in accordance with subsection 13.109(1) herein;
- (c) The maximum allowable wall sign area per wall shall not be transferable to another wall;
- (d) The total area of wall signs may be increased by 10% if such wall signs consists only of individual, outlined alphabet, numeric, and/or symbolic characters without background, except the background provided by the building surface to which the sign is affixed;
- (e) The total area of wall signs may be increased by 10% if no detached sign is used on the premises;
- (f) No wall sign shall extend above the parapet or roofline of the building to which the sign is attached, nor shall a wall sign project more than 18 inches from the building wall. Further, no wall sign or its supporting structure shall cover any window or part of a window, and may not extend more than 6' above the roofline.

Parapets added to existing buildings for the purpose of attaching signs must match the architecture of the rest of the building, be of the same thickness, and on the same plane as the wall to which it is added, and no more than 6' above the roofline. Additions to a parapet for the purpose of signage cannot be braced back to the roof; and

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- (g) Lamps and fixtures used to illuminate a wall sign shall not project into a required yard more than 2 feet beyond building walls and shall have a minimum clearance of 10 feet from grade.
- (h) Special circumstances

There may be special circumstances because of typography that make the above standards impractical for wall signs. Therefore, signs may be placed on the roof instead of a building wall if they meet the following provisions:

1. At least 50% of the entire plane of the building facing the street, including the roof plane and any wall plane, must be below the grade of the adjoining street from which the sign(s) will face and from which the building gets its direct vehicular access.
2. Any such sign(s) placed on the roof of a building must meet the same requirements for wall signs in terms of area, size, number, projection and lighting.
3. Such sign(s) shall not extend above the highest ridge of the roof so placed or beyond any other edge of the roof or building. These signs may not be placed on flat roofs.
4. Any roof or wall sign(s) which existed on a pitched roof prior to January 1, 1995 and meets the requirements of item 1 of this subsection may remain in place under the nonconforming provisions of Section 13.112(1)(c) of this ordinance. In addition, these existing nonconforming signs will be exempt from any of the amortization provisions of Section 13.112.

### (2) Canopy and Awning Signs

Signs may be attached, painted, or printed upon a canopy or awning, provided:

The maximum allowable area for canopy or awning signs or a combination of canopy, awning, and/or wall signs shall not exceed that maximum permitted in subsection 13.108(1) above. Canopies and awnings shall not be calculated in the total square footage of a building wall.

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### (3) Projecting Signs

A projecting sign may be used in lieu of a detached sign. Such sign shall be permitted, provided:

- (a) A projecting sign shall not project more than 4 feet from a building wall;
- (b) A projecting sign shall not extend vertically above the roof line or parapet wall of a building; and
- (c) The minimum height from grade to the lowest edge of a projecting sign shall be 9 feet.

### (4) Detached Signs

Detached signs shall be permitted, as follows:

- (a) The maximum size and permitted location of detached signs shall be regulated in accordance with Section 13.109 herein;
- (b) Unless otherwise specified in Section 13.109, no detached sign shall exceed 7 feet in height;
- (c) No ground mounted or monument sign greater than 2½ feet in height as measured from the grade of the road or pole sign having a vertical clearance less than 10 feet between grade and the bottom of the sign face shall be located in the sight distance triangle;
- (d) All portions of a sign shall be located behind the street right-of-way; however, all signs greater than 2½ feet in height as measured from the grade of the road or having a vertical clearance less than 10 feet shall be located a minimum of 5 feet behind a right-of-way. This item does not apply to Section 13.110.(5); and
- (e) The maximum angle of a double-faced sign shall be 45°, except for signs located at corners in which case the angle may be 90°. This refers to the distance between sign faces on a single structure.

### (5) Sponsorship Signs

Sponsorship signs as defined in section 13.102(s7) are allowed and may be affixed to fencing or light poles comprising part of, or located on the perimeter

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of, each athletic field located within a Facility subject to the following standards (which shall apply to each athletic field within a Facility):

A. All Sponsorship Signs:

- (1) Shall be located behind the minimum setback, yard and buffer requirements for the district;
- (2) Shall, at any particular athletic field within a Facility, be either exclusively Sponsorship Fence Signs or Sponsorship Pole Signs;
- (3) Shall be placed in such a fashion so that the sponsorship sign face area is inwardly oriented relative to the perimeter of the athletic field within a Facility;
- (4) Shall not exceed twenty-five (25) in number at any particular athletic field within a Facility;
- (5) Shall not be lighted other than by a light source for the athletic field when the athletic field is in use; and
- (6) Shall be posted for no more than nine (9) months during any calendar year;

B. Sponsorship Fence Signs:

- (1) Shall not exceed twenty-four (24) square feet in area per sign;
- (2) Shall not exceed eight (8) feet in height;
- (3) Shall not exceed six hundred (600) square feet in area at any particular athletic field within a Facility; and
- (4) Shall be painted dark green on the side opposite the sign face.

C. Sponsorship Light Pole Signs:

- (1) Shall not exceed sixteen (16) square feet in area per sign;
- (2) Shall not exceed thirty-two (32) feet in height; and
- (3) Shall not exceed four hundred (400) square feet in area at any particular athletic field within a Facility.

**Editor's Note:** Section 13.102 (S7) (ag), 13.103 (2) (i) and 13.108 (5) dealing with Sponsorship Signs were readopted and became effective March 10, 1998 (the "Effective Date") and shall automatically terminate three (3) years from the Effective Date (the "Termination Date"). The amortization period for Sponsorship Signs erected during said three (3) year period shall be one (1) year from the Termination Date.



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### Section 13.109. District regulations for permanent on-premises signs.

Permanent signs shall conform to the standards established in this Section, in addition to those applicable standards set forth elsewhere in these regulations.

(1) Residential Districts

- (a) Signs on the premises of single family, detached duplex, group homes, and on the premises of mobile homes shall conform to subsection 13.106(4) of these regulations.

- (b) Signs on the premises of a multi-family building not associated with a planned multi-family development shall be regulated as follows:

Type of Sign Permitted: Identification

Permitted Number: 1 per premises

Maximum Size: 6 square feet

- (c) Signs on the premises of planned residential developments including subdivisions, multi-family, manufactured housing parks, and retirement centers shall be regulated as follows:

Type of Sign Permitted: Identification

Permitted Number: 1 per street front; where a sign is allowed, 2 separate sign faces may be used in conjunction with a wall, fence, or other architectural entrance feature.

Maximum Size: 24 square feet

Flexibility Option: Signs for these uses may be regulated in accordance with Planned Development Flexibility Option provisions as described in Section 13.110 herein.

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- (d) Detached signs for other uses in Residential Districts shall be permitted in accordance with the following schedule of regulations:

USE	TYPE PERMITTED	MAXIMUM NUMBER (per premises unless other- wise noted)	MAXIMUM SIZE
Churches, synagogues, elementary, junior high and senior high schools, and similar uses; convents, monasteries, dormitories, YMCA's and similar organizations, orphanages, commercial day care centers, museums, art galleries, hospitals, sanatoriums, libraries, and similar uses	Identification: Primary Sign Secondary Sign Bulletin Board	1 1 per bldg. 1	32 sq. ft. 16 sq. ft. 16 sq. ft.
Golf courses, country clubs swimming clubs, community recreation centers, tennis clubs and similar uses	Identification	1	32 sq. ft.
Small group day care homes, and nursing homes housed in a residential structure, boarding houses, and bed and breakfasts	Identification	1	4 sq. ft.
Cemeteries	Identification	1	16 sq. ft.
All other nonresidential uses	Identification	1	6 sq. ft.

### (2) Office Districts

- (a) Signs on the premises of residential uses shall be regulated in accordance with subsection 13.109(1) above.
- (b) Detached signs on the premises of all other uses shall be regulated as follows:

Type of Sign Permitted: Identification

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- |                 |  |
|-----------------|--|
| Maximum Number: | Identification: 1 per premises   |
| Maximum Size:   | Identification: 1 square foot for every 2 linear feet of frontage up to a maximum of 50 square feet. The size of a sign may be increased by 25% if the sign is setback a minimum of 30 feet behind the right-of-way. |
- (c) Detached signs on outparcels or planned developments shall be regulated as follows:
- |                         |  |
|-------------------------|--|
| Type of Sign Permitted: | Ground Mounted Identification  |
| Maximum Number:         | One per outparcel  |
| Maximum Size:           | 1/2 square foot for every 2 linear feet of frontage up to a maximum of 25 square feet. |
| Maximum Height:         | 4 feet   |
| Location:               | At least 5 feet behind right-of-way  |
- (d) Office and Research Park Development Signs shall be regulated as follows:
- |                         |   |
|-------------------------|---|
| Type of Sign Permitted: | Identification & Directory  |
| Maximum Number:         | One detached sign per street front.<br><br>One directory sign per street front. |
| Maximum Size:           | Detached Sign: 50 square feet<br>Directory Sign: 24 square feet                 |
| Location:               | Directory signs shall be located behind the setback.                            |

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Flexibility Option: Signs for these uses may be regulated in accordance with Planned Development Flexibility Option provisions as described in Section 13.110 herein.

### (3) Research Districts

- (a) Detached signs on the premises of individual uses within this district shall be regulated as follows:

Type of Sign Permitted: Identification

Maximum Number: 1 per building except on lots having frontage on 2 or more streets, in which case 2 signs per building are allowed (1 for each street front). In the event more than 1 building is located on a lot, buildings permitted to have 2 signs are limited to those having either front and rear or front and side yards adjacent to streets.

Maximum Size: 50 square feet

Location: Behind right-of-way

Illumination:

- (a) Signs lighted internally shall be contained within an opaque background with only letters, numbers, and symbols being translucent.
- (b) External light fixtures illuminating signs shall be screened.

- (b) Park Development Signs shall be regulated as follows:

Type of Signs Permitted: Identification and Directory

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Maximum Number:	<u>Identification:</u> 4 per street front subject to a minimum spacing of 1,000 linear feet.  <u>Directory:</u> 1 per street front.
Maximum Size:	<u>Identification:</u> 75 sq. ft. <u>Directory:</u> 50 sq. ft.
Maximum Height:	<u>Identification:</u> 20 ft. <u>Directory:</u> 7 ft.
Location:	Behind right-of-way. A park sign may be located on an individual parcel within the park in addition to the sign associated with the individual parcel.
Illumination:	(a) Signs lighted internally shall be contained within an opaque background with only letters, numbers, and symbols being translucent. (b) External light fixtures illuminating signs shall be screened.

### (4) Institutional District

- (a) All signs in the Institutional district will be regulated in accordance with subdivision 13.109(2)(b) with the following additions:
  - i. Hospitals, colleges, cultural, civic, and recreation centers, and similar large scale complexes may be considered for the Planned Development Flexibility Option as described in Section 13.110 herein.
  - ii. One Bulletin Board, not to exceed 16 square feet, shall be permitted in addition to or in conjunction with a permanent identification sign.

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### (5) Business Districts

Detached signs in business districts shall be regulated as follows:

#### (a) Signs for businesses other than shopping centers:

Type of Sign Permitted: Identification or Business Sign;  
the changeable copy on a business sign shall not exceed 25% of the total sign face area, except signs for theaters where the changeable copy may be 100% of the total sign face area.

Maximum Number: One per premises

Maximum Size & Height: In accordance with the following schedule:

STREET CLASSIFICATION (In Accordance with Adopted Street Classification System)		MAXIMUM SIGN FACE AREA	MAXIMUM SIGN HEIGHT
CLASS I.	Freeway or Expressway	128 sq. ft.	40 ft.
CLASS II.	Limited Access Arterial	100 sq. ft.	30 ft.
CLASS III.	Major Arterial	100 sq. ft.	30 ft.
CLASS IV.	Minor Arterial	64 sq. ft.	20 ft.
CLASS V.	Collector	48 sq. ft.	20 ft.
CLASS VI.	Local	48 sq. ft.	20 ft.

#### (b) Signs for shopping centers and other multi-tenant properties:

Type of Sign Permitted: Identification or Business Signs;  
the changeable copy on a business sign shall not exceed 25% of the total sign face area, except signs for theaters where the changeable copy may be 100% of the total sign face area.

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Maximum Number: One per street front

Maximum Size & Height: In accordance with the following schedule:

SIZE OF CENTER (Gross Building Area)	MAXIMUM SIGN FACE AREA	MAXIMUM HEIGHT
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50,000 sq. ft. or less	100 sq. ft.	30 ft.
50,001 sq. ft. - 200,000 sq. ft.	128 sq. ft.	30 ft.
Over 200,000 sq. ft.	150 sq. ft.	30 ft.

- (c) Detached signs on outparcels of shopping centers shall be regulated as follows:

Type of Sign Permitted: Ground Mounted Identification

Maximum Number: One per outparcel

Maximum Size: 50% of the permissible detached sign face square footage permitted in subdivision 13.109.(5)(a).

Maximum Height: 4 feet

Location: At least 10 feet behind right-of-way

- (d) Detached signs on the premises of business parks shall be regulated in accordance with subsection 13.109(2)(b) and business park development signs shall be regulated in accordance with subsection 13.109(2)(d).

- (e) Menu board signs in associated with drive-thru windows shall be regulated as follows:

Maximum Size: 32 square feet

Location: Oriented towards drive-thru window traffic

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(6) Industrial Districts

- (a) Detached signs in industrial districts shall be regulated in accordance with subsection 13.109(5).
- (b) Detached signs on the premises of industrial parks shall be regulated in accordance with subsection 13.109(2)(b) and industrial park development signs shall be regulated in accordance with subsection 13.109(2)(d).

(7) Urban Residential Districts (UR-1, UR-2, UR-3, and UR-C)

Signs in Urban Residential Districts shall be regulated in accordance with subsection 9.407(5) of the Mecklenburg County Zoning Ordinance.

### **Section 13.110. Creation of Special Sign Regulations.**

(1) Sign Districts

For the purpose of establishing, enhancing, preserving, and developing the character, quality, and property values of areas of unique character and special development potential, districts which signs are regulated by special provisions may be established subject to the following conditions:

- (a) As a prerequisite to the establishment of such a special sign district, it must be determined that the modified rules established for said district shall:
  - i. Preserve and enhance the special character of the particular area.
  - ii. Not contravene the intent of these regulations.
  - iii. Cause no disturbance to neighboring property lying outside the proposed district.
- (b) Without changing the basic structure of these regulations, the modified rules for special sign districts may impose sign regulations which are in addition to or more stringent than those provided for elsewhere in these regulations.



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- (c) Districts for which special sign regulations may be imposed may include, but shall not be limited to the following:

- i. Historic Overlay District

Reserved.

- ii. Neighborhood Mixed Use Overlay District

Reserved.

- iii. Billboard Free Overlay District

No outdoor advertising sign shall be allowed in this district regardless of zoning classification.

(2) Planned Development Flexibility Option

For the purpose of providing flexibility and incentives for coordinated, well designed signs systems for large scale development, special provisions varying the standards of these regulations may be approved by the Charlotte-Mecklenburg Planning Commission staff subject to the following:

- (a) The development is a planned residential, nonresidential, or mixed use development, 36 acres or greater in size or 150 units for multi-family developments; a hospital or other large scale institutional complex; a large scale cultural, civic or recreational facility; or a similar large scale development.
- (b) A Master Sign Program that includes the following information in booklet form is submitted:
- i. Detailed designs of all proposed signs including the size, height, copy, materials, and colors of such signs.
- ii. Proposed locations and number of proposed signs.
- iii. Sign Illumination Plans.
- iv. Plans for landscaping or architectural features to be used in conjunction with such plans.

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- (c) It is determined that the proposed signs shall meet the following criteria:
- i. All signs are coordinated in terms of design features.
  - ii. The maximum size of detached signs is not varied by more than 25%.
  - iii. The number of detached signs along a street frontage does not exceed 3.
  - iv. The maximum height of a detached sign does not exceed 12 feet, except when located along a Class I, II or III street, the height does not exceed 16 feet.
  - v. Multi-information directional signs are no greater than 16 square feet and are located in the interior of a development.
  - vi. Changeable copy highlighting special events on signs for cultural, civic, or recreational facilities shall not exceed 25% of the sign face area of a sign.

(3) Off-Premises Directional Development Signs

For the purposes of directing traffic from Class II or III streets (major or minor thoroughfares) to developments located on Class IV or V streets (collectors or local streets) and not having direct access or visibility from the Class II or III streets, and to ensure that visual clutter is minimized, off-premises directional signs may be permitted subject to the following:

- (a) Application Requirements: The applicant for a directional sign permit shall submit complete and accurate information to the Zoning Administrator, including:
- i. A form statement prepared by the Zoning Administrator and signed by the owner of the parcel of property upon which the sign shall be located, consenting to and authorizing the location of the sign on the premises and the right of authorized County Officials or a designee to enter the property to remove a sign which is in violation of these regulations.

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- ii. A sketch showing the location of the proposed sign and manifesting that the sign's erection would be in compliance with the locational requirements contained herein.
  - iii. Two blueprints or inked drawings to scale of the plans and specifications of the sign to be erected. Such plans shall include but not be limited to details of the design, dimensions, and material, of the proposed sign.
  - iv. A letter from either the City's Department of Transportation or the North Carolina Department of Transportation, whichever agency has jurisdiction over the road on which the sign is to be located, verifying that the sign will not be in violation of any local or State regulations at its proposed location.
  - v. Acknowledgement by the applicant that he/she shall be responsible for the cost of removal of a sign for any reasons stated in (i) herein, and that if the County removes the sign the permit holder has five days to retrieve the sign, after which time the County may dispose of such sign.
  - vi. If the sign is proposed in an historic district, approval of such a sign by the Historic District Commission shall be required prior to obtaining a sign permit.
- (b) Inspection and conditional approval: If the Zoning Administrator or his designee is satisfied that the applicant has submitted complete and accurate information as required by these provisions, then the Zoning Administrator shall notify the applicant that he/she has priority for that location and has 30 days to submit the following information for the issuance of the permit if not already submitted with (a) above:
- i. A hold harmless/indemnification statement as described below in (i).
  - ii. A cash bond or cash deposit as described in (i).
- (c) Use of directional sign: The person to whom the permit is issued is solely and exclusively responsible for the usage and maintenance of the directional sign and shall make the sign available for use by any eligible

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user. Matters of interpretation such as whether proposed copy is allowed by the provisions of this section, shall be a proper matter for the Zoning Administrator and/or Zoning Board of Adjustment.

The permit holder shall allow developments to be identified on the sign subject to the following:

- i. The development is a unified commercial, residential, or institutional use under single ownership or management that has a minimum of 50 parking spaces and/or 50 units of residential dwellings.
  - ii. The entrance that reasonably identifies the development is located no further than one and one half miles along streets from the intersection of the Class II or III Street with the Class IV or V Street.
  - iii. The development does not have direct access or visibility from any Class II or III Streets.
  - iv. The development does not have an identification sign located on a Class II or III Street nor does it have identification on another off-site directional sign. Only one sign per development shall be permitted.
- (d) Location and Orientation of Directional Sign: The sign shall be located in any zoning district only at the intersection of a Class II, III, or IV street with a Class V or VI street as defined in the adopted Comprehensive Street Classification System Manual. The sign face(s) shall be oriented toward the traffic flow on the Class IV or V Street, which is generally perpendicular to the Class II, III, or IV street. The sign must be located on the side of the Class II, III, IV street closest to the development(s) identified on the sign.

No portion of any sign shall be situated in such a way as to violate any public ordinances or regulation regarding sight distance or obstruction of vision at street intersections, nor shall any sign be located closer than 11 feet from the pavement edge of any public street; however the Charlotte Department of Transportation, County Engineering, or N.C. Dept. of Transportation may require that the sign be located further than 11 feet from the edge of pavement.

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- (e) Spacing Requirements: No sign shall be located closer than 500 linear feet to any other similar directional sign on the same side of the street. There shall be no more than two signs erected at any intersection. In addition, no directional sign shall be located closer than 20 linear feet to any on-premises sign(s).

- (f) Design of Directional Signs: A directional sign shall be constructed as a ground mounted sign designed to accommodate up to 4 panels of equal size for one to 4 separate and distinct development names. It shall be designed in accordance with the requirements stated below:

i. Maximum Size and Height:

Maximum structure width:	5-1/2 feet
Maximum sign face size:	20 sq. feet
Maximum panel size:	5 sq. feet
Maximum height:	6 feet if landscaping is planted at base of sign; otherwise 4-1/2 feet.

ii. Construction of Sign

The signs shall be constructed of all-heart grade A wood or of aluminum having a minimum thickness of .090 with the overall depth of the sign frame no less than 3 inches. Copy on wood signs shall be either routed or sandblasted into the face panels. Copy on aluminum signs shall be either routed into the sign or shall be made of vinyl having a minimum five-year durability rating.

To implement the requirements for the aesthetic appearance and uniformity of directional signs, the Zoning Administrator shall have the authority to prepare diagrams illustrating the requirements stated above and, further, to adopt any necessary details within the scope of the requirements, herein, to achieve standardized, directional signs.

iii. Permitted Copy

Only the name, type, and/or logo under which a development is known or designated and a directional arrow shall be permitted

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on a sign. The name of the owner or developer or information related to availability of units, space, goods, or services shall not be permitted as copy on a sign.

iv. Lighting

Signs shall not be lighted in residential districts.

- (g) Maintenance: All signs shall be maintained in accordance with Section 13.104(3) herein.
- (h) Posting of bond and removal of sign: If the Zoning Administrator determines that there is a violation of these provisions, he shall issue a notice for violation to the permit holder. If the violation is not corrected or there has been no reversal of the decision of the Zoning Administrator by the Zoning Board of Adjustment or by any Court, then the Zoning Administrator shall have the authority to engage an independent contractor to remove the sign and pay for the removal of such signs from the bond. The sign may be removed for any of the following reasons:
- i. A failure to maintain a sign in accordance with (g) above.
  - ii. The failure to erect the sign within the location shown on the survey.
  - iii. The revocation of the permit for any violation of Section 13.110(3).
  - iv. Any other violation of this section.
- (i) Bond and indemnification: The Zoning Administrator shall have the authority to set an amount for a cash bond double the estimated reasonable cost for the removal, the transporting, and the possible storage of a directional sign. Bonds shall be refunded to a permit holder when the permit holder removes the sign.

The applicant shall sign a hold harmless/indemnification statement on behalf of the County to hold the County harmless from any claim or dispute between the permit holder and a person seeking to have use of the directional sign when the dispute or legal matter in no way pertains to the County's Zoning Ordinance provisions.

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- (j) Trees: The permit holder shall not destroy or trim any trees in the public right-of-way nor install a sign in such a manner to impact significant roots on trees in the public domain.

(4) Off-Premises Identification Signs.

For the purpose of providing flexibility when a shopping center is located on a Class V or VI street and not visible from a Class II, III, or IV street, an applicant may obtain a permit for an off-premises identification sign subject to the following:

- (a) An applicant for an off-premises identification sign must comply with the application requirements specified in subdivision 13.110(3)(a), and in addition, provide a statement that the subject property being identified would not be visible from the nearest Class II, III, or IV street.
- (b) An approved off-premises identification sign shall be erected instead of (and not in addition to) both an applicant's on-premises identification or business sign and any off-premises directional sign permissible under the provisions herein.
- (c) A proposed off-premises sign shall comply with all the requirements in subdivision 13.110(3)(b) through (j) with the following exception:

- i. Size of Center Eligible for Use of Sign

The minimum size of a shopping center eligible for the use of an off-premises identification sign shall be 25,000 square feet, and the center must contain five or more businesses.

- ii. Design of Sign

Maximum Size and Height:

The maximum size and height of a sign shall be the same as would be permitted if the sign were located on the premises being identified.

Permitted Copy:

Only the name and/or logo of the shopping center and/or names of individual establishments within the shopping center shall be permitted on the sign face(s). No advertising shall be permitted.

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### Construction of Sign:

Copy on aluminum signs shall be either routed into the sign or shall be made of vinyl or plastic having a minimum five-year durability rating.

### Lighting:

Signs shall not be lighted by any method when located in a single family residential district. When located in other districts, signs may be lighted, but only by internal sources.

#### (5) On-Premises, Planned Development Identification Signs in Medians

For the purpose of providing alternative, safe, and attractive locations for planned development identification signs in divided entrance medians of streets providing direct access to the development, the following standards apply:

1. The location of the identification sign must be in a median of a Class V or lesser public or private street directly serving as an entrance to the planned development. For the purposes of this sign provision, a planned development shall include planned residential, nonresidential, or mixed use developments that include a public or private street as a part of its development.
2. For those sign locations in a median of a Class V or lesser public street, a right-of-way encroachment agreement must be first executed through the County Engineering Department and the North Carolina Department of Transportation. Contact these agencies for information concerning cost, submittal, and liability insurance coverage requirements. Through the right-of-way encroachment process the agencies will review the sign location and design to determine whether the sign can be installed/constructed in a manner that will not adversely affect public safety.
3. The location of sign must not conflict with required intersection sight triangle sight distance from driveways, or other sight distance requirements as determined by the County Engineering Department and the North Carolina Department of Transportation.
4. Type of Sign Permitted: Ground mounted identification.



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5. Maximum Number: 1 per street front; where a sign is permitted, 2 separate sign faces may be used in conjunction with a wall, fence or other architectural feature.
6. Maximum Size: 24 square feet
7. Maximum Height: 4 feet
8. Permitted Illumination: Illuminated
9. Location: In median of planned development access street a minimum of 5 feet from intersecting street right-of-way.
10. The owner(s) of the planned development will be responsible for maintenance of the sign and any accompanying lighting and landscaping.

### **Section 13.111. Regulations for Outdoor Advertising Signs.**

#### **(1) New Outdoor Advertising Signs**

Permits for new outdoor advertising signs may be issued only in the following locations and in accordance with the following standards:

- |                               |   |
|-------------------------------|---|
| Permitted Location:           | Property zoned B-2 as of May 16, 1988, I-1, or I-2, within 150 feet of the right-of-way of Class I Roads. |
| Maximum Sign Face Area:       | 380 sq. ft.   |
| Maximum Height:               | 50 ft.  |
| Maximum Number of Sign Faces: | 1 per side of sign  |
| Spacing:                      | (a) 400 feet from any residential district or institutional use;  |

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- (b) 1,000 linear feet between outdoor advertising signs on the same side of the street as measured from the centerline of the street;
- (c) 500 feet from any other outdoor advertising sign on the opposite side of the street;
- (d) 20 feet from an existing building;
- (e) 500 feet from any part of the principal use being advertised;
- (f) No two sign structures within 300 feet of any street right-of-way on the same side of the road shall be spaced less than 1,000 feet apart, regardless of the street from which the sign is intended to be viewed.

Setback

Behind the required setback and side and rear yards of the district.

Structural Construction:

Only unipole construction shall be allowed.

Tree Cutting:

Vegetation cutting in the public rights-of-way for the purposes of clearing views of outdoor advertising signs shall be prohibited unless approved by the County Engineering Department.

### (2) Existing Outdoor Advertising Signs

Existing outdoor advertising signs that conform to the following standards shall be allowed to remain so long as they maintain a conforming status. Signs may be rebuilt to conform to the following standards; however, no existing sign shall be increased in size or height when rebuilt. All signs that do not conform to the regulations shall be removed in accordance with Section 13.112 of these regulations.

Permitted Location:

B-2, I-1, and I-2 Districts

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Maximum Sign Face Area  
and Sign Height:

In accordance with the  
following schedule:

ZONING DISTRICT	ROAD CLASSIFICATION	MAXIMUM SIGN FACE AREA	MAXIMUM SIGN HEIGHT
I-1 & I-2	Class I	380 sq. ft.	50 ft.
I-1 & I-2	Class II, III, IV, V & VI	380 sq. ft.	40 ft.
B-2	Class I, II, III, IV, V, & VI	300 sq. ft.	30 ft.

Maximum Number of Sign Faces:

1 per side of sign

Spacing

- (a) 400 feet from any residential district or institutional use such as a school, park, hospital, or cemetery;
- (b) 1,000 linear feet between outdoor advertising signs on the same side of the street as measured from the centerline of the street;
- (c) 500 feet from any other outdoor advertising sign on the opposite side of the street;
- (d) 20 feet from an existing building;
- (e) 500 feet from any part of the principal use being advertised;
- (f) No two sign structures within 300 feet of any street right-of-way on the same side of the road shall be spaced less than 1,000 feet apart, regardless of the street from which the sign is intended to be viewed.

Setback

Behind the required setback and side and rear yards of the district.

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**Illumination:**

No outdoor advertising sign shall remain lighted between the hours of 12:00 a.m. and 5:00 a.m. except those signs located along Class I and II streets.

**Tree Cutting:**

Vegetation cutting in the public rights-of-way for the purposes of clearing views of outdoor advertising signs shall be prohibited unless approved by the County Engineering Department.

### **Section 13.112. Removal of Certain Signs.**

**(1) Nonconforming Signs**

- (a) All existing signs that exceed the maximum sign face size, sign height, or spacing requirements of these regulations by more than 25% or number of allowed signs shall be brought into compliance with the requirements of these regulations or removed entirely, which means the entire sign and any associated equipment, within 8 years of the adoption of these regulations (May 16, 1988). When two or more signs are made nonconforming because of not adhering to spacing requirements, the age of permit shall determine which sign shall be removed; the sign with the oldest valid permit shall be permitted to stay.

All signs not permitted in a zoning district shall also be removed entirely within 8 years of the adoption of these regulations.

All roof signs shall be removed entirely within 8 years of the adoption of these regulations.

If for any reason, such as a rezoning, a sign becomes nonconforming after the adoption of these regulations, such sign shall be removed 8 years from the date the sign becomes nonconforming.

**(b) On-Premise Signs.**

Notwithstanding (a) above, all nonconforming on-premise signs that were issued valid permits prior to the May 16, 1988 and were erected in

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accordance with the permits, may remain until such time as one of the following occurs:

1. Such sign(s) is moved, removed or replaced by voluntary action. Any such sign, or portion thereof, which is required to be relocated due to any governmental action such as a roadway improvement, may be moved to another location on the same property.
2. Additions to the principal building that exceed 1,000 square feet or 5% of the building's gross square footage, whichever is less.
3. Structural or nonstructural alterations excluding routine maintenance and repair of the facade of the principal building that exceed 50% of the facade's area.
4. Any change in the existing use of the property requiring a change of use permit from the Zoning Administrator.
5. Any change to the sign that is not: (1) necessitated by routine maintenance or by repairs, (2) necessitated for compliance with minimum Electrical or Building Codes, or (3) a change to the existing sign face not involving the modification of the size or shape of the sign face.
6. Approval of an application for a sign permit to add new or additional signage to the site of a nonconforming sign.

Such nonconforming on-premise signs shall be subject to all applicable nonconforming provisions of this ordinance. If the use to which the sign refers to is visibly discontinued for more than twelve (12) consecutive months, then the sign shall lose its nonconformity status and be unlawful.

(c) Exceptions to Amortization:

North Carolina General Statute §136-131.1 requires that "just compensation" be paid upon removal of certain outdoor advertising adjacent to the highway on the national system of interstate and defense highways or a highway on the federal-aid primary highway system for which there is in effect a valid permit issued by the department of

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transportation. Section 13.112 shall not require that any sign be removed if cash compensation must be paid upon removal of such sign due to any state or federal law that mandates such form of "just compensation" upon removal. Should any such state or federal requirement become inoperative or otherwise fail to apply to a given sign, then such sign shall be removed within five and one-half years of such state or federal requirement becoming inoperative or otherwise failing to apply to such sign.

- (d) Normal maintenance of all nonconforming signs, including necessary nonstructural repairs, incidental alterations, or copy alterations which do not extend or intensify the nonconforming features of the sign, shall be permitted during the amortization period for such sign. However, no structural alteration, enlargement, or extension shall be made to a nonconforming sign unless the alteration, enlargement, or extension will result in the elimination of the nonconforming features of the sign or by an order of the Zoning Administrator to ensure the safety of the structure.

### Section 13.113. Enforcement.

#### (1) Inspections and Investigations

- (a) The Zoning Administrator will periodically inspect signs in order to determine whether there are any violations of this Ordinance.
- (b) The Zoning Administrator shall have the power to conduct such investigations as it may reasonably deem necessary to carry out its duties as prescribed in these regulations, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting signs. No person shall refuse entry or access to any authorized representative of the Zoning Administrator who requests entry for purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper, or interfere with any such representative while in the process of carrying out his official duties.
- (c) The Zoning Administrator may require written statements, or the filing of reports with respect to pertinent questions relating to signs.

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### (2) Citations

If, through inspection, it is determined that a person has failed to comply with the provisions of these regulations, the Zoning Administrator shall issue a warning citation to the violator. Violations shall be corrected within ten (10) days of the issuance of such citation. If the violation is not corrected within the specified time period, the violator is subject to Section 8.105, 'Citations', of this Ordinance, which is incorporated by reference herein as if fully stated.

### (3) Other Enforcement Methods

In addition to the civil penalties, the provisions of these regulations may be enforced by one or more of the methods described in Chapter 8 of the Zoning Ordinance.

## **Section 13.114. Variances and Appeals.**

- (1) In accordance with the procedures stated in Chapter 5 of the Zoning Ordinance, the Board of Adjustment shall have the power to hear and act upon applications for a variance from the requirements of these regulations after making the following finding:
  - (a) That a variance is necessary because of unique features of the site such as its terrain or existing landscaping, or because of unique structural circumstances involved that are not applicable to other structures in the same zoning district. The fact that the sign may be utilized more profitably should a variance be granted will not be considered grounds for a variance.
  - (b) That the special conditions do not result from the actions of the applicant or of a previous owner of the property.
  - (c) That granting the variance requested shall not confer on the applicant any special privilege that is denied by these regulations to other lands, buildings or structures in the same zoning district.
  - (d) That granting the variance requested shall not confer on the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the ordinance and would work unnecessary and undue hardship on the applicant.

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- (e) That the variance granted is the minimum variance that shall make possible the reasonable use of the land, building, or structure.
  - (f) That granting a variance shall not conflict with the stated purposes of these regulations.
  - (g) That granting a variance shall not have a adverse impact upon neighboring properties.
- (2) The Board of Adjustment may prescribe a reasonable time limit within which the action for which the variance is required shall be started or completed or both.
- (3) The Board of Adjustment may consider any special features of the land, including but not limited to, historic landmarks, special zoning districts and buildings listed on the National Historic Registry.
- (4) The Board of Adjustment may grant one extension of time for conformance or removal relative to the 8-year amortization provision, not to exceed 2 years, provided:
  - (a) The applicant has demonstrated by substantial, competent evidence that the initial economic investment in the sign has not been recovered; or
  - (b) Allowing the extension will result in substantial justice being done, considering both the public benefits intended to be secured by these regulations and the individual hardships that will be suffered by a failure of the Board to grant an extension.
- (5) In granting a variance, the Board may attach reasonable conditions to the approval in order to protect established property values in the surrounding area or to promote the public safety and welfare. Those conditions may relate to the location, design and other features of the proposed sign for which the variance is sought.
- (6) Appeals to the Board of Adjustment may be heard in accordance with procedures defined in Chapter 5 of the Zoning Ordinance.
- (7) In addition to the powers and duties contained herein, the Mecklenburg County Zoning Board of Adjustment is designated by the Charlotte City Council,



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pursuant to G.S. 160A-361(7), as a planning agency authorized and directed to grant variances pursuant to Section 13.114(1)-(3) and (5) of the City of Charlotte Zoning Ordinance and one-time extensions not to exceed two years pursuant to Section 13.114(4) of the City of Charlotte Zoning Ordinance with respect to signs within the corporate limits of the City of Charlotte that do not comply with the regulations of Chapter 13 of the City of Charlotte Zoning Ordinance and are subject to the 8-year amortization period of Section 13-112(1)(a) of the City of Charlotte Zoning Ordinance.

This designation and authorization of the Mecklenburg County Zoning Board of Adjustment shall not affect in any way the jurisdiction of the City of Charlotte Zoning Board of Adjustment. The City Zoning Board of Adjustment shall have the authority to adopt guidelines for the City Zoning Board of Adjustment's clerk in assigning applications with respect to the above-referred to signs to the City or the County Board of Adjustment.

Notwithstanding any ordinance provision or rules of procedure to the contrary, the Zoning Administrator shall have the authority to designate in the notice the time within which applications must be timely and properly filed being no less than 60 days and no more than 120 days from the date of the notice.

Any appeals from the Mecklenburg County Zoning Board of Adjustment to Superior Court for City applications shall be pursuant to G.S. 160A-388(e). This subsection (7) shall automatically expire as of April 1, 1998.



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### **PART 3: CANCELLATION BY SURRENDER AND TERMINATION OF SPECIAL USE PERMITS**

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#### **CHAPTER 14:**

#### **SPECIAL USE PERMITS**

#### **PART 1: [RESERVED]**

#### **PART 2: [RESERVED]**

#### **PART 3: CANCELLATION BY SURRENDER AND TERMINATION OF SPECIAL USE PERMITS**

##### **Section 14.301. Cancellation by surrender of a special use permit.**

- (1) Any special use permit which has been previously approved may be offered for surrender by the property owner or his agent by submitting a written application to the Planning Director.
- (2) The Planning Director will accept the offer of surrender and cancel the special use permit if all the following conditions are met: (i) there are no existing zoning violations of the special use permit; and (ii) the property is undeveloped or the existing use is permitted in the underlying zoning district.
- (3) Approval of the application will result in the special use permit being cancelled and the property becoming subject to the existing underlying zoning district. Upon the cancellation of a special use permit, any expansion of an existing use or any new development must conform to all the requirements of the underlying zoning district.
- (4) Following the cancellation, the designation of the previously approved special use permit will be removed from the Official Zoning Map and the property will be shown to be in the appropriate underlying zoning district.

##### **Section 14.302. Termination of a special use permit.**

Any special use permit which does not meet the conditions for cancellation established by Section 14.301 can be terminated by a reclassification of the property in accordance with the procedures set forth in Chapter 6. The granting of a zoning reclassification petition will terminate the previously approved special use permit.



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## **APPENDICES**



## APPENDIX 1: LIST OF ACCEPTABLE PLANT SPECIES

### Large Maturing Trees

#### Botanical Name

*Acer rubrum*

*Amelanchier Canadensis*

*Betula nigra*

*Carya illinoensis*

*Carya ovata*

*Carya glabra*

*Carya cordiformis*

*Cedrus deodara*

*Celtis occidentalis*

*Cupressocyparis leylandii*

*Diospyros virginiana*

*Fagus grandiflora*

*Fraxinus americana*

*Fraxinus pennsylvanica*

*Ginkgo biloba*

*Juniperus virginiana*

*Liquidambar styraciflua*

*Liriodendron tulipifera*

*Magnolia grandiflora*

*Nyssa sylvatica*

*Pinus echinata*

*Pinus nigra*

*Pinus thunbergi*

*Pinus taeda*

*Pinus virginiana*

*Platanus acerifolia*

*Quercus acutissima*

*Quercus alba*

*Quercus bicolor*

*Quercus coccinea*

*Quercus falcata*

*Quercus laurifolia*

*Quercus nigra*

*Quercus phellos*

*Quercus borealis*

*Quercus shumardi*

*Quercus velutina*

#### Common Name

Red maple *Acer saccharum*

Sugar Maple

Serviceberry

River birch

Pecan

Shagbark hickory

Pignut hickory

Bitternut hickory

Deodar Cedar

Hackberry

Leyland cypress

Persimmon

American beech

White ash

Green ash

Ginkgo

Eastern red cedar

Sweetgum

Tulip poplar

Southern magnolia

Black gum

Short leaf pine

Austrian pine

Japanese black pine

Loblolly pine

Virginia pine

London planetree

Sawtooth oak

White oak

Swamp white oak

Scarlet oak

Southern red oak

Laurel oak

Water oak

Willow oak

Northern red oak

Shumard oak

Black oak

*Quercus virginiana*  
*Sophora japonica* regent  
*Taxodium distichum*  
*Tsuga Canadensis*  
*Ulmus parvifolia*  
*Ulmus alata*  
*Zelkova serrata*

Live oak  
 Japanese pagoda tree  
 Bald cypress  
 Eastern hemlock  
 Lacebark elm  
 Winged elm  
 Japanese zelkova

### Small Maturing Trees

#### Botanical Name

*Acer campestre*  
*Carpinus betulus*  
*Carpinus caroliniana*  
*Cornus florida*  
*Cornus kousa*  
*Cercis canadensis*  
*Crataegus phaenopyrum*  
*Elaeagnus angustifolia*  
*Eriobotrya japonica*  
*Halesia carolina*  
*Hammamelis mollis*  
*fosteri*  
*Ilex opaca*  
*Ilex opaca hume*  
*Ilex x attenuata* savannah  
*Koelreutaria paniculata*  
*Magnolia soulangeana*  
*Magnolia stellata*  
*Malus floribunda*  
*Ostrya virginiana*  
*Oxydendrum arboreum*  
*Prunus cerasifera* pissardii  
*Prunus serrulata* kwanzan  
*Prunus subhirtella* pendula  
*Prunus yedoensis*  
*Prunus caroliniana*  
*Pyrus calleryana* Bradfordi  
*Pyrus calleryana* 'Redspire'  
*Pyrus calleryana* 'Capital'

#### Common Name

Hedge maple  
 European hornbeam  
 American hornbeam  
 Flowering dogwood  
 Kousa dogwood  
 Eastern redbud  
 Washington hawthorne  
 russian olive  
 loquat  
 Carolina silverbell  
 Chinese witch-hazel  
 Ilex  
 Foster holly  
 American holly  
 Hume holly  
 Savannah holly  
 Golden rain-tree  
 Saucer magnolia  
 Star Magnolia  
 Flowering crabapple  
 Ironwood  
 Sourwood  
 Purpleleaf plum  
 Kwanzan cherry  
 Weeping cherry  
 Yoshino cherry  
 Carolina cherry laurel  
 Bradford pear  
 Redspire pear  
 Capital pear

## Shrubs

### Botanical Name

Abelia grandiflora  
 Aucuba japonica  
 Azalea hybrida  
 Azalea indica  
 Azalea obtusum Kaempferi  
 Bambusa multiplex  
 Berberis julianae  
 Berberis thunbergii  
 Camellia japonica  
 Camellia sasanqua  
 Chaenomeles speciosa  
 Cleyera japonica  
 Euonymus alatus  
 Euonymus japonicus  
 Eleagnus pungens  
 Forsythia intermedia  
 Hammamelis virginiana  
 Hydrangea quercifolia  
 Ilex aquifolium  
 Ilex cornuta  
 Ilex cornuta burfordi  
 Ilex cornuta burfordi nana  
 Ilex crenata 'convexa'  
 Ilex crenata 'hetzi'  
 Ilex crenata 'rotundifolia'  
 Ilex "Emily Brunner"  
 Ilex glabra  
 Ilex latifolia  
 Ilex pernyi  
 Ilex vomitoria  
 Jumperus chinensis pfitzeriana  
 Jumperus chinensis hetzi  
 Laurus nobilis  
 Ligustrum japonicum  
 Ligustrum lucidum  
 Ligustrum vicaryi  
 Loropetalum chinense  
 Mahonia bealei  
 Myrica cerifera  
 Nandina domestica

### Common Name

Glossy abelia  
 Japanese aucuba  
 Glenn dale azalea  
 Indian azalea  
 Kaempferi azalea  
 Hedge bamboo  
 Wintergreen barberry  
 Japanese barberry  
 Camellia  
 Sasanqua Camellia  
 Flowering quince  
 Cleyera  
 Winged euonymus  
 Evergreen euonymus  
 Eleagnus  
 Forsythia  
 Witch-hazel  
 Oakleaf hydrangea  
 English holly  
 Chinese holly  
 Burford holly  
 Dwarf burford holly  
 Convex japanese holly  
 Hetzi japanese holly  
 Roundleaf japanese holly  
 Emily brunner holly  
 Inkberry holly  
 Lusterleaf holly  
 Perny holly  
 Yaupon holly  
 Pfitzer jumper  
 Hetzi jumper  
 Laurel  
 Japanese privet  
 Glossy privet  
 Vicary golden privet  
 Loropetalum  
 Leatherleaf mahonia  
 Wax myrtle  
 Nandina

Osmanthus fortunei  
Osmanthus fragrans  
Osmanthus heterophyllus  
Osmanthus heterophyllus rotundifolius  
Photinia fraseri  
Photinia serrulata  
Pieris floribunda  
Pieris japonica  
Pittosporum tobira  
Prunus laurocerasus  
Podocarpus macrophyllus maki  
Prunus laurocerasus angustifolia  
Pyracantha coccinea  
Raphiolepis umbellata  
Spirea cantoniensis  
Spirea thunbergi  
Spirea prunifolia plena  
Spirea vanhouttei  
Taxus cuspidata  
Viburnum rhytidophyllum  
Viburnum tinus

Fortune tea olive  
Fragrant tea olive  
Holly osmanthus  
Curly leaf tea olive  
Fraser photinia  
Chinese photinia  
Mountain andromeda  
Japanese andromeda  
Pittosporum  
English laurel  
Podocarpus  
Narrow leafed english laurel  
Scarlet firethorn  
Yeddo-hawthorn  
Reves spirea  
Thunberg spirea  
Bridalwreath spirea  
Vanhoutte spirea  
Japanese yew  
Leatherleaf viburnum  
Laurestinus viburnum



## APPENDIX 2: ZONING MAPS CONVERSION PROCESS

The new zoning districts recommended in this ordinance will be applied to the zoning maps as a text amendment to this zoning ordinance. On the following page is a chart showing the proposed conversions.

Through the conversion, existing zoning districts are being changed to the most closely comparable zoning district (i.e., a district allowing similar uses, restrictions, densities, etc.) in the new zoning ordinance. However, all existing conditional zoning districts (including those districts which previously were described variously as conditional district, conditional use district, parallel conditional district, and parallel conditional use district) and special use permits with approved site plans will continue to exist with their adopted site plans controlling development on those properties. The one existing district, which is not convertible, is the R-1.0MF. The Planning Commission will initiate a rezoning to change properties in this district to a suitable district under the new zoning ordinance.

Newly created zoning districts, such as the NS and O-3, will not be applied as part of the conversion. These districts be placed on the ground either through public initiated rezonings through the area planning process or private initiated rezoning petitions.

# ZONING MAPS CONVERSION

Existing Districts	New Districts
RU	R-3
R-15	R-3
R-12	R-3
R-9	R-4
---	---
R-6	R-5
---	R-6
---	R-8
R-R	R-5
R-20MF wo/Site Plans	R-8MF
R-15MF	R-12MF
R-12MF	R-17MF
R-9MF	R-17MF
R-6MF	R-22MF
R-6MFH	R-43MF
RE-1	RE-1
RE-2	RE-2
Inst	Inst
O-15	O-1
O-9	O-2
O-6	O-2
---	O-3
B-1	B-1
B-2	B-2
B-D	B-D
UI	UI
I-1	I-1
I-2	I-2
I-3	I-2
HD	HD-O (Historic District)
---	A-O (Airport)
---	C-O (Corridor)
---	MH-O (Manufactured Home)
---	MX-1
---	MX-2
---	MX-3
---	R-MH
---	CC
BP	BP
---	NS
---	HW
UDC-V	---
R-MH	Continue * (Also, See Special Purpose Districts)
R-20MF Innovative	Continue *
R-20MF w/Site Plans	Continue *
R-I	Continue *
R-PUD	Continue *
B-1SCD	Continue *
Special Use Permits	Continue *
Parallel Conditional Use Districts	Continue *

\* Development of these uses will be governed by the previously approved site plans. The new ordinance shall not be applicable or enforced without the consent of the owner with regard to uses previously approved under a conditional zoning district (including those districts which previously were described variously as conditional district, conditional use district, parallel conditional district, and parallel conditional use district) and special use permits with approved site plans will continue to exist with their adopted site plans controlling development on those properties. Any substantial amendments to these approved uses will be subject to the requirements of the new ordinance.

- Notes:
- (1) New districts which do not have a reasonable equivalent existing district (e.g. R-3 and R-8) will not be established through the zoning map conversion process. In order to establish these districts, an individual or the government would have to petition for a reclassification of property to these new districts.
  - (2) Rezoning of the R-1.OMF will involve only one parcel of land.

APPENDIX 3: [RESERVED]



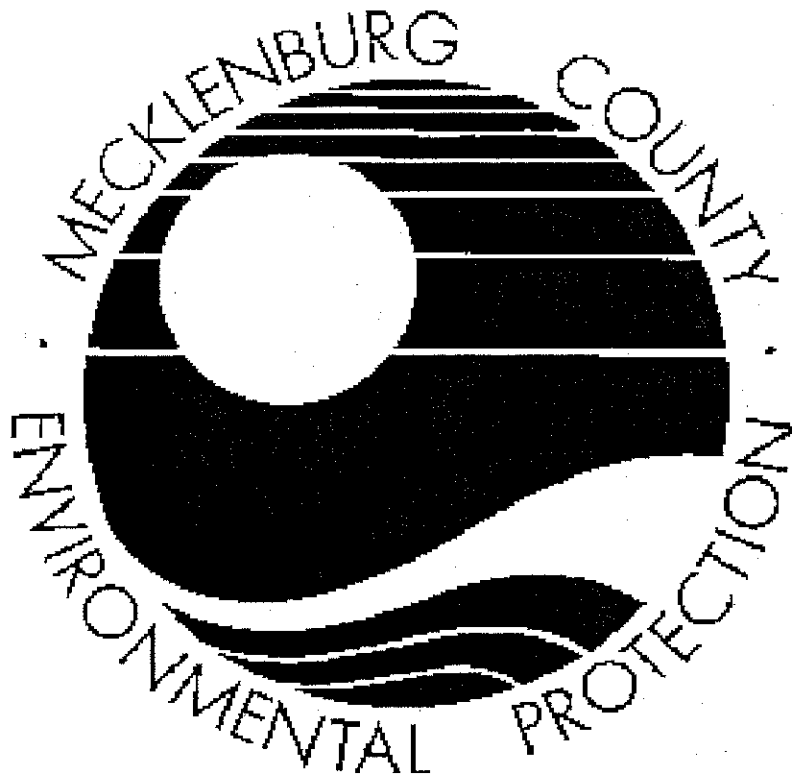
#### APPENDIX 4: AMENDMENTS

The following amendments have occurred since this printing.



**APPENDIX 5**

**WATERSHED BUFFER GUIDELINES**  
**for**  
**MECKLENBURG COUNTY, NC**



**Revised: July, 1998**

**ENVIRONMENTAL MANAGEMENT DIVISION**  
**WATER QUALITY SECTION**  
**700 NORTH TRYON STREET**  
**CHARLOTTE, NORTH CAROLINA 28202-2236**





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*For more information concerning buffers or general watershed protection, please call the Water Quality Section of the Mecklenburg County Department of Environmental Protection at (704) 336-5500.*



# MECKLENBURG COUNTY, NORTH CAROLINA

## WATERSHED BUFFER GUIDELINES

Mecklenburg County, the City of Charlotte and the Towns of Cornelius and Huntersville subdivision and zoning ordinances require water quality protection buffers for the county's regulated water supply watersheds. These ordinances further require the Mecklenburg County Department of Environmental Protection (MCDEP) to develop guidelines and approve plans for any activities that would disturb the buffers. The Watershed Buffer Guidelines for Mecklenburg County (Guidelines) fulfill that requirement setting forth minimum desirable standards and will be used on a case by case basis to direct plan approval. (Note: The zoning and subdivision ordinances of Davidson require buffers but do not reference these guidelines.) Plans will be required under the ordinances in the following situations to include but not limited to:

- 1) when streambank or shoreline stabilization is proposed;
- 2) when removal of existing trees is proposed for access to the lake or stream;
- 3) during new development or the expansion of existing development if the buffer requires enhancement;
- 4) when any disturbance of existing vegetation is proposed within the buffer; and
- 5) when any land disturbance occurs within the buffer (i.e. grading, filling, soil tilling, etc.). Plan approval will be based on the direct application of these Guidelines as appropriate and on the ability of the buffer to protect water quality as explained in the purpose statement.

**Purpose:** The primary intent of these Guidelines is to maintain or establish and maintain an effective, natural, forested, low maintenance ecosystem, which will function as described below. Watershed buffers are undeveloped areas between perennial streams or lakes, and development. These buffers serve a specific purpose of reducing the volume of runoff, thereby reducing erosion and pollutants coming from an area of more intensive land use to a waterbody. The reduction of erosion and pollutants occurs through natural mechanisms such as deposition, infiltration, adsorption, filtration and decomposition. Natural forested areas have the best capacity for collecting and storing nutrients and other pollutants. The tree canopy also protects the soil from erosion and provides shading, which can reduce water temperatures and enhance aquatic habitats. (Shallow rooted grasses requiring ongoing maintenance do not fulfill this purpose.)

### I. GENERAL REQUIREMENTS AND PROHIBITIONS

#### **1. Applicability**

- a. **Mountain Island Lake:** These guidelines are applicable to property in the Mountain Island Lake watershed as defined in the applicable local subdivision ordinances as follows:
  - i. All new subdivisions of land with property adjacent to the lake or a perennial stream, approved in Mecklenburg County after March 8, 1993, in Charlotte after June 21, 1993, in Cornelius after September 20, 1993 and in Huntersville after October 1, 1993,

- unless prior approval had been granted as specified in the applicable subdivision ordinances (i.e. "they have been grandfathered").
- ii. All new or improved lots adjacent to the lake or a perennial stream in Mecklenburg County and Charlotte, commencing construction after June 21, 1993, in Cornelius after September 20, 1993, and in Huntersville after October 1, 1993, unless prior approval had been granted as specified in the applicable zoning ordinances (i.e. "they have been grandfathered").
- b. **Lake Norman:** These guidelines are applicable to property in the Lake Norman watershed as defined in the applicable local subdivision ordinances as follows:
- i. All new subdivisions of land with property adjacent to the lake or a perennial stream, approved in Mecklenburg County after June 6, 1994, and in Cornelius after September 20, 1993, unless prior approval had been granted as specified in the applicable subdivision ordinances (i.e. "they have been grandfathered").
  - ii. All new or improved lots adjacent to the lake or a perennial stream in Mecklenburg County commencing construction after June 6, 1994, and in Cornelius after September 20, 1993, unless prior approval had been granted as specified in the applicable zoning ordinances (i.e. "they have been grandfathered").
  - iii. For buffer guidance in the portion of the watershed under the jurisdiction of the Town of Davidson, refer to its local zoning and subdivision ordinances, which became effective October 1, 1993.
- c. **Lake Wylie:** These guidelines are applicable to property in the Lake Wylie watershed as defined in the applicable local subdivision ordinances as follows:
- i. All new subdivisions of land with property adjacent to the lake or a perennial stream, approved in Mecklenburg County after June 20, 1994, and in Charlotte after June 21, 1993, unless prior approval had been granted as specified in the applicable subdivision ordinances (i.e. "they have been grandfathered").
  - ii. All new or improved lots adjacent to the lake or a perennial stream in Mecklenburg County commencing construction after June 20, 1994, and in Charlotte after June 21, 1993, unless prior approval had been granted as specified in the applicable zoning ordinances (i.e. "they have been grandfathered").

## 2. Requirements/Allowances

- a. When a site-specific buffer plan is needed, (required or voluntary enhancement) each subdivision or lot shall provide to MCDEP a plan for approval. Plans shall be submitted individually or in conjunction with erosion control and/or subdivision/building review plans. A Sample Site Specific Buffer Plan is provided in Appendix A.
- b. Slope shall be addressed in each individual buffer plan as to the number and density of tree cover and other plant material in order to adequately protect the shoreline. In general, the steeper the slope grade, the greater the density of trees and vegetation required to control the runoff. All erosion control devices should be located along the upland side of the buffer. To address any erosion caused by the construction of accessways or shoreline stabilization, temporary erosion control measures may occur in the buffer with approval from MCDEP.
- c. If concentrated flow from a subdivision or a lot begins above a buffer, it should be dispersed

as it flows into the buffer to promote shallow and uniform flow. Storm water ditches and pipes shall stop prior to the buffer allowing water to sheet flow across the buffer thus minimizing channelization of storm water flow.

- d. Shoreline stabilization is allowed as long as minimal disturbance of the existing buffer occurs. Other required permits for shoreline maintenance, dredging or filling, and dock construction (401/404 State permits, Duke Power, Building Standards) need to be obtained prior to construction.
- e. Land clearing is allowed on a limited, conditional basis as explained under "Maintenance of Existing Buffer Vegetation" #3 on page 4.
- f. Openings to provide access to the lake and dock areas are allowed, but are limited to a maximum width of 10 feet for boats and 6 feet for walkways. Access to streams is limited to a maximum width of 6 feet for walkways. Pervious materials should be used as base material or elevated boardwalks can be used. Paths should be constructed to effectively control runoff and erosion. Where slopes exceed 15%, lake or stream access methods must receive prior approval, unless they are above ground (boardwalks).
- g. Temporary disturbances of the buffer are allowed with prior approval from MCDEP and shall be evaluated on a case-by-case basis taking into consideration the primary intent of these Guidelines.
- h. Utility right-of-ways are allowed in the buffer provided they are re-vegetated in accordance with these Guidelines.
- i. Pumps for irrigation are allowed in the buffer provided they are electrically operated. No gasoline engines are allowed.

### **3. Prohibitions**

- a. Turf grass, as a permanent landscape feature, is not permitted within the buffer. Turf grass used for temporary erosion control measures as part of an approved plan is allowable (e.g. rye).
- b. Impervious structures such as driveways and boathouses on land are not permitted within the buffer.
- c. Septic tanks, drain fields and repair areas are not permitted within the buffer. Repairs to existing septic systems, that involve no increase in capacity, shall be considered on a case-by-case basis.
- d. Structural best management practices are not allowed in the buffer.
- e. Clearing or grading within the buffer is not allowed. If the existing buffer is disturbed in any way, the buffer must be replanted in accordance with these Guidelines.

## **II. MAINTENANCE OF EXISTING BUFFER VEGETATION**

### **1. Ground cover**

Existing, trees, shrubs, ground covers, natural grasses or perennials should be left in place. Where there is not enough vegetation to control runoff and erosion, a mulch cover of 2-inch minimum depth should be maintained over the entire buffer area. This should be, whenever possible, made up of natural leaf litter as is typically found in an undisturbed wooded area. Where this natural

litter is not present at a sufficient depth, it should be supplemented with natural organic mulch such as leaves, leaf mold, wood chips, tree bark or pine needles. Removal of natural leaf fall from within the buffer is prohibited as natural leaf litter provides beneficial results such as enriching the soil, protecting tree roots and absorbing water runoff. Perennial ground cover as specified under "VEGETATION IN THE BUFFER" Section 4 on page 5 can be used in place of mulch as approved by MCDEP.

## **2. Existing Tree Cover**

Except as otherwise provided in these Guidelines, existing tree cover should be retained at a minimum density of at least 12 healthy trees of a minimum 6 inch caliper per 1000 square feet of buffer area. This minimum tree density should be more or less uniformly distributed over the entire buffer area with the exception of approved openings. Pruning of trees within the buffer will be limited to the removal of only lateral limbs from no more than the lower 50 percent of the tree's total height. Topping is not allowed. The Subdivision Ordinances state that "No trees larger than 2 inch caliper are to be removed except for dead or diseased trees." Combinations of larger and smaller trees can also provide an effective buffer. For example, where an adequate density of natural tree cover exists, but there are too few trees of the minimum 6 inch diameter size class, then two trees of at least a 1 1/2 inch caliper may be counted for each deficiency of a larger tree. (As an example, if a buffer contained 2500 square feet, the normal standard would be a minimum of 30, six-inch trees. If the buffer had only 10 trees over six inches and the rest were smaller, then the standard would be met with the 10 six inch trees and 40 (2x20) trees above 1 1/2 inches in caliper.)

## **3. Land Clearing**

The removal of some native vines, shrubs, ground covers and small trees to facilitate a better view or a more aesthetically pleasing natural landscape may be allowed. This thinning operation must be done with hand tools and/or minimal use of approved herbicides. No grubbing of tree stumps is allowed; however, their removal with a stump grinding machine, which causes minimal soil disturbance, is allowed. Natural leaf litter, humus and soil should remain.

## **4. Exceptions**

- i. Some tree thinning may be permissible with approval where thick cover exists and it is desirable to promote a healthy tree cover and produce the most effective buffer.
- ii. The minimum desired tree density standard may be reduced in order to reduce crowding to below 12 trees per 1000 square feet, if the buffer contains a majority of large diameter trees. For every three trees that have a diameter at chest height of over 12 inches, the total number of trees desired within the buffer is reduced by one tree. As an example, if a buffer is 2500 square feet, it should contain a minimum of 30 healthy trees of a minimum six-inch diameter. Should **15** of these trees be 12 inches in diameter or above, then the minimum desired standard would drop to **25** trees with the lower density being found in the area where the larger trees were predominant.

### **III. PLANTING NEW/ADDITIONAL VEGETATION IN THE BUFFER**

#### **1. New or Enhanced Tree Cover**

In areas of the buffer where the density of trees is less than the minimum, it is desirable to plant new trees. Where new or replacement trees are installed to satisfy the minimum standards set forth in these Guidelines, they should be planted to a density of 12 trees per 1000 square feet and have a minimum caliper of 1 1/4 inches measured at 6 inches above the rootball. Equivalent combinations of permanent tree, shrubs and ground covers may be substituted following MCDEP's approval of a buffer plan (see Appendix A).

#### **2. Shrubs and Ground covers**

Planting of additional shrubs, ground covers and perennials may be approved if done so with minimal disturbance to root systems of existing trees. Addition of nutrients (fertilizers) into these buffer areas is prohibited except at planting time when mixing nutrients and soil amendments with the backfill soil is acceptable.

### **IV. VEGETATION IN THE BUFFER**

#### **1. Benefits of a Vegetated Buffer**

A healthy vegetative cover within the buffer area can provide a stable land surface, which absorbs rainfall, cuts down on heat reflectance and noise, and absorbs pollutants washing across the land. Dense, vigorous vegetation protects the soil from raindrop impact, a major force in dislodging soil particles and moving them down slope. The shielding effect of a plant canopy is augmented by roots and rhizomes that hold the soil, improve its physical condition, and increase the rate of infiltration. Plants also reduce the moisture content of soil through transpiration, thus increasing its capacity to absorb water. Undisturbed buffer areas can provide low-maintenance landscaping, shade, and privacy screening. Large trees and carefully designed buffers may dramatically increase property value.

#### **2. Site Considerations**

Species selection should be based on site characteristics including soils, slope, aspect, climate, and expected management of that area.

- a. **Soils:** Piedmont soils are generally low in organic matter and have subsoils high in clay. Deeper subsoils are typically silts, silt loams, and sandy loams. Surface soils vary from sandy loam to clay loam, and subsoils are commonly thick with heavy clay texture. Topography is mostly rolling hills with well-developed drainage patterns. Piedmont soils generally support a wide variety of plants, including both cool and warm season species.
- b. **Slope:** Slope describes the degree of steepness of the topography on a parcel of land. The steeper the slope, the more essential is a vigorous vegetative cover. This vigorous vegetative cover will help protect accelerated runoff due to the steep slope by slowing down the velocity of the water running across that surface.

- c. **Aspect:** Aspect is the actual direction in which the property or specific site faces. Aspect affects soil temperature and available soil moisture. South and West facing slopes tend to be warmer and drier, while North and East facing slopes tend to be cooler and more moist. On South and West facing slopes, mulch is essential to retain moisture and drought tolerant species are recommended. South and West facing slopes may also be subject to occasional frost heaving due to repeated cycles of freezing and thawing.
- d. **Climate:** The regional climate must be considered when selecting well-adapted species. Climatic differences determine the appropriate plant selections based on such factors as cold hardiness, tolerance to high temperatures and high humidity, and resistance to insects and disease. Mecklenburg County lies in the southern Piedmont region of the Carolinas, situated between the Coastal Plain to the east and the Foothills and Mountains to the West. Winter temperatures in the southern Piedmont average 47 degrees. The average low is 30 degrees with temperatures sometimes dropping below 0 degrees. The average summer temperature is 70 degrees. The average high is 87 degrees and sometimes tops 100 degrees. The southern Piedmont region receives an average of about 45 inches of rainfall annually with the majority of rain occurring during the late winter and spring months. Drought conditions may occur during the summer months and must be considered when selecting appropriate species for buffer area planting.
- e. **Management:** Buffer areas should be established for low to no maintenance. Effective buffers should mimic as closely as possible true natural conditions. Native plants or species that are well adapted to this region should be selected. Longevity of a species is an important consideration, as well as resistance to disease, drought, infestations from pests, etc. Plant species selected should also require no fertilization on a regular basis.

### 3. Approved Plants for Watershed Buffers

The following species lists are approved for the Carolinas region in general and need to be matched with local site conditions. This species list is not considered comprehensive and variations from these lists may be permitted with prior approval from MCDEP. The criteria discussed above will be used when determining non-listed species for buffer suitability.

#### a. Native Trees for Buffer Area Planting

Ailanthus  
Arborvitae  
Ash - Green, White  
Bald Cypress  
Basswood  
Beech  
Birch - River, Sweet, Yellow  
Blackgum  
Black Walnut  
Box Elder  
Buckeye  
Catalpa  
Cedar - Eastern Red, Atlantic White  
Cherry - Black, Red  
Chinese Chestnut  
Cottonwood - Eastern



Dogwood  
Elm - Slippery, Winged (Not American due to Dutch Elm disease)  
Hawthorn  
Hackberry  
Hemlock  
Hickory - Bitternut, Shagbark, Mockernut, Pignut  
Holly  
Hop-Hornbeam  
Locust - Honey, Black  
Magnolia  
Maple - Sugar, Silver, Red  
Mulberry  
Oak - White, Post, Chestnut, Live, N.Red, S.Red, Cherrybark, Black, Willow, Scarlet,  
Water, Pin  
Persimmon  
Pine - Shortleaf, Loblolly, Virginia, Longleaf, White  
Poplar - Yellow  
Redbud  
Sassafras  
Service Berry  
Silverbell  
Sourwood  
Sweetgum  
Sycamore  
Willow - Black, Weeping  
Witch-hazel  
Ferns

**b. Native Shrubs for Buffer Area Planting**

Alder  
American Elder (Elderberry)  
Arnot Bristly Locust  
Autum Olive  
Azalea  
Bankers Dwarf Willow  
Bayberry  
Beauty berry  
Blackberry  
Blueberry  
Buttonbush  
Chinquapin  
Choke berry  
Crape Myrtle  
Dogwoods - Rodosier, Greystem, Silky, Red Twig  
Fetterbush  
Groundsel tree  
Holly - Dwarf Inkberry, Gallberry, Winterberry  
Horsesugar  
Huckleberry

Indigo Bush  
Lespedeza  
Meadowsweet  
Mimosa  
Mountain Laurel  
Paw Paw  
Pepperbush  
Privet  
Purpleosier Willow  
Rhododendron  
Rose  
Snowbell  
Spicebush  
Strawberrybush  
Sumac (non-poisonous)  
Sweet Fern  
Viburnum  
Wax Myrtle  
Winter Jasmine  
Yaupon

**c. Ground Cover for Buffer Area Planting**

Bearberry  
Bigleaf Winter Creeper  
Daylily  
English Ivy  
Honeysuckle  
Juniper  
Pachysandra  
Periwinkle  
St. Johnswort  
Virginia Creeper

**d. Non-Turf Grasses for Buffer Area Planting**

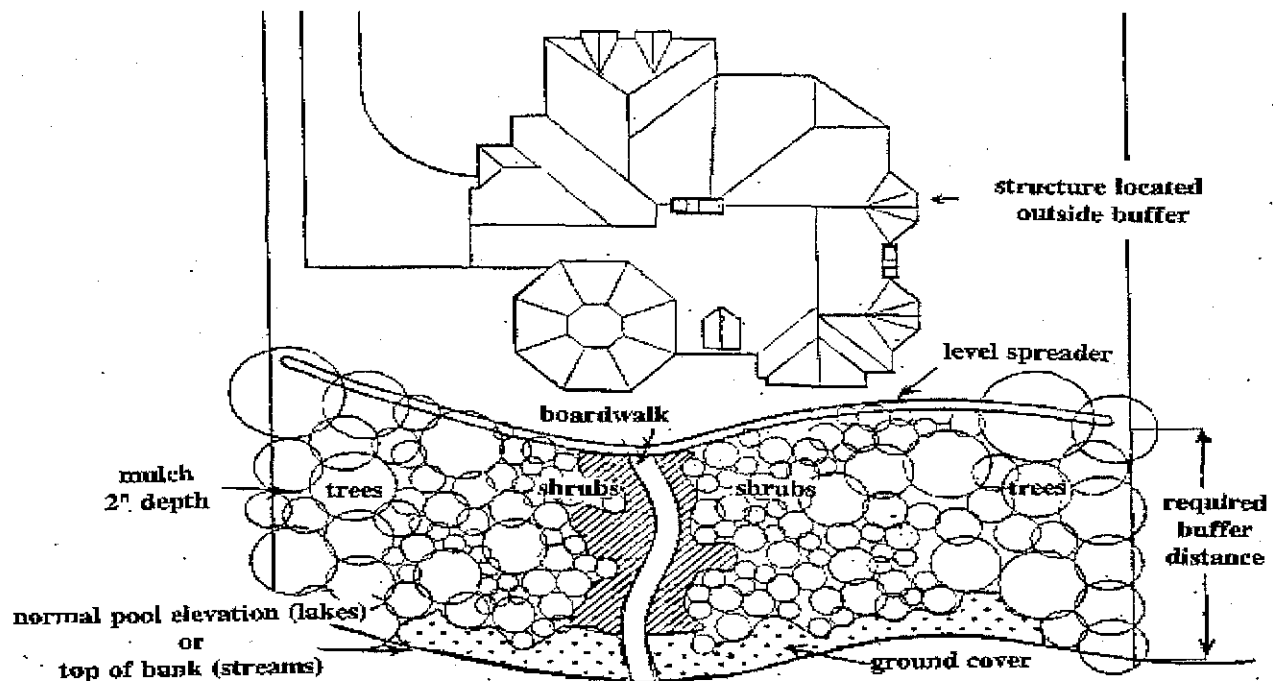
Bluestem - Big, Little  
Broomsedges  
Deertongue  
Indiangrass  
Ironweed  
Jerusalem Artichoke  
Joe Pye Weed  
Liriope  
Swamp Milkweed  
Switchgrasses

*Species list compiled by MCDEP Water Quality staff with assistance from Mecklenburg County Storm Water Services, Mecklenburg County Cooperative Extension Service, Mecklenburg County Soil and Water Conservation District, and the City of Charlotte Landscape Management Division.*

## APPENDIX A

### SAMPLE BUFFER PLAN

July 29, 1998



#### Specifications Which Must Be Included In The Buffer Plan:

- All plant species to be placed in the buffer must be identified.
- The distances between the different plantings must be specified.
- All plantings must comply with the "Watershed Buffer Guidelines for Mecklenburg County, NC" Section III entitled Planting New/Additional Vegetation In Buffer which is located on page 5.
- All plantings should be of a variety specified in the "Watershed Buffer Guidelines for Mecklenburg County, NC" Section IV entitled Vegetation In The Buffer which is located on pages 5 through 8.
- Mulch should be specified at a minimum depth of 2 inches.

## APPENDIX B

### SUBDIVISION PLAN REQUIREMENTS FOR BUFFERS


July 29, 1998

A separate Buffer Plan must be included in the Subdivision Plan package. It should be listed on the Master Plan's index as Buffer Plan. The Buffer Plan must contain the following:

1. The entire buffer area clearly marked or shaded.
2. The point from which the buffer was measured.
3. Any activity or disturbance in the buffer should be identified and "blown up" on the Buffer Plan. Specific details should be given on pathways, boardwalks, boat ramps, etc.
4. If a disturbance is proposed in the buffer (such as a boat ramp or sewer line ROW), a restoration plan showing replantings should be included as part of the Buffer Plan. The restoration should follow the guidelines stated in the Watershed Buffer Guidelines for Mecklenburg County, NC. Specifics should be stated such as tree/ bush types and planting densities.

The Buffer Plan MUST CLEARLY STATE the following:

1. No disturbance whatsoever is allowed in the buffer.
2. No sediment basins, open channels, or piped storm water is allowed in or through the buffer. Drainage areas should be designed to allow water to sheet flow across the buffer to filter out pollutants. Plunge pools, level spreaders, diversion devices or wetland flow should be used to provide this sheet flow.
3. No heavy equipment is allowed in the buffer.
4. The buffer will be clearly marked by flagging or fencing prior to any construction at the site.
5. Any activity in the buffer will comply with the Watershed Buffer Guidelines for Mecklenburg County, NC.
6. The Mecklenburg County Department of Environmental Protection (MCDEP) will be notified of any changes to the approved Buffer Plan.
7. The buffer will be permanently marked on each individual lot using iron stakes in concrete.

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8. Buffer restrictions will be placed on each individual deed.
  9. Educational materials concerning the buffer will be distributed to each homeowner and builder prior to construction or occupancy.
  10. All sub contractors will be notified of the buffer regulations prior to development.
  11. MCDEP will be notified following the completion of construction activities in order that an inspection of the buffer can be performed. Certificates of Occupancy will not be released until MCDEP has verified that the buffer complies with all applicable ordinances and guidelines.

