UDO

Town of Kernersville Unified Development Ordinance

The Unified Development Ordinance (UDO) contains the growth management regulations of the Town of Kernersville. The tabs to the left will take you to the different sections of the UDO.

June 7, 2022

CHAPTER A - DEFINITIONS ORDINANCE
ARTICLE I - GENERAL

1-1 SHORT TITLE

This Ordinance shall be known and may be cited as the *Definitions Ordinance*, except as referred to herein, where it shall be known as *this Ordinance*. This Ordinance and the *Zoning Ordinance* and the *Environmental Ordinance*, and the *Subdivision Ordinance* shall collectively be known and cited as the *Unified Development Ordinances*.

1-2 PURPOSE

The purpose of this Ordinance is to establish a set of definitions applicable to the *Zoning Ordinance*, the *Environmental Ordinance*, and the *Subdivision Ordinance* of the adopting jurisdiction.

1-3 MEANING OF DEFINITIONS

Unless otherwise expressly stated, or unless the context clearly indicates a different meaning, the words and phrases in the following list of definitions shall, for the purposes of the *Unified Development Ordinance*, have the meanings indicated. All words and phrases not defined in this Article shall have their common meaning.

1-4 TENSES

When used in this Ordinance, the present tense includes the future, the singular includes the plural, and words of one gender include the other, as may be applicable. The word *shall* is mandatory, not directory. The word *use* includes designed for use.

1-5 THE STANDARD INDUSTRIAL CLASSIFICATION MANUAL - 1987

The definitions of some principal uses listed in this Article reference the *Standard Industrial Classification Manual - 1987*. This manual was updated and renamed the *North American Industrial Classification Manual* in 1997. In making an interpretation regarding the classification of uses pursuant to this Article, the Zoning Administrator may refer to the appropriate standard industrial classification (SIC) number and accompanying descriptions contained in the latest edition of the manual. This manual may or may not be the final determination of the use.

1-6 EROSION CONTROL DEFINITIONS

Those definitions contained in the *North Carolina Sedimentation Pollution Control Act of 1973*, as amended, and adopted as part of the local *Sediment and Erosion Control Ordinance*, contained in the *Environmental Ordinance*, are delineated with (EROSION CONTROL) at the end of the definition.

1-7 ILLUSTRATIONS

Illustrations are provided for purposes of describing, clarifying, or providing examples of the definitions in the text, and do not replace or limit the meaning of the text.

CHAPTER A - DEFINITIONS ORDINANCE
ARTICLE II – DEFINITIONS

ABATTOIR. See Meat Packing Plant.

ABC STORE (LIQUOR). An establishment run by the Alcoholic Beverage Control Board selling alcoholic beverages.

ACADEMIC MEDICAL CENTER. Buildings and other facilities and improvements used by an accredited medical school and its affiliated teaching hospital (separately or jointly) located on land owned by the hospital, medical school, and/or other nonprofit coordinating corporation (assisting the hospital and medical school) or a combination thereof. All of the land on which an Academic Medical Center is located shall be considered as one zoning lot.

ACCELERATED EROSION. Any increase over the rate of natural erosion as a result of land disturbing activity. (EROSION CONTROL)

ACCESSORY STRUCTURE. See Structure, Accessory.

ACCESSORY USE. See Use, Accessory.

ACT, EROSION CONTROL. The *North Carolina Sedimentation Pollution Control Act of 1973* and all rules and orders adopted pursuant to it and amendments. (EROSION CONTROL)

ACTIVITY CENTER. An area with existing or potential for concentrated mixed use development identified in the Land Use Plan Map element of the Kernersville Development Plan. A metro activity center contains approximately a ¼ mile radius core area of high density residential, commercial and office uses surrounded by high to moderate density residential, all following specific development guideline standards.

ADEQUATE EROSION CONTROL MEASURE, STRUCTURE, OR DEVICE. A measure, structure or device which controls the soil material within the land area under responsible control of the person conducting the land disturbing activity. (EROSION CONTROL)

ADMINISTRATIVE DECISION. Decisions made in the implementation, administration, or enforcement of development regulations that involves the determination of facts and the application of objective standards set forth in this Chapter or local government development regulations. These are sometimes referred to as *ministerial decisions* or *administrative determinations.*

ADMINISTRATIVE HEARING. A proceeding to gather facts needed to make an administrative decision.

ADULT DAY CARE CENTER. A day care facility in which day care is provided to seven (7) or more adolescents, or disabled or older adults.

ADULT DAY CARE HOME. A day care facility in which day care is provided for up to six (6) adolescents, or disabled or older adults.

ADULT ESTABLISHMENT. Any structure or use of land which meets the definition of adult establishment as outlined in North Carolina General Statue Sec. 14-202.10 (Licensed health massage/body work therapists shall not be considered a massage business.) and Town of Kernersville Code of Ordinances, Chapter 5 Business Regulation and Taxation, Article V. Adult Establishments.

Notwithstanding the definition of "adult bookstore" contained in G.S. 14-202.10 (1), "adult bookstore" means a business establishment that:

(a) Has as one of its principal business purposes the sale or rental of; or,

(b) Has a substantial or significant portion of its stock or trade for sale or rental;

"publications" which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to (i) "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).

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.

In addition to all other information available to the Zoning Officer in making a determination whether a particular use is an "adult bookstore," any of the following shall be indicia that an establishment has as one of its principal business purposes the sale or rental of "publications" which are distinguished or characterized by their emphasis on matter depicting, describing or relating to (i) "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):

(a) Restricted access to the business establishment or portions of the business establishment by persons under 16 years of age;

(b) Posted signs or notices outside and/or inside the business establishment indicating that the material offered for sale or rental might be offensive;

(c) 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.

Notwithstanding the definition of "adult mini-motion picture theater" contained in G.S. 14-202.10 (6), "adult mini-motion picture theater" means an enclosed building with one or more viewing booths or partitioned areas designed to hold patrons for the presentation and viewing of motion pictures (film, videotape, laser disc, CD-ROM or other imaging media), where:

(a) One of the principal business purposes is the presentation and viewing of motion pictures in the viewing booths that; or,

(b) A substantial or significant portion of the stock of 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 (i) "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).

In addition to all other information available to the Zoning Officer in making a determination whether a particular use is an "adult mini-motion picture theater," 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 (i) "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):

(a) Restricted access to the business establishment or portions of the business establishment where viewing booths are located by persons under 16 years of age;

(b) 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;

(c) The portion of the building containing the viewing booths is screened or otherwise located or situated in a manner that restricts or limits complete visual access to the booths from the primary or principal clerk or cashier area.

AGRICULTURAL LAND. Any parcel of land which is used in the raising of agricultural, dairy, or forest products, livestock, poultry, or fur-bearing animals. (EROSION CONTROL)

AGRICULTURAL PRODUCTION, CROP. The use of land for the primary purpose of raising and harvesting row, field, or tree crops on a commercial basis on a bona fide farm. The growing and sale of agricultural crops on the premises shall not constitute agricultural crop production.

AGRICULTURAL PRODUCTION, LIVESTOCK. The use of land for the primary purpose of raising animals or producing animal products, such as eggs or dairy products, on a commercial basis on a bona fide farm, including grazing, ranching, and dairy farming.

AIRPORT, PRIVATE. A landing field for the private use of the property owner or lessee, including hangar area for aircraft used by the owner or lessee at the private airport.

AIRPORT, PUBLIC. Landing fields, aircraft parking and service facilities, passenger and baggage terminals, and related facilities for operation, service, fueling, repair, storage, charter, sales, and rental of aircraft, operated by an airport authority.

ALLEY. A service way providing a secondary means of public access to abutting property.

AMORTIZATION. The process of providing for a timed extinction of a use which is not in compliance with this Ordinance.

ANIMAL FEEDING OPERATION. An establishment primarily engaged in raising hogs or poultry, or the fattening of beef cattle, in a confined area. This definition includes all uses in the following SIC groups:

0211 Beef Cattle Feedlots
0213 Hogs
025 Poultry and Eggs

ANTENNA – Communications equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.

ANTENNA, SUBSTANTIAL MODIFICATION – The mounting of a proposed wireless facility on a wireless support structure that substantially changes the physical dimensions of the support structure. A modification is presumed to be substantial if it meets any one or more of the criteria listed below:

a. A 10% increase in tower height or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet or whichever is greater;
b. The installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four cabinets or an equipment compound expansion of more than 2,500 square feet, or more than one new equipment shelter;
c. A proposed antenna would involve adding an appurtenance that would protrude from the body of the tower more than twenty feet, and more than the width of the tower structure at the level of the appurtenance, whichever is greater; or
d. The proposed modification would involve excavation outside the current tower site, defined as the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site.

ARCHITECT. A person licensed to practice architecture in the State of North Carolina.

AREA PLAN. See Development Guide.

ARTIFICIAL OBSTRUCTION. Any object or material which is not a natural obstruction, including any which, while not a significant obstruction in itself, is capable of accumulating debris and thereby reducing the flood-carrying capacity of a stream.

ARTS AND CRAFTS STUDIO. The creation of objects in a studio, made one at a time, by hand. Such creation includes, but is not limited to, woodworking, tin-smithing, silver-smithing, pottery throwing, glass blowing, painting, weaving, caning, metal working, and sculpting.

ASPHALT AND CONCRETE PLANT AND CONTRACTORS. A facility preparing asphaltic and/or concrete mixtures for street and driveway paving, including contractors engaged in asphalt and/or cement work. This definition includes all uses in the following SIC groups:

177 Concrete Work
2951 Asphalt Paving Mixtures and Blocks

AUTOMATIC TELLER MACHINE. A type of banking and financial services with automated or self-service banking features with no staff or personnel provided.

BANKING AND FINANCIAL SERVICES. A facility engaged in deposit banking or extending credit in the form of loans. This definition includes all uses in the following SIC groups:

60 Depository Institutions
61 Non-depository Institutions

BASEMENT. A fully enclosed space with fifty percent (50%) or more of its cubical content below the finished grade of the ground surface at the walls of the building.

BED AND BREAKFAST. An owner occupied or manager-occupied residential structure providing rooms for overnight lodging, or lodging and meals, for more than three (3) but not more than eight (8) guests on a paying basis.

BEING CONDUCTED. Being conducted means a land disturbing activity has been initiated and permanent stabilization of the site has not been

completed. (EROSION CONTROL)

BLOCK. An area of land bounded by streets or by a combination of streets and public parks, cemeteries, railroad rights-of-way, waterways, shorelines, or any other barrier to the continuity of development.

BOARDING OR ROOMING HOUSE. An owner occupied dwelling, or part thereof, in which lodging is provided to more than three (3) but not more than eight (8) paying guests on a weekly or longer basis.

BONA FIDE FARM PURPOSES. Agricultural activities as set forth in G.S. 160D-903.

BORROW. Fill material which is required for on-site construction and is obtained from other locations. (EROSION CONTROL)

BORROW SITE. Any place or premises where not more than one acre of land is disturbed at any one time, and where dirt, soil, sand, gravel, or other material is removed for any purpose other than that necessary and incidental to grading or building construction on the site.

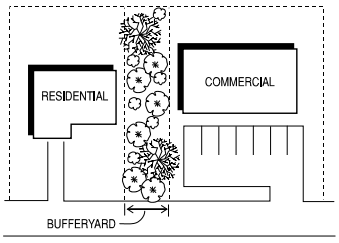
BREWERY. A facility that contains a taproom and/or brewpub and produces more than 15,000 barrels of beer per year and sells the majority of the beer it produces for off-site resale and consumption.

BREWPUB. An eating and drinking establishment that produces less than 15,000 barrels of malt beverages per year.

BROADCAST STUDIO. An establishment primarily engaged in providing two-way radio/telephone communication services, telephone voice and data communications, telegraph services, radio and television broadcasting, or cable and other pay television services, but excluding those uses classified as utilities. This definition includes all uses in the following SIC group:

48 Communications

BUFFERYARD. The portion of a yard where special plantings may be required by the *Zoning Ordinance* to separate and partially screen two adjacent land uses that are ordinarily incompatible by virtue of their use.



BUFFER ZONE. The strip of land adjacent to a lake or natural watercourse. (EROSION CONTROL)

BUILDABLE AREA. The area of a zoning lot remaining after the minimum setback requirements of this Ordinance have been satisfied.

BUILDING. Any structure having a roof supported by columns or walls and intended for supporting or sheltering any use or occupancy.

BUILDING, COMMERCIAL. A building designed and used to provide services and for the sale of products to the general public.

BUILDING CONTRACTORS, GENERAL. An establishment providing general contracting and/or building construction services for residential, farm, industrial, or commercial uses, and which typically does not involve outdoor storage of machinery or equipment. This definition includes the following SIC groups:

15 General Building Contractors
171 Plumbing, Heating, Air-Conditioning
172 Painting and Paper Hanging
173 Electrical Work
174 Masonry, Stonework, and Plastering
175 Carpentry and Floor Work
176 Roofing, Siding, and Sheet Metal Work
1793 Glass and Glazing Work
1796 Installing Building Equipment, NEC
1799 Special Trade Contractors, NEC

BUILDING CONTRACTORS, HEAVY. An establishment providing general contracting and/or building construction services other than for buildings, such as highways and streets, bridges, sewers, and flood control projects, and which may involve outdoor storage of machinery or equipment. This definition includes the following SIC groups:

16 Heavy Construction, Except Building
178 Water Well Drilling
1791 Structural Steel Erection
1794 Excavation Work
1795 Wrecking and Demolition Work

BUILDING HEIGHT. See Height, Building.

BUILDING, INDUSTRIAL. A building designed

and used for manufacturing, warehousing, distribution and/or contracted services.

BUILDING, PRINCIPAL. The building in which the principal use of the zoning lot is conducted.

BUILDING MATERIALS SUPPLY. An establishment engaged in selling lumber and a general line of building materials and hardware to the public. This definition includes all uses in the following SIC group:

521 Lumber and Other Building Materials

BULK STORAGE OF PETROLEUM PRODUCTS. The storage on a zoning lot of two thousand five hundred (2,500) gallons or more of flammable liquid, or two thousand (2,000) gallons water capacity or more of flammable gas, excluding storage tanks, above ground as defined herein below. This definition includes all uses listed in the following SIC group:

5171 Petroleum Bulk Stations & Terminals

BUSINESS CENTER. A building or group of buildings totaling twenty thousand (20,000) square feet or more of gross floor area, either connected or freestanding, which is a planned center of medical, commercial, office, industrial, or a mix of these uses with integrated building design, ingress and egress, and pedestrian access or circulation patterns.

CAMPGROUND. See Recreational Vehicle Park.

CANOPY. A structure, either detached from or attached to and extending from the enclosed portion of a building, and used principally to provide shelter in connection with activities conducted in the principal building.

CARPORT. A roofed structure enclosed on not more than two (2) sides and used for the parking of motor vehicles.

CAR WASH. A facility where motor vehicles are washed, cleaned, and/or waxed by hand or with manually-operated equipment or automatic machinery. This definition includes all uses in the following SIC group:

7542 Carwashes

CEMETERY, LICENSED. Land and facilities used for burial of the dead meeting the requirements of a perpetual care cemetery under State law. Such a facility includes any burial ground, mausoleum, or columbarium operated by a cemetery company and meeting licensing requirements of the State.

CEMETERY, UNLICENSED. Land and facilities used for the burial of the dead, including municipal, private family, farm, church or animal cemeteries, which have not been licensed and do not meet the licensing requirements of a perpetual care cemetery under State law.

CERTIFICATE OF APPROPRIATENESS. A document issued by the Historic District Commission allowing an applicant to proceed with a proposed exterior alteration, demolition or new construction in a locally zoned H or HO District, following a determination of the proposal's suitability according to applicable criteria.

CERTIFICATE OF OCCUPANCY. A permit issued by the Zoning Officer, setting forth that a lot, building, structure, or use complies with the *Zoning Ordinance* and that the same may be used for the purposes stated therein.

CHARTER. As defined in G.S. 160A-1(1).

CHILD CARE (DROP-IN). A child care arrangement where children attend on an intermittent, unscheduled basis and care is provided for less than four (4) hours per day.

CHILD CARE INSTITUTION. A facility providing residential and nonresidential care for thirteen (13) or more children under the age of twenty-one (21), who are handicapped or who are without the benefit of parents who can provide for those children's basic physical, emotional, educational, spiritual, and/or other special needs.

CHILD CARE (SICK CHILDREN). A child day care or other child care arrangement with special provision for the care of sick children.

CHILD CARE (TEMPORARY CARE). A child care arrangement which provides either drop-in care or care on a seasonal or other part-time basis.

CHILD DAY CARE. Any child care arrangement wherein three (3) or more children less than thirteen (13) years of age receive care away from their primary residence by persons other than their parents, grandparents, aunts, uncles, brothers, sisters, first cousins, guardians, or full-time custodians, or in the

child's primary residence where other unrelated children are in care. Care must be provided on a regular basis at least once per week for more than four (4) hours per day.

CHILD DAY CARE CENTER. A day care facility in which day care is provided for thirteen (13) or more children when any child is preschool-age, or sixteen (16) or more children when all children are school-age.

CHILD DAY CARE (LARGE HOME). A day care facility in which day care is provided for six (6) to twelve (12) children when any child is preschool-age, or up to fifteen (15) children when all children are school-age.

CHILD DAY CARE (SMALL HOME). A day care operation in which day care is provided for three (3) to five (5) preschool-age children, plus up to three (3) additional school-age children.

CHURCH OR RELIGIOUS INSTITUTION. A facility of a church or religious organization operated for worship and which may include religious training or study.

CHURCH OR RELIGIOUS INSTITUTION - COMMUNITY SCALE. A church or religious institution in which the seating capacity in the sanctuary or main activity area is greater than six hundred (600) persons.

CHURCH OR RELIGIOUS INSTITUTION - NEIGHBORHOOD SCALE. A church or religious institution in which the seating capacity in the sanctuary or main activity area is six hundred (600) persons or less.

CITY. As defined in G.S. 160A-1(2).

CLUB OR LODGE. A building or land used for the activities of a private club or social organization, and not adjunct to, or operated as, or in connection with a public tavern, cafe, or other place open to the public.

COLLECTOR STREET. See Street, Collector.

COLLEGE OR UNIVERSITY. An institution of higher education offering undergraduate and/or graduate degrees.

COMBINED USE. A principal building which is used for any combination of dwelling unit(s), including single family, duplex and multifamily, and any other use(s) permitted in the zoning district.

COMMISSION. As referenced in Article IV of the *Zoning Ordinance*, the Historic District Commission. As referenced in Article VII of the *Environmental Ordinance*, the North Carolina Sedimentation Control Commission. (EROSION CONTROL)

COMPLETION OF CONSTRUCTION OR DEVELOPMENT. No further land disturbing activity is required on a phase of a project except that which is necessary for establishing a permanent ground cover. (EROSION CONTROL)

COMPREHENSIVE PLAN. The comprehensive plan, land-use plan, small area plans, neighborhood plans, transportation plan, capital improvement plan, and any other plans regarding land use and development that have been officially adopted by the governing board.

COMPUTER DATA CENTER. A category of "Services, Business A" in which the primary service is data processing. This type of facility is primarily devoted to computers, with minimal employment required for monitoring and servicing.

CONDITIONAL ZONING. A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.

CONGREGATE CARE FACILITY. A type of elderly housing, as defined by this Ordinance, which consists of one or more structures used to provide housing; part-time medical care, housekeeping, and personal care; and shared food preparation, dining, recreational, and social facilities. Congregate care facilities do not include nursing care institutions or similar institutions devoted primarily to the care of the chronically ill or incurable.

CONSTRUCTION, START OF. After issuance of a building permit by the Kernersville Permit & Enforcement Division, the first placement of a structure, including a manufactured home, on a site, for which a building inspection is required. This shall include: excavation, forming, and bracing for concrete placement; the subsequent installation and tying of steel reinforcements for footings, piles, or columns (if required).

CONTIGUOUS AREA. Any area which abuts directly on a subject property or is separated from the subject property by a street or the right-of-way of a railroad or other utility or public service corporation.

CONVENIENCE STORE. Any retail establishment offering for sale any combination of gasoline, diesel fuel, kerosene, automotive products, prepackaged food products, household items, and/or other goods commonly associated with the same and having a gross floor area of less than five thousand (5,000) square feet.

CORNER LOT. See Lot, Corner.

CORRECTIONAL INSTITUTION. A facility providing housing and care for individuals confined by law, operated under the authority of local, State, or federal government.

COUNTY. Any one of the counties listed in G.S. 153A-10.

CRITICAL ROOT ZONE. The area under a tree which includes all land within the dripline of the tree. The drip-line is measured by a vertical line extending from the outermost portion of a tree's canopy to the ground.

CUL-DE-SAC. A local street having only one end open to traffic with the other end permanently terminated by a vehicular turnaround.

DECISION-MAKING BOARD. A governing board, planning board, board of adjustment, historic district board, or other board assigned to make quasi-judicial decisions.

DENSITY. The ratio of dwelling units permitted on a zoning lot to the area of the zoning lot. Density is expressed in this Ordinance as the number of units per one acre.

DENTAL LABORATORY. See Medical or Dental Laboratory.

DEPARTMENT, DENR. The North Carolina Department of Environment and Natural Resources. (EROSION CONTROL)

DESIGN REVIEW GUIDELINES. Criteria developed by the Historic District Commission to identify design elements within designated H and HO Districts and which are used by the Historic District Commission when it reviews applications for certificates of appropriateness.

DETENTION STRUCTURE. A permanent structure designed for the temporary storage of runoff in order to reduce the peak rate of discharge from a site.

DETERMINATION. A written, final and binding order, requirement, or determination regarding an administrative decision.

DEVELOPER. A person, including a governmental agency or redevelopment authority, who undertakes any developments and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property.

DEVELOPMENT. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure; excavation, grading, filling, clearing, or alteration of land; the subdivision of land as defined in G.S. 160D-802; or the initiation or substantial change in the use of land or the intensity of use of land.

DEVELOPMENT APPROVAL. An administrative or quasi-judicial approval that is written and that is required prior to commencing development or undertaking a specific activity, project or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations, including plat approvals, permits issued, development agreements entered into, and building permits issued.

DEVELOPMENT GUIDE. A plan prepared through a public process containing land use and development policies for a specified area, recommended by the Planning Board and adopted by the Elected Body.

DEVELOPMENT REGULATION. A unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, mountain ridge protection regulation, stormwater control regulation, wireless telecommunication facility regulation, historic preservation or landmark regulation, housing code, State Building Code enforcement, or any other regulation adopted, or a local act or charter that regulates land use or development.

DIRECTOR. The Director of the Division of Land

Resources of the Department of Environment, and Natural Resources. (EROSION CONTROL)

DIRECTOR OF COMMUNITY DEVELOPMENT. The Director of the Town of Kernersville Planning Board or said Director's designee.

DIRT STORAGE. The stockpiling of graded soil which has been transported from another zoning lot.

DISCHARGE POINT. That point at which runoff leaves a tract of land. (EROSION CONTROL)

DISTRICT, FSWCD. The Forsyth Soil and Water Conservation District created pursuant to Chapter 139, North Carolina General Statutes. (EROSION CONTROL)

DOUBLE FRONTAGE LOT. See Lot, Double Frontage.

DWELLING. Any building, structure, manufactured home or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith, except that for purposes of 160D Article 12 it does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose.

DWELLING UNIT. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

DWELLING UNIT, ACCESSORY, ATTACHED. A second dwelling unit connected to or located within three (3) feet of a residential building, which is restricted in area, purpose and occupancy in accordance with Section 2-6.4(B) of the *Zoning Ordinance*.

DWELLING UNIT, ACCESSORY, DETACHED. A dwelling unit located within an accessory structure which is located more than three (3) feet from the principal structure and is restricted in area, purpose and occupancy in accordance with Section 2-6.4(C) of the *Zoning Ordinance*.

DWELLING UNIT, EFFICIENCY. A dwelling unit in which the sleeping and living areas are contained in the same room.

EASEMENT. A grant of one or more of the property rights for a specific purpose by the property owner to, or for the use by, the public or another person.

EASEMENT, NEGATIVE ACCESS. An easement which allows no driveway or other vehicles access to a lot from an adjacent public street.

EASEMENT, PRIVATE DRAINAGE. An easement which grants the right to allow for the transport of storm water runoff or drainage from adjacent properties upon the subject property.

EASEMENT, PRIVATE OFF-SITE ACCESS. An easement which grants the right of access to property zoned differently from the property underlying the access easement.

EASEMENT, SIGHT. An easement which grants the right to maintain unobstructed view across property located at a street intersection.

ELDERLY HOUSING. A multifamily residential development or facility occupied by persons aged fifty-five (55) years or older or handicapped, their spouses and/or surviving spouses, and resident staff personnel, or a multifamily residential development or facility in which, the head of household of every unit, except those occupied by resident staff personnel, is aged sixty-two (62) years or older, and the development or facility cannot exclude non-elderly household members including children.

ELECTED BODY. The legislative body of the adopting jurisdiction.

ELEVATED BUILDING. A non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), or shear walls.

ELIGIBLE REQUEST – A request for modification of an existing wireless tower, base station or antenna array that involves co-location of new transmission equipment or replacement of transmission equipment but does not include a substantial modification.

ENERGY DISSIPATOR. A structure or a shaped channel section with mechanical armoring placed at the outlet of pipes or conduits to receive and break down the energy from high velocity flow. (EROSION CONTROL)

ENGINEER. A person licensed to practice

engineering in the State of North Carolina.

EROSION. The wearing away of land surface by the action of wind, water, gravity, or any combination thereof. (EROSION CONTROL)

EROSION, NATURAL. The wearing away of the earth's surface by water, wind, or other natural agents under natural environmental conditions undisturbed by man. (EROSION CONTROL)

EVENT CENTER. A public or privately owned structure or area used for the purposes of social, entertainment, or educational gatherings to include meetings, music events, parties, weddings, and receptions. Entertainment facilities may include performance areas, multi-purpose spaces, and/or meeting rooms available for use by private groups. Accessory uses may include food preparation facilities, offices, and space for event center retail sales.

EVIDENTIARY HEARING. A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation.

EXISTING GRADE. See Grade, Existing.

EXTRACTIVE INDUSTRY. See Mining, Quarry, or Extractive Industry.

FACADE. The exterior face of a building.

FAMILY. One or more persons related by blood, adoption, or marriage, and their foster parents, or children, or stepparents, or stepchildren, living together in a single dwelling unit; or a number of persons eighteen (18) years or older, not exceeding four (4) and their children or stepchildren under eighteen (18) years of age, living together in a single dwelling unit, though not all related by blood, adoption, or marriage; and such domestic servants as are employed on the same premises. A family may include five (5) or fewer foster children placed in a family foster home licensed by the State of North Carolina. The term *family* shall not be construed to include any group of persons living together as a fraternal, sororal, social, honorary, or professional organization. For the purposes of this definition, the following persons shall be considered related by blood: (A) any relative of the head of household or of the spouse (whether living or dead) of the head of household to the third degree of collateral consanguinity, or to any degree of lineal consanguinity, as defined in State law; and, (B) a parent or child by adoption, marriage, or legitimization of any person (including the head of household or spouse of the head of household) described in (A) above; and, (C) a dependent, as defined in State law, of any person described in (A) or (B) above.

FAMILY GROUP HOME A. A transitional housing facility with support and supervisory personnel licensed by the State of North Carolina or operated by a nonprofit corporation chartered pursuant to Chapter 55A, North Carolina General Statutes, which provides room and board, personal care and rehabilitation services in a supportive family environment for not more than six (6) residents, exclusive of supervisory personnel, including but not limited to, handicapped persons, older adults, foster children, abused individuals, homeless persons, and those recovering from drug or alcohol abuse. This use shall include Family Care Homes, as defined in North Carolina General Statute 168-21. This use shall not serve primarily as an alternative to incarceration, shall not include individuals who are dangerous to others, as defined in North Carolina General Statute 122C3-(11)b, and shall not include persons living together as a fraternal, sororal, social, honorary, or professional organization.

FAMILY GROUP HOME B. A transitional housing facility with support and supervisory personnel licensed by the State of North Carolina or operated by a nonprofit corporation chartered pursuant to Chapter 55A, North Carolina General Statutes, which provides room and board, personal care and rehabilitation services in a supportive family environment for not more than twelve (12) residents, exclusive of supervisory personnel, including but not limited to, handicapped persons, older adults, foster children, abused individuals, homeless persons, and those recovering from drug or alcohol abuse. This use shall not serve primarily as an alternative to incarceration, shall not include individuals who are dangerous to others, as defined in North Carolina General Statute 122C3-(11)b, and shall not include persons living together as a fraternal, sororal, social, honorary, or professional organization.

FAMILY GROUP HOME C. A transitional housing facility with support and supervisory personnel licensed by the State of North Carolina or operated by a nonprofit corporation chartered pursuant to Chapter 55A, North Carolina General Statutes, which provides room and board, personal care and rehabilitation services in a supportive family environment for not more than twenty (20) residents, exclusive of

supervisory personnel, including but not limited to, handicapped persons, older adults, foster children, abused individuals, homeless persons, and those recovering from drug or alcohol abuse. This use shall not serve primarily as an alternative to incarceration, shall not include individuals who are dangerous to others, as defined in North Carolina General Statute 122C3-(11)b, and shall not include persons living together as a fraternal, sororal, social, honorary, or professional organization.

FARM TENANT HOUSING. A dwelling unit occupied by the family of a person employed in agriculture-related activities on the premises.

FCDH. Forsyth County Department of Housing.

FEDERAL AID INTERSTATE, PRIMARY, SECONDARY, AND URBAN HIGHWAYS AND UNITED STATES AND NORTH CAROLINA NUMBERED HIGHWAYS. See Interstate System; and see National Highway System.

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA). That agency or successor agencies which are responsible for the administration of the National Flood Insurance Program.

FENCE OR WALL, OPAQUE. A vertical structure constructed of masonry, concrete, metal, or wooden material which does not allow light to pass through.

FINAL DEVELOPMENT PLAN. A site plan reviewed and approved by the Planning Board in the second phase of a two-phase conditional zoning district rezoning.

FINISHED GRADE. See Grade, Finished.

FIRE OFFICIAL. The officer or other designated authority, or his duly authorized representative, charged with the administration and enforcement of the Fire Prevention Code. All persons empowered with the administration and enforcement of this Code shall possess an appropriate valid certificate issued by the North Carolina Code Officials Qualification Board.

FIRE STATION. See Police or Fire Station.

FISHING, FEE CHARGED. The use of land or water bodies for fishing, where a fee is charged by the property owner for such use by others.

FISH HATCHERY. An establishment where the eggs or fry of fish are incubated and raised for commercial purposes. This definition includes all uses in the following SIC groups:

0254 Poultry Hatcheries
0273 Animal Aquaculture

FLAMMABLE FUEL STORAGE (BELOW GROUND). The storage of flammable or other hazardous liquids at a below grade location in compliance with applicable State laws.

FLOOR AREA, GROSS. The total number of square feet on all floors of a building, as measured from the outside faces of the building.

FOOD OR DRUG STORE. An establishment primarily engaged in selling food for home preparation and consumption, or prescription drugs, nonprescription medicines, and related lines. This definition includes all uses in the following SIC groups:

54 Food Stores
591 Drug Stores and Proprietary Stores

FRATERNITY OR SORORITY. A residence occupied by and maintained for the use of fraternal, sororal, social, honorary, or professional organizations.

FREEWAY OR EXPRESSWAY. A divided highway with full control of access and grade separation of all intersections.

FRONT LOT LINE. See Lot Line, Front.

FRONT YARD. See Yard, Front.

FUEL DEALER. An establishment primarily engaged in the retail sale of fuel oil (excluding retail sale of motor fuels), bottled gas, coal, wood, or other fuels. This definition includes all uses in the following SIC group:

598 Fuel Dealers

FUNERAL HOME. An establishment engaged in undertaking services, such as preparing the human dead for burial and in arranging and managing funerals. This definition includes crematories and mortuaries. This definition includes all uses in the following SIC group:

726 Funeral Service and Crematories

FURNITURE AND HOME FURNISHINGS STORE. An establishment primarily engaged in the retail sale of new or used household furniture, floor coverings, draperies, curtains, and upholstery materials, and miscellaneous home furnishings, such as bedding and linens, lamps and shades, mirrors, venetian blinds, and window shades. This definition includes all uses in the following SIC group:

57 Furniture and Home-furnishings Stores

GENERAL MERCHANDISE STORE. An establishment primarily engaged in selling a number of lines of merchandise. This definition includes all uses in the following SIC groups:

523 Paint, Glass, and Wallpaper Stores
53 General Merchandise Stores
553 Auto and Home Supply Stores
56 Apparel and Accessory Stores
572 Household Appliance Stores
573 Radio, Television, and Computer Stores

GOLF COURSE. An area designed for golf, including a Par 3 golf course, having at least nine (9) holes, each with a tee, fairway, green, and one or more hazards. A clubhouse, pool and other facilities associated with a country club built around a golf course are considered part of the golf course.

GOLF DRIVING RANGE. An open air golf practice facility.

GOVERNING BOARD. The city council or board of county commissioners. The term is interchangeable with the terms "board of aldermen" and "boards of commissioners" and shall mean any governing board without regard to the terminology employed in charters, local acts, other portions of the General Statutes, or local customary usage.

GOVERNMENT OFFICES. The offices of the executive, legislative, judicial, administrative and regulatory branches of federal, State and local governments. This definition includes all uses in the following SIC groups:

91 Executive, Legislative, and General
92 Justice, Public Order, and Safety
93 Finance, Taxation, & Monetary Policy
94 Administration of Human Resources
95 Environmental Quality and Housing
96 Administration of Economic Programs
97 National Security and International Affairs

GRADE, EXISTING. The elevation along the ground surface of a site as recorded in topographic mapping at two (2) foot or four (4) foot contour intervals, on file in the Community Development Department, or as surveyed and mapped at a contour interval of not more than four (4) feet, by a licensed surveyor. (EROSION CONTROL)

GRADE, FINISHED. The elevation at the top of the ground, walk, or terrace where the ground, walk, or terrace intersects the exterior walls of a structure or the vertical supports of a sign.

GREENWAY. A linear open space along a natural or constructed corridor, which may be used for pedestrian or bicycle passage. Greenways often link areas of activity, such as parks, cultural features, or historic sites with each other and with populated areas. Existing and proposed community greenways are identified in the Kernersville Development Plan.

GROUND COVER. Any natural vegetative growth or other material which renders the soil surface stable against accelerated erosion. (EROSION CONTROL)

GROUND LEVEL. For floodway purposes, the existing average elevation of the land.

GROUND SIGN. See Sign, Ground (On-Premises) and Sign, Ground (Off-Premises).

GROUP CARE FACILITY A. A transitional housing facility for forty (40) or fewer residents, licensed by the State of North Carolina or operated by a nonprofit corporation chartered pursuant to Chapter 55A, North Carolina General Statutes, which provides room and board, personal care and rehabilitation services while persons receive therapy and/or counseling for one or more of the following purposes:

(A) To assist them to recuperate from the effects of or refrain from the use of drugs or alcohol;
(B) To provide emergency and temporary shelter for persons in distress such as runaway children and battered individuals; and,
(C) To provide shelter and support for older adults and persons who are handicapped. A Group Care Facility A shall not serve primarily as an alternative to incarceration. Such facilities may have accessory uses conducted on the premises, including but not limited to, schooling of residents, training programs in occupational fields, and production of goods and crafts to be sold off premises.

GROUP CARE FACILITY B (CORRECTIONAL GROUP CARE FACILITY). A transitional housing facility for forty (40) or fewer residents, licensed by the State of North Carolina or operated by a nonprofit corporation chartered pursuant to Chapter 55A, North Carolina General Statutes, which provides room and board, personal care and rehabilitation services while persons receive therapy or counseling to assist them to adjust to society as an alternative to incarceration. Such facilities may have accessory uses conducted on the premises, including but not limited to, schooling of residents, training programs in occupational fields, and production of goods and crafts to be sold off premises.

HABILITATION FACILITY A. Any facility in which one to eight (8) handicapped persons receive habilitation services, rehabilitation services or engage in recreational activities, regardless of whether these services and activities are therapeutic or educational in nature. These facilities are licensed by the State of North Carolina and do not provide room and board. This definition does not include the principal uses *Schools, Elementary* or *Schools, Secondary*. These facilities are intended to serve handicapped persons as defined in State law, in accordance with rights provided by applicable laws.

HABILITATION FACILITY B. Any facility in which nine (9) to twelve (12) handicapped persons receive habilitation services, rehabilitation services or engage in recreational activities, regardless of whether these services and activities are therapeutic or educational in nature. These facilities are licensed by the State of North Carolina and do not provide room and board. This definition does not include the principal uses *Schools, Elementary* or *Schools, Secondary*. These facilities are intended to serve handicapped persons as defined in State law, in accordance with rights provided by applicable laws.

HABILITATION FACILITY C. Any facility in which thirteen (13) or more handicapped persons receive habilitation services, rehabilitation services or engage in recreational activities, regardless of whether these services and activities are therapeutic or educational in nature. These facilities are licensed by the State of North Carolina and do not provide room and board. This definition does not include the principal uses *Schools, Elementary* or *Schools, Secondary*. These facilities are intended to serve handicapped persons as defined in State law, in accordance with rights provided by applicable laws.

HANDICAPPED PERSON. A person with a physical or mental impairment which substantially limits one or more of such person's life activities; a record of having such impairment; or being regarded as having such an impairment. This definition does not include current illegal use of or addiction to a controlled substance. This definition includes Willie M. children, but does not include persons who are dangerous to others. *Dangerous to others* means that with the recent past, the person has inflicted or attempted to inflict or threatened to inflict serious bodily harm on another or the person has acted in such a manner as to create a substantial risk of serious bodily harm to another and that there is a reasonable probability that such conduct will be repeated.

HARDWARE STORE. An establishment primarily engaged in the retail sale of a number of basic hardware lines, such as tools, builders' hardware, paint, glass, housewares, household appliances, and cutlery. This definition includes all uses in the following SIC group:

525 Hardware Stores

HAZARDOUS MATERIAL. Any substance listed as such in the Superfund Amendments and Reauthorization Act (SARA) Section 302, Extremely Hazardous Substances; the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) Hazardous Substances; or Section 311 of the Clean Water Act (CWA) (oil and hazardous substances).

HAZARDOUS SUBSTANCE. Any chemical defined as a physical hazard or a health hazard under standards of North Carolina Administrative Code 7C.0101(a)(105). Physical hazards include, but are not limited to, chemicals which are combustible, explosive, flammable, and reactive. Health hazards include, but are not limited to, chemicals which are carcinogens, toxins, corrosives, and irritants.

HAZARDOUS WASTE MANAGEMENT FACILITY. Any commercial hazardous waste facility which accepts hazardous waste from the general public or from another person for a fee, but does not include any facility owned or operated by a generator of hazardous waste solely for his own use. A hazardous waste facility means a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste. Hazardous waste means a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical or infectious characteristics may:

(A) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or,

(B) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

HEALTH SERVICES, MISCELLANEOUS. Kidney dialysis centers, blood banks, birth control clinics, drug treatment centers, and similar uses. This definition includes all uses in the following SIC group:

809 Health and Allied Services, NEC

HEIGHT, BUILDING. The vertical distance measured from the average elevation of the finished grade of all sides of a building, measured at the midpoint of each side, to the topmost elevation of the roof or to the topmost projection of the building above any roof, including parapet walls. Enclosed penthouses or equipment rooms are considered a part of the building and included in the calculation of building height. Please refer to Section 3-1.2(F) of the *Zoning Ordinance* for calculation of height of accessory buildings.

HELICOPTER LANDING PAD. The designated takeoff and landing area from which helicopter departures and approaches are intended to originate or terminate.

HELIPORT. A helicopter terminal facility for general public transportation with support facilities. The word *heliport* shall mean an area on the ground used by helicopters, which may include, in addition to the landing pad, passenger and cargo facilities, maintenance, overhaul, fueling, service and storage facilities, tie-down areas, hangars, parking, and other necessary buildings and open spaces. The term *heliport* includes the terms *heliports* and *public-use heliport* used in Federal Aviation Administration publications.

HELISTOP. A limited use helicopter terminal facility, restricted by the owner to the support of a related business, institution, or other operation. The word *helistop* shall mean an area, either on the ground or on a building, and shall include the landing pad used by helicopters for the purpose of picking up or discharging passengers or cargo, routine maintenance facilities, parking area, fuel pumping facilities (only if such activity is approved by the appropriate agencies), and storage or hangar facilities, but no other accessory facilities. The term *helistop* includes the terms *private-use heliport* and *personal-use heliport* contained in Federal Aviation Administration publications, except for the limitations on the facility as noted.

HIGH QUALITY WATERS. Those classified as such in 15A NCAC 2B.0101(e)(5) - General Procedures, which is incorporated herein by reference to include further amendments pursuant to General Statute 150B-14(c). (EROSION CONTROL)

HIGH QUALITY WATER (HQW) ZONES. Areas that are within one mile of high quality waters and drain to high quality waters. (EROSION CONTROL)

HISTORIC STRUCTURE. A structure built prior to 1946.

HND. City of Winston-Salem Department of Housing and Neighborhood Development.

HOME OCCUPATION. The use of a dwelling unit or accessory building on the same zoning lot for commercial activities that are clearly subordinate to the principal use of the dwelling unit for residential purposes and located in a residential district.

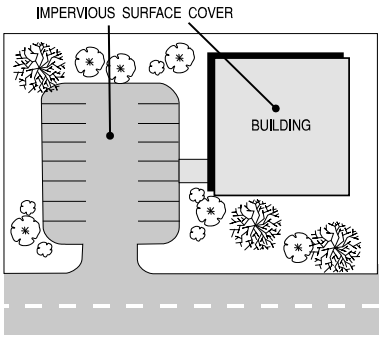
HOSPITAL OR HEALTH CENTER. A facility providing medical, psychiatric, or surgical services for sick or injured persons, including emergency treatment, diagnostic services, training, research, and administration. This definition includes all uses in the following SIC group:

806 Hospitals

HOTEL OR MOTEL. A building or group of buildings used principally to provide shelter, with or without meals, for not fewer than four (4) paying guests.

HUD. United States Department of Housing and Urban Development.

IMPERVIOUS SURFACE COVER. Any structure or material which significantly reduces or prevents natural absorption of storm water into the soil. Impervious surface cover includes any built upon area including, but not limited to, buildings or other structures with roofs, sidewalks, driveways, parking lots, streets, and any concrete, stone, brick, asphalt, or gravel surface. For purposes of calculating impervious surface coverage requirements pursuant to the *Zoning Ordinance*, calculation is based on the entire zoning lot and gravel or paver block for parking lots containing more than twenty-five (25) spaces is considered impervious at a rate of eighty percent (80%) of the total area covered.



IMPLEMENT SALES OR SERVICE. An establishment engaged in the sale, service, or rental of agricultural machinery, trailers, construction equipment, or tools.

IMPROVEMENT. Any structure or constructed feature not included under the definition of structure.

INSTITUTIONAL USE. For the purpose of this Ordinance, any use listed under the heading of *Institutional and Public Uses* in Table 2.6 in the *Zoning Ordinance*.

INSTITUTIONAL VOCATIONAL TRAINING FACILITY. A facility for the vocational training of individuals who are economically disadvantaged or have physical or mental disabilities. The facility may contain uses to support training activities such as offices, classrooms, retail sales, and light manufacturing activities.

INTERSTATE SYSTEM. Roads so designated by federal agencies which provide interstate travel with controlled access. The Interstate System is a part of the National Highway System, but retains a separate identity and a separate funding.

KENNEL. Any facility used for the purpose of boarding animals, excluding horses, cattle, swine, sheep, goats, geese or peafowl. Kennels may conduct other such incidental activities, such as the sale, breeding, treatment, grooming or cleaning of animals, and the sale of pet supplies. Residential households producing more than 1 litter per household per year for the purpose of being sold shall be subject to kennel restrictions.

KERNERSVILLE DEVELOPMENT PLAN. The Town of Kernersville comprehensive development plan, adopted March 2, 2004, includes all planning documents and subsequent amendments concerning the physical, economic, and social development of the Town of Kernersville.

LAKE OR NATURAL WATERCOURSE. Any stream, river, brook, swamp, sound, bay, creek, run, branch, canal, waterway, estuary, and any reservoir, lake or pond, natural or impounded, in which sediment may be moved or carried in suspension, and which could be damaged by accumulation of sediment. (EROSION CONTROL)

LAND DISTURBING ACTIVITY. Any use of the land by any person in residential, industrial, educational, institutional, or commercial development, highway and road construction and maintenance, that results in a change in the natural cover or topography that may cause or contribute to sedimentation. (EROSION CONTROL)

LANDFILL, CONSTRUCTION AND DEMOLITION. A landfill which accepts construction or demolition debris or waste including solid waste from construction, remodeling, repair or demolition operations on pavement, buildings, or other structures.

LANDFILL, LAND CLEARING AND INERT DEBRIS (LCID). A landfill that is limited to receiving land clearing waste, concrete, brick, concrete block, uncontaminated soil, gravel and rock, untreated and unpainted wood, and yard trash.

LANDFILL, SANITARY. A facility for the disposal of all types of solid wastes, excluding hazardous wastes or toxic substances.

LANDOWNER OR OWNER. The holder of the title in fee simple. Absent evidence to the contrary, a local government may rely on the county tax records to determine who is a landowner. The landowner may authorize a person holding a valid option, lease, or contract to purchase to act as his or her agent or

representative for the purpose of making applications for development approvals.

LANDSCAPE ARCHITECT. A person licensed to use the title of landscape architect in the State of North Carolina.

LEGISLATIVE DECISION. The adoption, amendment, or repeal of a regulation under Chapter 160D or an applicable local act. It also includes the decision to approve, amend, or rescind a development agreement consistent with the provisions of Chapter 160D Article 10.

LEGISLATIVE HEARING. A hearing to solicit public comment on a proposed legislative decision.

LIBRARY, PUBLIC. A publicly operated facility housing a collection of books, magazines, audio and video tapes, or other material for use by the general public.

LIFE CARE COMMUNITY. An area of land under unified ownership planned and developed as a unit to provide for the transitional residency and care of persons aged fifty-five (55) years or older and/or handicapped. Life care communities may offer a full range of living and care arrangements, including independent living in attached or detached dwelling units, assisted living in congregate care facilities, and full time health care in nursing care institutions.

LIMITED CAMPUS USES. Residential and office uses which are incidental to or customarily associated with a college, university, or hospital campus. Office uses include administrative support offices, faculty offices, and offices for counseling programs or clinical arrangements operated by faculty or staff associated with the main campus. Residential uses include faculty housing, language houses, other small group housing for students attending the main campus, or short-term housing for families of patients at a hospital facility on a non-profit basis. Limited campus uses are conducted by the owner or operator of the institution occupying the related Campus District, except for short-term housing for families of patients at a hospital facility which may be operated by a non-profit organization. Residential and office activities appropriate as limited campus uses are located in structures which are in character with the surrounding neighborhood. They are intended to generate limited pedestrian and vehicular traffic and have minimum impacts on the surrounding neighborhood.

LOCAL ACT. As defined in G.S. 160A-1(5)

LOCAL GOVERNMENT. A city or county.

LOT. A parcel of land designated by number or other symbol as part of a legally approved and recorded subdivision, or as described by metes and bounds in a recorded deed.

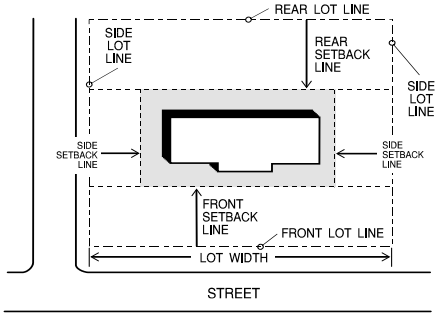
LOT, ADJACENT. Any lot or parcel which has a common boundary, right-of-way, or easement with the subject lot.

LOT, CORNER. A lot abutting two (2) or more streets at their intersection, or upon two (2) parts of the same street, forming an interior angle of less than one hundred thirty-five (135) degrees as measured at the centerline of the street. The point of intersection of the street right-of-way lines, or of the street right-of-way lines as extended, is the corner.

LOT COVERAGE. That portion of the lot area, expressed as a percent, that is covered by impervious surface cover.

LOT, DOUBLE FRONTAGE. A lot having frontage and access on two (2) or more public streets. A corner lot shall not be considered as having double frontage unless it has frontage and access on three (3) or more streets.

LOT, INTERIOR. A lot other than a corner lot.



LOT LINE. A line or series of connected line segments bounding a lot.

LOT LINE, FRONT. The line which separates the lot from a street right-of-way. Corner lots shall have only one front lot line.

LOT LINE, INTERIOR. A side lot line which separates the lot from another lot.

LOT LINE, REAR. That lot line which is opposite and most distant from the front lot line, except in the case of a triangular lot, a line ten (10) feet in length, entirely within the lot, parallel to, and at the maximum

distance from the front lot line, or a chord thereof if the front lot line is curved, shall be considered as the rear lot line for purposes of determining the required rear yard. In cases where neither of these conditions is applicable, the Zoning Officer shall designate the rear lot line.

LOT LINE, SIDE. A lot line other than a front or rear lot line.

LOT, NONCONFORMING. A lot which does not meet all the dimensional requirements of the zoning district in which it is located, which exists by virtue of the fact that it existed on May 8, 1968 or lawfully existed on the day before the effective date of the *Zoning Ordinance* or subsequent amendments, and which continues to exist.

LOT, REVERSE FRONTAGE. A lot having frontage on two (2) or more streets, the access of which is restricted to one street.

LOT WIDTH. The horizontal distance between the side lot lines at the building setback line as measured along a straight line parallel to the front lot line or parallel to the chord thereof.

LOT, ZONING. A parcel or contiguous parcels of land which is indicated by the owner at the time of application for a building or zoning permit as being that land which is proposed for development under one ownership.

LOWEST FLOOR ELEVATION. The elevation of the bottom or lowest part of any habitable room intended to be used as living area, excluding unfinished or unventilated basement or garage area.

MANUFACTURED HOME. A structure as defined in G.S. 143-145(7).

MANUFACTURED HOME, CLASS A. A manufactured home meeting or exceeding the United States Department of Housing and Urban Development standards (all manufactured homes built after June 14, 1976), which is of multi-sectional or *doublewide* design, and meets the following appearance criteria:

(1) Has a minimum width of sixteen (16) feet;
(2) Has exterior siding, comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction, consisting of one or more of the following: (1) vinyl or aluminum lap siding whose reflectivity does not exceed that of flat white paint; (2) cedar or other wood siding; (3) wood grain, weather resistant press board siding; (4) stucco siding; or (5) brick or stone siding;
(3) Has a gable roof having a pitch with a minimum vertical rise of three and one-half (3.5) feet for each twelve (12) feet of horizontal run;
(4) Has a roof finished with roofing material with a fire rating of Class C or better and that is commonly used in standard residential construction; and,
(5) Has a roof structure that provides an eave projection of no less than six (6) inches, which may include a gutter.

MANUFACTURED HOME, CLASS B. A manufactured home constructed to meet or exceed United States Department of Housing and Urban Development code requirements for manufactured homes, and which has a gable roof having a pitch with a minimum vertical rise of three and one-half (3.5) feet for each twelve (12) feet of horizontal run.

MANUFACTURED HOME, CLASS C. A manufactured home constructed to meet or exceed North Carolina Mobile Home Standard A119.1 or which has received a limited certificate of compliance from the North Carolina Department of Insurance. These are normally manufactured homes constructed after August 31, 1971.

MANUFACTURED HOME, CLASS D. Any manufactured home which does not meet the definitional criteria of a Class A, B, or C manufactured home. These are normally manufactured homes constructed prior to September 1, 1971.

MANUFACTURED HOME SPACE. The land in a manufactured housing development allotted to or designed for the accommodation of one manufactured home.

MANUFACTURED HOUSING DEVELOPMENT. Any zoning lot maintained, offered, or used for parking three (3) or more occupied manufactured homes, regardless of whether or not a charge is made for such accommodations, including services and facilities for the residents.

MANUFACTURING A. A manufacturing establishment engaged in the fabrication or assembly of products from prestructured materials or components whose operations, including storage of materials; processing, fabrication or assembly of products; and loading and unloading of new materials

and finished products occurs completely within an enclosed building. Because of the nature of its operations and products, Manufacturing A produces little or no noise, odor, vibration, glare, and/or air and water pollution, and, therefore, has minimal impact on surrounding properties. Notwithstanding the previous requirements, NAICS groups only permitted in Manufacturing C shall not be permitted in Manufacturing A.

MANUFACTURING B. A manufacturing establishment whose operations, including storage of materials; processing, fabrication or assembly of products; and loading and unloading of new materials and finished products occurs completely within an enclosed building. Noise, odor, dust, or vibration from the manufacturing process may result in only minor impacts on adjacent properties. Notwithstanding the previous requirements, NAICS groups only permitted in Manufacturing C shall not be permitted in Manufacturing B.

MANUFACTURING C. A manufacturing establishment whose operations, including storage of materials; processing, fabrication or assembly of products; and loading and unloading of new materials and finished products may occur either inside an enclosed building or outside on the premises. Noise, odor, dust, vibration, or visual impacts, as well as potential public health problems in the event of an accident, could impact adjacent properties. The following NAICS groups shall only be permitted in Manufacturing C:

3111 Animal Food Manufacturing
321 Wood Product Manufacturing (Except 32191 Millwork)
322 Paper Manufacturing (Except 3222 Converted Paper Product Manufacturing)
324 Petroleum and Coal Products manufacturing
325 Chemical Manufacturing (Except 32541 Pharmaceutical and Medicine Manufacturing and 32561 Soap and Cleaning Compound Manufacturing)
326 Plastics and Rubber Products Manufacturing (Except 3261 Plastic Product Manufacturing)
327 Nonmetallic Mineral Product Manufacturing (Except 327215 Glass products made of purchased glass)
331 Primary Metal Manufacturing
332 Fabricated Metal Product Manufacturing (Except 3322 Cutlery and Hand tool Manufacturing, 3325 Hardware Manufacturing, 3326 Spring and Wire Product Manufacturing, and 3327 Machine Shops; Turned Product; and Screw, Nut, and Bolt Manufacturing)
3353 Electrical Equipment Manufacturing
335911 Storage Battery Manufacturing
335912 Primary Battery Manufacturing
3363 Transportation Equipment Manufacturing (Except 3363 Motor Vehicle Parts Manufacturing).

MEAT PACKING PLANT. An establishment primarily engaged in the slaughtering, processing, or preparation of cattle, hogs, sheep, lambs, calves, poultry, fish, and seafood for meat to be sold or to be used on the same premises in canning, cooking, curing, and freezing, and in making sausage, lard, and other products. This definition includes all uses in the following NAICS groups:

311611 Animal Slaughtering Products, Except Poultry
311612 Meat processed from carcasses
311613 Rendering or meat byproducts
311615 Poultry
311711 Seafood canning products
311712 Fresh and frozen seafood

MEDICAL OR DENTAL LABORATORY. An establishment primarily engaged in providing professional analytic or diagnostic services to the medical profession, or to the patient, on direction of a physician; or an establishment primarily engaged in making dentures, artificial teeth, and orthodontic appliances to order for the dental profession. This definition includes all uses in the following SIC group:

807 Medical and Dental Laboratories

MEDICAL AND SURGICAL OFFICES. An establishment primarily engaged in furnishing medical and surgical services to individuals and licensed for such practice by the State. This definition includes all uses in the following SIC groups:

801 Offices and Clinics of Medical Doctors
802 Offices and Clinics of Dentists
803 Offices of Osteopathic Physicians
804 Offices of Other Health Practitioners

MICROBREWERY. A facility that contains a taproom and produces less than 15,000 barrels of beer per year and sells the majority of the beer it produces for off-site resale and consumption.

MINING, QUARRY, OR EXTRACTIVE INDUSTRY. Any mining activity, as defined in State law, including:

(A) The breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter;
(B) Any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, soils, and other solid matter from its original location; and,
(C) The preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use.

Mining shall not include those aspects of deep mining not having significant effect on the surface, where the affected land does not exceed one acre in area. Mining shall not include mining operations where the affected land does not exceed one acre in area. Mining shall not include plants engaged in processing minerals produced elsewhere and whose refuse does not affect more than one acre of land. Mining shall not include excavation or grading when conducted solely in aid of on-site farming or of on-site construction for purposes other than mining. Removal of overburden and mining of limited amounts of any ores or mineral solids shall not be considered mining when done only for the purpose and to the extent necessary to determine the location, quantity, or quality of any natural deposit, provided that no ores or mineral solids removed during such exploratory excavation or mining are sold, processed for sale, or consumed in the regular operation of a business, and provided further that the affected land resulting from any such exploratory excavation does not exceed one acre in area.

MIXED USE DEVELOPMENT. A planned development where a variety of uses may be developed as a single operation or a programmed series of development operations, and which creates greater choices in living and working environments.

MOBILE HOME. See Manufactured Home.

MODULAR HOME. A dwelling unit consisting of one or more components constructed in compliance with the North Carolina Uniform Residential Building Code for One or Two-Family Dwelling Units and comprised of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.

MOTORCYCLE DEALER. An establishment primarily engaged in the retail sale of new and used motorcycles, motor scooters, mopeds, all-terrain vehicles, snowmobiles, go-carts, utility trailers, and similar items. This definition includes all uses in the following SIC groups:

557 Motorcycle Dealers
559 Automotive Dealers, Nec.

MOTOR VEHICLE. Every vehicle which is self-propelled and every vehicle designed to run upon the highways which is pulled by a self-propelled vehicle. For purposes of this definition, the term *motor vehicle* shall also include vehicles or implements used in farming or construction.

MOTOR VEHICLE BODY OR PAINT SHOP. An establishment primarily engaged in body work, painting, or customizing of automobiles or other motor vehicles.

MOTOR VEHICLE DISMANTLING AND WRECKING YARD. Any open area of more than two hundred (200) square feet used for storing or dismantling inoperative motor vehicles. This definition includes all uses in the following SIC groups:

5015 Motor Vehicle Parts, Used
5093 Scrap and Waste Materials

MOTOR VEHICLE DISPLAY AREA. Any outdoor area where automobiles, other vehicles, or manufactured homes are stored throughout the day and the night, and are held for the purpose of sale or lease as an entire or complete unit.

MOTOR VEHICLE, INOPERATIVE. A motor vehicle which meets at least one of the following criteria:

(A) Vehicle is presently unable to satisfy the vehicle inspection standards of the State of North Carolina, regardless of whether said vehicle possesses a currently valid inspection certificate;
(B) Vehicle lacks a current inspection certificate, or displays an expired certificate;
(C) Vehicle is partially dismantled or wrecked;
(D) Vehicle cannot be self-propelled or move in the manner in which it originally was intended to move; or,
(E) Vehicle has expired license plate or is unlicensed.

MOTOR VEHICLE RENTAL AND LEASING. An establishment primarily engaged in furnishing motor vehicle rental, leasing, and parking services to the public. This definition includes all uses in the following SIC groups:

751 Automotive Rentals, No Drivers
752 Automobile Parking

MOTOR VEHICLE REPAIR AND MAINTENANCE. An establishment engaged in providing mechanical automotive maintenance and repair, such as engine repair, exhaust system replacement and transmission repair, and/or providing other related services, such as upholstery or glass replacement. This use includes service stations but does not include body work or painting. This definition includes all uses in the following SIC groups:

7536 Automotive Glass Replacement Shops
7537 Automotive Transmission Repair Shops
7538 General Automotive Repair Shops
7549 Automotive Services, NEC

MOTOR VEHICLE SALES. See Outdoor Display, Retail.

MOTOR VEHICLE STORAGE YARD. An outdoor area for the storage of more than one wrecked, damaged, or inoperative motor vehicle awaiting insurance adjustment, major body work, other repair, or other disposition. This definition does not include Motor Vehicle Parts, Used, SIC group 5015, and Waste Materials, SIC group 5093.

MOTOR VEHICLE SURFACE AREA. Any outdoor off-street area used to store or drive motor vehicles, including private driveways, parking lots, and parking aisles, but excluding uses to which the terms *motor vehicle display area*, *motor vehicle storage yard*, or *motor vehicle dismantling and wrecking yard* apply.

MULTIFAMILY. See Residential Building, Multifamily.

MUSEUM OR ART GALLERY. A structure used for the display and preservation of paintings, sculpture, and other constructed or natural objects illustrating human or natural history. This definition includes all uses in the following SIC group:

84 Museums, Botanical, Zoological Gardens

NATIONAL HIGHWAY SYSTEM. A classification of roads used as the basis for federal aid, including the Interstate System and a large percentage of urban and rural thoroughfares (formerly classified as urban highways and United States and North Carolina numbered highways).

NATURAL EROSION. See Erosion, Natural.

NATURAL OBSTRUCTION. Any rock, tree, gravel, or similar natural matter which is an obstruction and has been located within the floodway by a nonhuman cause.

NEIGHBORHOOD ORGANIZATION OFFICE. A facility operated by a nonprofit organization which provides informational, educational, social, or economic counseling or similar services to persons residing in a neighborhood. A majority of the organization's membership and board must live in the neighborhood being served.

NIGHTCLUB. Any place established primarily for the provision of entertainment, dancing to live or recorded music or other indoor entertainment or social gathering place or similar establishment not specifically listed elsewhere. The establishment may also be engaged in the retail sale of prepared food for on-premises consumption. Excluded from this definition are restaurants that meet the requirements established by definition in this ordinance, and other uses specifically listed elsewhere in this ordinance. This definition includes, but is not limited to, uses in the following North American Industry Classification System (NAICS) groups:

7131 Amusement parks and arcades (indoor)
713990 Ballrooms, billiard parlors, billiard rooms, dance halls, discotheques, nightclubs, pool parlors, pool rooms
722410 All Listed Uses including Bars, Taverns, Nightclubs, Discotheques, Dance Clubs including such establishments that also provide limited food services.
813410 Fraternal associations or lodges (social or civic), social organizations (civic and fraternal), youth social clubs, social clubs

NONCONFORMING LOT. See Lot, Nonconforming.

NONCONFORMING USE. See Use, Nonconforming.

NON-STORE RETAILER. An establishment primarily engaged in the retail sale of products by mail-order, from vending machines, and by telephones and television. This definition includes all uses in the following SIC group:

596 Non-store Retailers

NURSERY, LAWN AND GARDEN SUPPLY STORE, RETAIL. An establishment primarily engaged in the retail sale of trees, shrubs, other plants, seeds, bulbs, mulches, soil conditioners, fertilizers, pesticides, garden tools, and other garden supplies to the general public. These establishments primarily sell products purchased from others, but may sell some plants which are grown at the establishment. This definition includes all uses in the following SIC group:

526 Retail Nurseries and Garden Stores

NURSING CARE INSTITUTION. A home licensed by the State for persons aged, ill or handicapped in which two (2) or more persons not of the immediate family of the owner of manager of said home are provided with food, shelter, and nursing care. The term *nursing care institution* includes convalescent home, home for the aging, sanitarium, home for the blind, rest home, or any similar establishment.

OFFICES, MISCELLANEOUS. Office uses not specifically listed and defined elsewhere in this Ordinance as a principal use.

OFFICES, PROFESSIONAL. See Professional Offices.

OPAQUE FENCE OR WALL. See Fence or Wall, Opaque.

OPEN SPACE. The land used for recreation, natural resource protection, amenities, and/or bufferyards. Open space may include, but is not limited to, lawns, walkways, active recreation areas, playgrounds, wooded areas, greenways, and water courses.

OPEN SPACE, COMMON. Open space within a development not in individually owned lots, which is designed and intended for the common use or enjoyment of the residents of the development.

OUTDOOR DISPLAY RETAIL. An establishment primarily engaged in selling motor vehicles, trucks, manufactured homes, recreational vehicles, boats, or other large items which require outdoor display. This definition includes all uses in the following SIC groups:

527 Mobile Home Dealers
551 New and Used Car Dealers
552 Used Car Dealers
555 Boat Dealers
556 Recreational Vehicle Dealers

OUTDOOR STORAGE AREA. Any area which contains trash collection areas or dumpsters, open air docks, outdoor storage of bulk materials and/or parts, or areas regularly used for outdoor repair areas or service stations, motor vehicle dealers, or inspection stations, but excluding temporary construction and related activities and closed bay docks.

OUTPARCEL SITE. A freestanding lot developed separately but linked functionally to a shopping center.

PARAPET WALL. A building wall which extends to or above a flat roofed platform or building roof.

PARK AND SHUTTLE LOT. Specially designated parking areas where commuting motorists park their vehicles and ride with other commuters who have a common destination. Ridesharing from the lots may be done by car pool, van pool, or public transit.

PARKING, COMMERCIAL. A principal use of a zoning lot with or without a parking structure for use as a place for the temporary or long-term parking of motor vehicles.

PARKING, OFF-SITE, FOR MULTIFAMILY OR INSTITUTIONAL USES. Accessory parking for a townhouse or multifamily project, or for an institutional use as specified in Section 3-3.4(A).

PERFORMANCE BOND. A guarantee against loss or damage from one's failure to perform, and a tangible guarantee of performance or the fulfillment of an obligation. The following must be included in any Performance Bond accepted by the Town of Kernersville and considered as such within this ordinance.

A) Entity issuing the Performance Surety must be licensed to do business in the State of North Carolina and state its preferred correspondence address within the Performance Surety.
B) The Performance Surety must be issued in favor of the Town of Kernersville (obligee) for a specified amount.
C) The Performance Surety shall clearly indicate the obligation within the document.
D) The Performance Surety shall clearly indicate principal's full intent to perform.
E) The Performance Surety shall state the surety shall stay in full force and effect until obligee notifies principal that all obligations stated within the Performance Surety have been satisfied in their entirety.

PERFORMANCE SURETY. A guarantee against loss or damage from one's failure to perform and a physical or financial guarantee for the fulfillment of an obligation. Performance Sureties may be in the form of Standby Letters of Credit, Performance Bonds, and Cash.

PERSON. An individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity.

PERSON CONDUCTING LAND DISTURBING ACTIVITY. Any person who may be held responsible for a violation unless expressly provided otherwise by the *Environmental Ordinance*, the act, or any order adopted pursuant to the *Environmental Ordinance* or the act. (EROSION CONTROL)

PERSON RESPONSIBLE FOR LAND DISTURBING VIOLATION. The developer or other person who has or holds himself/herself out as having financial or operational control over the land disturbing activity; and/or the landowner or person in possession or control of the land when he/she has directly or indirectly allowed the land disturbing activity or has benefited from it or he/she has failed to comply with any provision of this Ordinance, the act, or any order adopted pursuant to this Ordinance or the act as imposes a duty upon him. (EROSION CONTROL)

PET DAYCARE SERVICES. A boarding facility used for the main purpose of the daytime only accommodation of domestic animals excluding horses, cattle, swine, sheep, goats, geese or peafowl. *Pet Daycare Services* may conduct such other incidental activities such as grooming, training, exercise, boarding, and the retail sales of pet products, but pets shall not be bred, sold, or let for hire.

PHASE OF GRADING. One of two (2) types of grading, rough or fine. (EROSION CONTROL)

PLAN, EROSION CONTROL. An erosion and sedimentation control plan. (EROSION CONTROL)

PLANNED RESIDENTIAL DEVELOPMENT. A residentially zoned area, planned and developed as a unit, which is characterized by environmentally sensitive design through the use of flexible development standards.

PLANNER, LAND USE. A person with a bachelor of arts or advanced degree in planning or a related field, or who has worked as a planner for five (5) years or longer.

PLANNING AND DEVELOPMENT REGULATION JURISDICTION. The geographic area defined in Part 2 of this Charter 160D within which a city or county may undertake planning and apply the development regulations authorized by Charter G.S 160D.

PLANNING BOARD. Any board or commission established pursuant to G.S. 160D-301.

PLANNING DIRECTOR. See Director of Community Development.

PLANTING AREA. An outdoor area, the surface of which may not be covered by impervious surface cover, such as asphalt or concrete, nor by structures, and must be devoted entirely to the planting and maintenance of trees, shrubs, and groundcovers, or construction of fences, walls, and/or earthen berms.

PLAT. A surveyed map or plan or a parcel of land which is to be, or has been subdivided.

PLAT, FINAL. The final map of all or a portion of a subdivision or site, showing the boundaries and location of lots, streets, easements and any other requirements of the *Subdivision Ordinance*, which is presented for local government approval and subsequent recordation with the Register of Deeds.

PLAT, PRELIMINARY. A map indicating the proposed layout of the subdivision or site showing lots, streets, water, sewer, storm drainage, and any other requirements of the *Subdivision Ordinance*, which is presented for preliminary approval.

POLICE OR FIRE STATION. A facility established for public law enforcement purposes or public fire protection and prevention purposes.

PORCH, OPEN. A porch open on at least three (3) sides, except for wire screening, awnings, or movable shades. A porch shall not be considered *open* if enclosed by either permanent or detachable glass sash or jalousie or any other device intended to make the porch weather resistant.

POST OFFICE. A facility or structure used for the collection, sorting, and distribution of mail within

several zip code areas, having retail services for the general public, such as stamps, postcards, or postal insurance.

POSTAL FACILITY, CONTRACT AND FINANCE. A facility that has: distribution boxes, collection and/or retail services for the general public; no mail carriers; and, is located in high density areas as an accessory use only to principal uses, such as offices, multifamily complexes, planned residential developments, stores and shops, institutions, or schools.

POSTAL FACILITY, NEIGHBORHOOD. A facility that has: distribution boxes (cluster boxes) and collection services for the general public; no mail carriers or retail services; and, is located in a neighborhood where most of the users are within walking distance of the facility.

POSTAL PROCESSING CENTER. A facility or structure used for the collection, sorting, processing, and distribution of bulk mail or packages to other postal facilities or to the general public, and which may have some retail services for the general public, such as stamps, postcards, or postal insurance.

PRINCIPAL BUILDING. See Building, Principal.

PRINCIPAL USE. See Use, Principal.

PROFESSIONAL OFFICE. An establishment primarily engaged in providing: engineering, architectural, and surveying services; accounting, auditing, and bookkeeping services; public relations services; legal services; real estate services; the services of insurance agents, brokers and carriers; the services of security and commodity brokers; and the services of bank holding companies. This definition includes all uses in the following SIC groups:

4724	Travel Agencies
62	Security and Commodity Brokers
63	Insurance Carriers
64	Insurance Agents, Brokers and Carriers
65	Real Estate
67	Holding and Other Investment Offices
731	Advertising (Except Outdoor Advertising, SIC Group 7312)
732	Credit Reporting and Collection Agencies
736	Personnel Supply Services
7371	Computer Programming Services
7372	Prepackaged Software
7373	Computer System Design
811	Legal Services
871	Engineering and Architectural Services
872	Accounting, Auditing, and Bookkeeping
874	Management and Public Relations

PROJECTING SIGN. See Sign, Projecting (On-Premises).

PROPERTY. All real property subject to land-use regulation by a local government and includes any improvements or structures customarily regarded as a part of real property.

PUBLIC. Under the control or responsibility of the Elected Body on behalf of the general population, rather than individual or private control.

QUARRY. See Mining, Quarry, or Extractive Industry.

QUASI-JUDICIAL DECISION. A decision involving the finding of facts regarding a specific application of development regulation and that requires the exercise of discretion when applying the standards of the regulation. Quasi-judicial decisions include but are not limited to decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative determinations. Decisions on the approval of subdivision plats and site plans are quasi-judicial in nature if the regulation authorizes a decision-making board to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings to be made by the decision-making board.

REAL ESTATE SIGN. See Sign, Real Estate.

REAR LOT LINE. See Lot Line, Rear.

REAR YARD. See Yard, Rear.

RECREATION AREA, COMMON. An area of open space which is required in certain types of developments for active or passive recreational uses.

RECREATION FACILITY, PUBLIC. An area or facility designed to meet the demand for active recreation, including play fields, ball diamonds, parks with picnic and playground equipment, par courses, tennis courts, swimming pools, tot lots and similar

uses, available to the public and under the management or control of a public agency.

RECREATION SERVICES, INDOOR. Establishments engaged in providing indoor amusement or entertainment services. This definition includes all uses in the following SIC groups:

791	Dance Studios, Schools, and Halls
792	Producers, Orchestras, Entertainers
793	Bowling Centers
7941	Sports Clubs, Managers, and Promoters
7991	Physical Fitness Facilities
7993	Coin-Operated Amusement Devices
7997	Membership Sports and Recreation Clubs
7999	Amusement and Recreation, NEC (Except Batting Cages, Go-Cart Raceway, and Golf Course, Miniature)

RECREATION SERVICES, OUTDOOR. Establishments engaged in providing outdoor amusement or entertainment services. This definition includes all uses in the following SIC groups:

0000	Athletic Fields, Private
7948	Racing, Including Track Operation
7996	Amusement Parks
7999	Batting Cages
7999	Go-Cart Raceway
7999	Golf Course, Miniature

RECREATIONAL VEHICLE. A vehicular type accommodation, other than a manufactured home, designed as temporary accommodations for travel, vacation, or recreation purposes, which is propelled by its own motive power or is mounted on or drawn by another vehicle and which is unoccupied unless situated in a Recreational Vehicle Park or having a valid temporary permit.

RECREATIONAL VEHICLE PARK. A contiguous site or tract of land under unified ownership intended and designed to accommodate recreational vehicles or tent spaces as temporary living quarters for recreational or vacation purposes.

RECREATIONAL VEHICLE SPACE. A plot of land within a recreational vehicle park designed for the accommodation of one recreational vehicle, tent, or other individual camping unit on a temporary basis.

RECYCLING CENTER. A facility at which recoverable resources, such as newspapers, glassware, and metal and aluminum cans, are collected, stored, flattened, crushed, or bundled within a completely enclosed building. This use does not include Motor Vehicle Parts, Used, SIC group 5015, which is listed as a separate use.

RECYCLING COLLECTION POINT. An incidental use that serves as a neighborhood drop-off point for temporary storage of recoverable resources. No processing of such items is allowed. This facility would generally be located in a shopping center parking lot or in other public or institutional areas, such as churches and schools.

RECYCLING PLANT. A facility at which recoverable resources, such as newspapers, magazines, books, and other paper products; glass; metal and aluminum cans; waste oil; iron and steel scrap; rubber; and/or other products are recycled, and treated to return such products to a condition in which they may again be used for production. This definition includes all uses in the following SIC group:

5093	Scrap and Waste Materials

RESIDENTIAL. Referring to permanent dwellings as defined herein.

RESIDENTIAL BUILDING. A building which contains one or more dwelling units.

RESIDENTIAL BUILDING, DUPLEX. A residential building which contains two (2) dwelling units and which occupies one zoning lot.

RESIDENTIAL BUILDING, MULTIFAMILY. A residential building which contains three (3) or more dwelling units and which occupies one zoning lot. This term includes single room occupancy (SRO) facilities.

RESIDENTIAL BUILDING, SINGLE FAMILY. A residential building which contains one dwelling unit and which occupies its own zoning lot. This term includes modular housing units.

RESIDENTIAL BUILDING, TOWNHOUSE. A residential building which contains three (3) or more dwelling units; each unit occupies one zoning lot.

RESIDENTIAL BUILDING, TWIN HOME. A residential building which contains two (2) dwelling units; each unit occupies one zoning lot.

RESIDENTIAL BUILDING, URBAN. A residential building which contains two (2) or more dwelling units and is located within the Town of

Kernersville. All land within the project site shall be in single, multiple, or joint ownership, and if dwelling units are for sale, all land in common open space shall be owned by a nonprofit corporation in which all owners of property within the development have automatic membership rights and assessment obligations for the maintenance of these areas.

RESTAURANT (WITH DRIVE-THROUGH SERVICE). An establishment which delivers prepared food and/or beverages to customers in motor vehicles, regardless of whether or not it also serves prepared food and/or beverages to customers who are not in motor vehicles, for consumption either on or off the premises.

RESTAURANT (WITHOUT DRIVE-THROUGH SERVICE). An establishment which serves food and beverages primarily to customers seated at tables or counters located within the building or designated outdoor seating areas. This includes cafes, tea rooms, and outdoor cafes.

RESUBDIVISION. A combination or recombination of previously recorded lots or tracts of contiguous land.

RETAIL STORE, SPECIALTY OR MISCELLANEOUS. An establishment primarily engaged in selling merchandise for personal or household consumption not classified elsewhere. This definition includes all uses in the following SIC groups:

593 Used Merchandise Stores
594 Miscellaneous Shopping Goods Stores
599 Retail Stores, NEC, except for the uses auction rooms (general merchandise) - retail; fireworks - retail; monuments, finished to custom order - retail; and sales barns – retail listed in 5999.

RETENTION STRUCTURE. A structure designed for the permanent storage of runoff in a pool of water.

RIDING STABLE. An establishment for the boarding and/or rental of horses for riding.

RIGHT-OF-WAY. The legal right of public passage, especially vehicular, over land.

ROOF SIGN. See Sign, Roof (On-Premises).

ROOMING HOUSE. See Boarding or Rooming House.

SATELLITE DISH. A type of receive-only antenna which is dish-shaped and is used to receive satellite signals, primarily television transmissions.

SCHOOL, ATHLETICS. A use providing for the education or training of athletes.

SCHOOL, CHARTER. A private school established under the statutory provisions for charter schools of the State of North Carolina. Charter schools typically require approval by the State of North Carolina and Winston-Salem/Forsyth County Schools; are eligible to receive State funding; are operated free from regulation by the State Department of Public Instruction; and have a special purpose or approach to education.

SCHOOL, ELEMENTARY. A public or private school providing instruction to students in kindergarten through grade five (5).

SCHOOL, MIDDLE. A public or private school giving instruction in grades six (6) through eight (8).

SCHOOL, PRIVATE. A structure used primarily by and for any two (2) or more age or grade levels not operated by the public school system, but registered with the North Carolina Department of Public Instruction. Any school for children age six (6) or under not meeting these requirements shall be considered a day care facility for purposes of this Ordinance.

SCHOOL, PUBLIC. A structure used primarily by and for any two (2) or more age or grade levels and operated by the public school system or approved by the North Carolina Department of Public Instruction as meeting the requirements of State law. Any school for children age six (6) or under not meeting these requirements shall be considered a day care facility for purposes of this Ordinance.

SCHOOL, SECONDARY. A public or private school giving instruction to students in grades six (6) through twelve (12). Secondary schools consist of middle schools and high schools.

SCHOOL STADIUM. An outdoor facility designed or used primarily for interscholastic athletic competition which has a seating capacity for one thousand (1,000) or more spectators.

SCHOOL, VOCATIONAL OR PROFESSIONAL. A use providing education or training in business, commerce, language, or other similar activity or

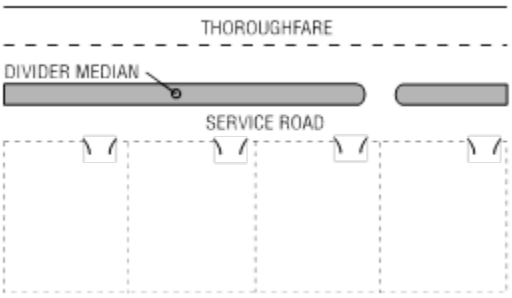
occupational pursuit, and not otherwise defined as home occupation, college or university, or elementary or secondary school.

SCREENING. The method by which the view from one site to an adjacent site is shielded or hidden. Screening techniques include bufferyards, berms, and opaque fences or walls.

SEDIMENT. Solid particulate matter, both mineral and organic, that has been or is being transported by water, air, gravity, or ice from its site of origin. (EROSION CONTROL)

SEDIMENTATION. Solid particulate matter, both mineral and organic, that has been or is being transported off the site of the land disturbing activity or into a lake or natural watercourse. (EROSION CONTROL)

SERVICE ROAD. A local street or road that is parallel to a full or partial access controlled facility and functions to provide access to adjacent land.



SERVICES, BUSINESS A. An establishment primarily engaged in providing a service(s) to businesses and to a lesser extent, individuals. All merchandise and rental equipment is stored inside enclosed buildings. Business Services A includes the following list of uses (including SIC groups and all subcategories not elsewhere listed):

733 Mailing, Reproduction, Commercial Art and Photography
735 Equipment Rental and Leasing (only with inside storage of equipment)
737 Computer Programming, Data Processing and other Computer Related Services (Except Computer Programming, 7371; Prepackaged Software, 7372; and, Computer System Design, 7373)
738 Miscellaneous Business Services
7699 Uses from SIC 7699 primarily engaged in providing repair and other services to businesses and to a lesser extent, individuals, that by the nature of their operation have little impact on adjoining property due to noise, odor, vibration, and/or air or water pollution. All repair items and supplies are stored in enclosed buildings. These uses include repair of small or precision equipment, such as medical, dental, laboratory, or drafting equipment.

SERVICES, BUSINESS B. An establishment primarily engaged in providing services to commercial and business establishments. Operations may include large scale facilities and storage of merchandise and equipment outside enclosed buildings. Business Services B includes the following list of uses (including SIC groups and all subcategories not elsewhere listed):

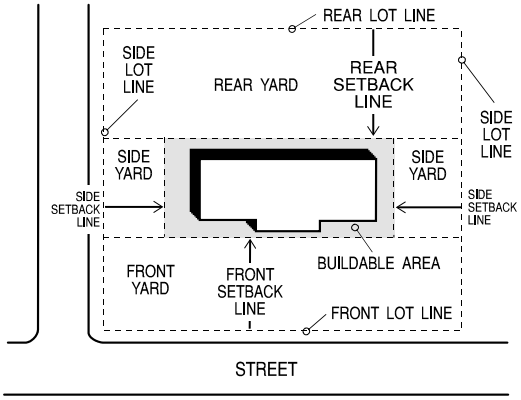
721 Laundry, Cleaning, and Garment Services Except those listed under Business Services A
7312 Outdoor Advertising Services
734 Services to Dwellings and Other Buildings
735 Equipment Rental and Leasing (with outside storage of equipment)
7623 Refrigeration Service and Repair
7692 Welding Repair
7694 Armature Rewinding Shops
7699 Establishments from SIC 7699 primarily engaged in providing repair and other services to businesses and to a lesser extent, individuals, that by the nature of their operation could impact adjoining property due to noise, odor, vibration, and/or air or water pollution. Uses include repair or servicing of large or heavy machinery, such as engines and appliances, and welding, blacksmith or gunsmith shops, and septic tank or sewer cleaning services, but not to include agriculture and farm equipment, industrial truck repair, and motorcycle repair.

SERVICES, PERSONAL. An establishment primarily engaged in providing a service(s) to individuals such as a beauty and/or barber shop, a dry-cleaning establishment, advertising, or computer services. Personal Services A includes the following list of uses (including SIC groups and all subcategories not elsewhere listed):

7212 Garment Pressing and Agents for Laundries and Drycleaners
7215 Coin-Operated Laundries and Cleaning
7216 Drycleaning Plants, Except Rug
7217 Carpet and Upholstery Cleaning
722 Photographic Studios, Portrait

723 Beauty Shops
724 Barber Shops
725 Shoe Repair and Shoeshine Parlors
729 Miscellaneous Personal Services
762 Electrical Repair Shops
763 Watch, Clock, and Jewelry Repair
764 Reupholstery and Furniture Repair
7699 Uses from SIC 7699 primarily engaged in providing repair and other services to individuals including repair of personal use property such as cameras, musical instruments, and bicycles, and other services, including locksmiths and custom picture framing. All merchandise, repair items, and equipment must be stored indoors.

SETBACK. The minimum required horizontal distance between a structure and either the lot line, street right-of-way line, or the line that marks the beginning of street maintenance by the Town or the North Carolina Department of Transportation, whichever is less. Building setbacks shall be measured from either the existing right-of-way, or the proposed right-of-way established by the adopted *Transportation Plan*, whichever is more restrictive.



SETBACK LINE. The line which is parallel to and is a given distance from the applicable lot line of a lot or parcel of land as required by the dimensional requirements of this Ordinance. See Yard.

SHOOTING RANGE, INDOOR. An enclosed facility used for the discharge of firearms at targets.

SHOPPING CENTER. A building or group of buildings totaling thirty-five thousand (35,000) square feet or more of gross floor area, either connected or freestanding, which is designed with common parking, pedestrian movement, ingress and egress, and used for the sale of merchandise or services to the public. There must be a minimum of four (4) stores. No outparcel shall be included in the calculation of building square footage for shopping centers.

SIC. Standard Industrial Classification.

SIDE YARD. See Yard, Side.

SIGHT EASEMENT. See Easement, Sight.

SIGN. Any form of publicity which is visible from any public way, directing attention to an individual, business, commodity, service, activity, or product, by means of words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or trademarks, or other pictorial matter designed to convey such information, and displayed by means of paint, bills, posters, panels, or other devices erected on an open framework, or attached or otherwise applied to stakes, posts, poles, trees, buildings, or other structures or supports.

SIGN, AWNING (ON-PREMISES). An on-premises sign constructed of fabric-like, non-rigid material which is a part of a fabric or flexible plastic awning framed and attached to a building.

SIGN, GROUND (OFF-PREMISES). A freestanding sign which draws attention to or communicates information about a business, service, commodity, accommodation, attraction, or other activity which is conducted, sold, or offered at a location other than the premises on which the sign is located.

SIGN, GROUND (ON-PREMISES). A freestanding on-premises sign.

SIGN, KNOCK-OUT BACKLIT. A sign with lighting that illuminates from within and only letters, illustrations and/or symbols are illuminated.

SIGN, MARQUEE. Any canopy substantially framed in steel which is durably constructed and of sufficient strength and design to carry superimposed sign structures.

SIGN, OFF-PREMISES. See Sign, Ground (Off-Premises).

SIGN, ON-PREMISES. A sign displaying information pertaining only to a business, industry, activity, or profession located on the premises where the sign is displayed, and pertaining only to the name of the business, type of product sold, manufactured, or assembled, and/or service, activity, or entertainment offered on said premises, including business identification and occupancy signs.

SIGN, PROJECTING (ON-PREMISES). An on-premises sign supported by a pole or other supporting structure, hanging from a building.

SIGN, REAL ESTATE. A sign which is designed for the sale, lease, promotion, and identification of real estate.

SIGN, ROOF (ON-PREMISES). An on-premises sign located above the eaves and below the peak of the roof where the sign is located.

SIGN, WALL (ON-PREMISES). An on-premises sign affixed to the wall of any building and completely in contact with the building throughout its greatest dimension, which does not extend beyond the main wall of the building more than twelve (12) inches except in accordance with these regulations.

SILTATION. Sediment resulting from accelerated erosion which is settleable or removable by properly designed, constructed, and maintained control measures; and which has been transported from its point of origin within the site of a land disturbing activity; and which has been deposited, or is in suspension in water. (EROSION CONTROL)

SINGLE FAMILY DWELLING. See Residential Building, Single Family.

SITE PLAN. A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include, but is not limited to, site-specific details such as building areas, building height and floor area, setbacks from lot lines and street rights–of-way, intensities, densities, utility lines and locations, parking, access points, roads, and stormwater control facilities, that are depicted to show compliance with all legally required development regulations that are applicable to the project and the site plan review. A site plan approval based solely upon application of objective standards is an administrative decision and a site plan approval based in whole or in part upon the application of standards involving judgment and discretion is a quasi-judicial decision. A site plan may also be approved as part of a conditional zoning decision.

SLEEPING UNIT. A room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

SPECIAL USE PERMIT. A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards. The Board of Adjustment or the Elected Body hears cases for uses specified in Table 2.6 in the Zoning Ordinance.

STADIUM, COLISEUM, OR EXHIBITION BUILDING. A structure or facility designed, intended, or used primarily for public gatherings; indoor exhibitions, galleries, or conventions; or indoor or outdoor spectator events including, but not limited to, professional and amateur sporting events, concerts, theatrical presentations, motor vehicle racing.

STANDBY LETTER OF CREDIT (SBLC). An irrevocable obligation to the beneficiary indicating payment to the beneficiary in the event of default by the account party and/or failure to perform an obligation. The following must be included in any SBLC accepted by the Town of Kernersville to be considered as such within this ordinance.

A) Entity issuing the SBLC must be licensed to do business in the State of North Carolina and state its preferred correspondence address within the SBLC.

B) The SBLC must be issued in favor of the Town of Kernersville (beneficiary) for a specified amount and state the customer (account party).

C) The SBLC must clearly state it is an irrevocable Standby Letter of Credit.

D) The SBLC shall clearly indicate the obligation within the SBLC is for the payment of money in lieu of performance.

E) The SBLC must state the beneficiary has the right to draw on the SBLC from time to time upon written demand by the beneficiary indicating account parties failure to meet their obligations.

F) The SBLC shall state draws will be processed within a reasonable time period once beneficiary demands a draw.

G) The SBLC shall state the original amount may be reduced from time to time only upon written notice by the beneficiary to do so.

H) The SBLC shall state the obligation shall be in full effect up to 5:00 pm on the date of

expiration as indicated within the SBLC and if said date falls on a holiday, weekend, or other day in which the beneficiary or issuer are closed for business, the expiration day shall be the following day that both beneficiary and issuer are open for business.

I) The SBLC shall state the SBLC shall be automatically extended, without any formal amendment or notice to the effect, from year to year, for successive periods of one (1) year each from the present or any future expiration date hereof, unless the issuer notifies the beneficiary 60-days prior to such expiration date in writing, via certified mail, return receipt requested that issuer has elected not to renew the SBLC and beneficiary has until 5:00 pm on or before the expiration date to draw the full amount hereunder.

STORAGE AND SALVAGE YARD. The use of land for outdoor storage of machinery, construction equipment, construction supplies, used building materials, scrap metal, and similar items. This definition does not include motor vehicle storage yard and motor vehicle dismantling operations which are principal uses defined elsewhere in this Article.

STORAGE SERVICES, RETAIL. Moving and/or storage services for household and business goods, including self-service storage facilities.

STORAGE TANKS, ABOVE GROUND. Storage tanks located above ground which are accessory to industries or businesses in their operations and are used to store chemicals, fuels, water, and other liquids and materials.

STORAGE TRAILER. A structure originally constructed with wheels in order to be transported over the highways but now no longer transported and now converted to use as a storage structure. An uncoupled truck trailer, an inoperable travel trailer, and an uninhabitable manufactured dwelling all meet this definition if used for storage of materials of any kind. An uncoupled truck trailer placed at a church, school, government building, or business for the acceptance of goods donated to charity or dropped off for recycling and towed away on a regular schedule or whenever full does not meet this definition. A construction trailer at a construction site does not meet this definition.

STORM DRAINAGE FACILITY. The system of inlets, conduits, channels, ditches, and appurtenances which serve to collect and convey storm water through and from a given drainage area. (EROSION CONTROL)

STORM, TEN-YEAR. The surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in ten (10) years and of a duration which will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions. (EROSION CONTROL)

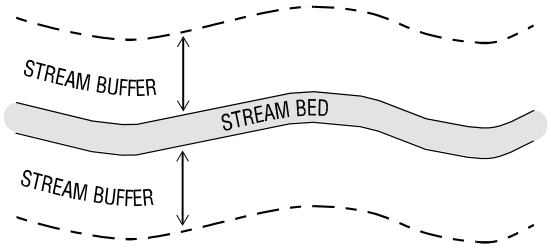
STORM, TWENTY-FIVE-YEAR. The surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in twenty-five (25) years, and of a duration which will produce the maximum peak rate of runoff, from the watershed of interest under average antecedent wetness conditions. (EROSION CONTROL)

STORM WATER QUALITY MANAGEMENT PLAN. A set of drawings and supporting documents submitted by the applicant for a storm water quality management permit.

STORM WATER RUNOFF. The direct runoff of water resulting from precipitation in any form. (EROSION CONTROL)

STREAM. A watercourse that is indicated on maps generated from the Forsyth County Land Records Information System.

STREAM BUFFER. A natural or vegetated area through which storm water runoff flows in a diffuse manner and which provides for infiltration of runoff and filtering of pollutants. The buffer is measured landward from the top of the bank defining the edge of the stream channel.



STREAM, PERENNIAL. A watercourse that flows year-round, including rivers, streams, lakes, and ponds, indicated as a solid blue line on the most recent version of USGS 7.5 minute (1:24,000 scale) topographic maps. Perennial streams are also shown as such on the *Official Zoning Maps*.

STREET. A public right-of-way or private easement

which affords traffic circulation and a means of access to abutting property. Exempt from this definition for the purposes of setbacks are private streets which serve duplex or multifamily residential units that are located on the same zoning lot or twin home, townhouse or urban residential units that are located in developments that have common open space areas owned by the same homeowners association. The term *street* includes road, avenue, place, way, drive, lane, boulevard, highway, and any facility principally designed for motor vehicle traffic, except an alley or an easement solely for utilities or pedestrians.

STREET, ARTERIAL. See Thoroughfare, Major.

STREET, COLLECTOR. A street whose function consists of both carrying traffic from local residential streets to thoroughfares and providing access to abutting properties. Collector streets should be designed so as not to be used as shortcuts by non-neighborhood traffic.

STREET, LOCAL. A street used primarily for providing direct access to abutting property.

STREET, PRIMARY ABUTTING. If more than one street abuts a subject property the A "primary abutting street" is the street having the larger traffic count.

STREET, STUB. A street which runs to a property line of adjacent property and is intended to continue on adjacent property at such time as that adjacent property is developed.

STREETYARD. That portion of a yard fronting on a public right-of-way or private access easement where special plantings may be required by this Ordinance to separate and partially screen the view of the property as seen from the street.

STRUCTURE. Anything constructed or erected which is above grade including a manufactured home and a storage trailer. For purposes of this Ordinance *structure* does not include landscape features, such as ornamental pools, planting boxes, sculpture, birdbaths, open terraces, at-grade bridges and walkways, at-grade slab patios, driveways, walls or fences, shelters for pets, playhouses, open stairs, recreational equipment, handicapped ramps, flagpoles, underground fallout shelters, air-conditioning compressors, pump houses, wells, mailboxes, privies, outdoor fireplaces, gate houses, burial vaults, cemetery markers or monuments, bus shelters, or wharves.

STRUCTURE, ACCESSORY. A structure detached from a principal building on the same zoning lot, the use of which is customarily incidental to the principal building. This includes freestanding satellite dishes, any other devices which access satellites, and amateur radio antennae.

STRUCTURE, DETACHED. For purposes of determining setback requirements for accessory structures, a structure which is separated from an adjacent structure by at least three (3) feet as measured from any part of the structures.

STRUCTURE OR IMPROVEMENT, NONCONFORMING. Any structure or improvement which does not meet the applicable dimensional requirements or other development standards contained in the *Zoning Ordinance*, which lawfully exists by virtue of the fact that it existed on May 8, 1968 or lawfully existed on the day before the effective date of the *Zoning Ordinance* or subsequent amendments, and which continues to exist.

STUB STREET. See Street, Stub.

SUBDIVISION. The division of land for the purpose of sale or development as specified in G.S. 160D-802.

SUBDIVISION – SUBDIVISION REGULATION. A subdivision regulation authorized by G.S. 160D Article 8.

SUBSTANTIAL IMPROVEMENT. Any combination of repairs, reconstruction, alteration, or improvements to a structure, taking place within any consecutive twelve (12) month period in which the cumulative cost equals or exceeds fifty percent (50%) of the present market value of the structure. The market value of the structure should be:

(A) The appraised value of the structure prior to the initial repair or improvement; or,
(B) In the case of damage, the value of the structure prior to the damage occurring. Substantial improvements does not include any alteration of a structure listed in the National Register, Study List for the National Register of Historic Places, or those properties inventoried in the Forsyth County's Architectural Survey, *From Frontier to Factory*, or located in an historic zoning district.

SURVEYOR. A person licensed to practice surveying in the State of North Carolina.

SWIMMING POOL, PRIVATE. Any permanent swimming pool, whether above-ground or below-ground, intended for the private, noncommercial use of a property owner(s), homeowner's association, residential development, or club.

TELEMARKETING. An establishment which conducts sales of merchandise by telephone and ships merchandise to customers through a fulfillment center located within the same facility. For purposes of this Ordinance, telemarketing is considered a type of *Wholesale Trade A* use. Telemarketing does not include the use *Non-Store Retailer*.

TEMPORARY HEALTH CARE STRUCTURE. A transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, and complies with applicable provisions of the State Building Code and G.S. 143-139.1(b). Placing the temporary family health care structure on a permanent foundation shall not be required or permitted.

TERMINAL, BUS OR TAXI. A facility for the storage, maintenance, and dispatch of buses or taxis, and associated customer ticketing and waiting areas.

TERMINAL, FREIGHT. Any facility for handling freight, with or without storage and maintenance facilities. This definition includes all uses in the following SIC groups:

421 Trucking & Courier Services, Except Air
423 Trucking Terminal Facilities

TESTING AND RESEARCH LABORATORY. An establishment primarily engaged in commercial research and providing testing services such as calibration and certification of instruments, food testing services, forensic laboratories, metallurgical testing, and industrial X-ray inspection services, etc. This definition includes all uses in the following SIC group:

873 Research and Testing Services

THEATER, DRIVE-IN. An establishment for the outdoor viewing of motion pictures by patrons while in motor vehicles. This definition includes all uses in the following SIC group:

7833 Drive-In Motion Picture Theaters

THEATER, INDOOR. An establishment for the indoor viewing of motion pictures by patrons. This definition includes all uses in the following SIC group:

7832 Motion Picture Theaters, Except Drive-In

THOROUGHFARE. An existing or proposed freeway/expressway, major thoroughfare, or minor thoroughfare as shown on the *Transportation Plan*.

THOROUGHFARE, MAJOR. A category of streets identified on the *Transportation Plan*, which function as the primary traffic arteries of the community. These arteries function to move intra-city and inter-city traffic, yet they may also provide access to abutting property. Major thoroughfares range from two-lane streets carrying lower traffic volumes to major thoroughfares with four (4) or more traffic lanes. Parking normally is not permitted on major thoroughfares.

THOROUGHFARE, MINOR. A category of streets identified on the *Transportation Plan*, which collect traffic from collector and local streets and carry it to the major thoroughfares. They may supplement major thoroughfares by facilitating minor through traffic movements. These streets may also provide access to abutting property.

TOWNHOUSE. See Residential Building, Townhouse.

TRACT. All contiguous land and bodies of water being disturbed or to be disturbed as a unit, regardless of ownership. (EROSION CONTROL)

TRAILER. See Manufactured Home.

TRAILER, TRAVEL. See Recreational Vehicle.

TRANSMISSION TOWER. A structure, either freestanding or attached to a building, principally intended to support and/or radiate or receive a source of non-ionizing electromagnetic radiation (NIER), and accessory equipment related to broadcast services, private radio services, cellular telephone services, and common carriers (as regulated by the Federal Communications Commission), including AM, FM, two-way radio, television and cable antenna television transmission and reception, and microwave transmission. For purposes of this definition, broadcast services include AM and FM radio and high and low power television signals which can be

received by anyone with a radio or television. Private radio services include land-mobile or two-way radio, fixed-point microwave, and amateur public club station signals which can be received only with special equipment. Common carriers provide two-way and one-way paging services on the same frequency to many users. The term *transmission tower* does not include electrical or telephone transmission lines or supporting structures, antennae of amateur radio (ham) operators, amateur club services licensed by the Federal Communications Commission, satellite dishes, and antennae less than sixty (60) feet in height with transmitting power of two hundred fifty (250) watts or less.

TRANSPORTATION PLAN. A map adopted by each municipality, Forsyth County, the Transportation Advisory Committee, and the North Carolina Department of Transportation showing the location of existing and proposed freeways/expressways, major thoroughfares and minor thoroughfares. The Transportation Plan map is on file in the Community Development Department.

TRASH, YARD. The solid waste resulting from landscaping and yard maintenance such as brush, grass, tree limbs, and similar vegetative material.

TREE, LARGE VARIETY. Any deciduous or evergreen tree whose maximum mature height is greater than thirty-five (35) feet.

TREE, MEDIUM VARIETY. Any deciduous or evergreen tree whose maximum mature height is greater than twenty-five (25) feet and less than thirty-five (35) feet.

TREE, SMALL VARIETY. Any deciduous or evergreen tree whose maximum mature height is no greater than twenty-five (25) feet.

TURKEY SHOOT. A match or contest for prizes, usually a turkey or ham, at which the participants fire handguns, rifles, or shotguns at a fixed target.

TWIN HOME. See Residential Building, Twin Home.

UNCOVER. The removal of ground cover from, on, or above the soil surface. (EROSION CONTROL)

UNDERTAKEN. The initiating of any activity, or phase of activity, which results or will result in a change in the ground cover of topography of a tract of land. (EROSION CONTROL)

USE. The purpose or activity for which land or structures are designed, arranged, or intended, or for which land or structures are occupied or maintained, including any such activity with respect to the requirements of this Ordinance.

USE, ACCESSORY. A use or activity which is customarily incidental to a specific principal use, and which is located on the same zoning lot as the associated principal use except for off-site parking or other use provided for by this Ordinance.

USE, NONCONFORMING. Any use not permitted in the zoning district in which it is located, which lawfully exists by virtue of the fact that it existed on May 8, 1968, or lawfully existed as of the effective date of the *Zoning Ordinance* or subsequent amendments, and which has not been discontinued under the provisions of the *Zoning Ordinance*.

USE, PRINCIPAL. Those uses of land listed in Table 2.6 in the *Zoning Ordinance.*

USE, TEMPORARY. A use which may be located in a zoning district not allowing the use on a permanent basis, after issuance of a permit specifying a limited duration for the use.

USGS. United States Geological Survey.

UTILITIES. Facilities of any agency which, under public franchise or ownership, provides the general public with electricity, gas, oil, water, sewage, electronic signals, or rail transportation. The term *utility* shall not be construed to include the following: corporate or general offices; storage or service buildings or yards; gas or oil processing, manufacturing or storage facilities; transmission towers; or postal facilities.

UTILITY SERVICE AREA. An area which contains any surface mounted heating, ventilation, or air conditioning equipment or freestanding above ground devices, such as utility boxes, booster boxes, switchgear, and transformers, which are part of an underground utilities system:

(A) Private utility service area - an area, on private property, which contains privately owned utility structures for the exclusive service of the premises where they are installed; or,

(B) Public utility service area - an area, on either private or public property, which contains utility structures owned by a utility for the

service of one or more premises, but excluding utility substations.

VARIANCE. Relief from the requirements of the *Zoning Ordinance* granted by the Board of Adjustment.

VELOCITY. The average velocity of flow through the cross section of the main channel at the peak flow of the storm of interest. The cross section of the main channel shall be that area defined by the geometry of the channel plus the area of flow below the flood height defined by vertical lines at the main channel banks. Overload flows are not to be included for the purpose of computing velocity of flow. (EROSION CONTROL)

VESTED RIGHT. The right to undertake and complete the development and use of property under the terms and conditions of an approval secured as specified in G.S. 160D-108 or under common law.

VETERINARY SERVICES. Any facility used for the purpose of giving licensed medical treatment to animals or pets and any other customarily incidental treatment of the animals, such as grooming, boarding, or selling of pet supplies.

VETERINARY SERVICES, SMALL ANIMAL. A clinic where the animals being examined can be transported to the clinic via a personal vehicle.

VETERINARY SERVICES, LARGE ANIMAL. A clinic where the animals being examined requires transportation via a trailer or truck bed.

VISIBLE, FROM RIGHT-OF-WAY. Visible from an existing or proposed public right-of-way shall be determined by viewing from the right-of-way from any point towards the structure under review.

WALL SIGN. See Sign, Wall (On-Premises).

WAREHOUSING. Establishments primarily engaged in the warehousing and storage of general merchandise, refrigerated goods, and farm products. This definition includes all uses in the following SIC group:

422 Public Warehousing and Storage

WASTE. Surplus materials resulting from on-site construction and disposed of at other locations. (EROSION CONTROL)

WATER SUPPLY WATERSHED. An area from which water drains to a point of impoundment, and the water is then used principally as a source for a public water supply.

WETLANDS. Areas inundated or saturated by surface or ground water at a frequency and duration sufficient to support and, under normal circumstances, do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

WHOLESALE TRADE A. An establishment primarily engaged in selling durable and nondurable goods to retailers; to industrial, commercial, institutional, farm, construction contractors, or professional business uses; or to other wholesalers. Merchandise is stored inside enclosed buildings. Activities including physically assembling, sorting, and grading goods in large lots and breaking bulk for redistribution in smaller lots are conducted inside enclosed buildings in such a way as to have a minimal impact on surrounding properties. Operations with over twenty-five percent (25%) of sales to retail customers require the appropriate retail zoning district. This definition includes all uses in the following SIC groups:

502 Furniture and Home furnishings
503 Lumber and Construction Materials
504 Professional and Commercial Equipment
506 Electrical Goods
507 Hardware, Plumbing, and Heating Equipment
509 Miscellaneous Durable Goods (except Scrap and Waste Materials, SIC group 5093)
511 Paper and Paper Products
512 Drugs, Proprietaries, and Sundries
513 Apparel, Piece Goods, and Notions
514 Groceries and Related Products
518 Beer, Wine, and Distilled Beverages
519 Miscellaneous Nondurable Goods (except Farm Supplies, SIC group 5191)

WHOLESALE TRADE B. An establishment primarily engaged in selling durable and nondurable goods to retailers; to industrial, commercial, institutional, farm, construction contractors, or professional business uses; or to other wholesalers. Merchandise may be stored outside enclosed buildings. Activities including physically assembling, sorting, and grading goods in large lots, and breaking bulk for redistribution in smaller lots may be conducted outside enclosed buildings. Operations

with over twenty-five percent (25%) of sales to retail customers require the appropriate retail zoning district. This definition includes all uses in the following SIC groups:

501	Motor Vehicles, Parts and Supplies (except Motor Vehicle Parts, Used, SIC group 5015)
505	Metals and Minerals, except Petroleum
508	Machinery, Equipment and Supplies
515	Farm-Product Raw Materials
516	Chemicals and Allied Products
5191	Farm Supplies

WORKING DAYS. Days exclusive of Saturday and Sunday during which weather conditions or soil conditions permit land disturbing activity to be undertaken. (EROSION CONTROL)

YARD. Any area of land located between a lot line and a required setback line. The minimum depth of a yard shall be determined by horizontal measurement at a right angle from the applicable lot line.

YARD, FRONT. The yard extending across the full width of the lot and lying between the front lot line and the front setback line as required in this Ordinance.

YARD, INTERIOR SIDE. The yard extending along the length of the lot between the required front yard and the required rear yard, and between the side lot line and the side building setback line, as required in this Ordinance, provided that the side lot line is not adjacent to a public street right-of-way.

YARD, REAR. The yard extending across the full width of the lot and lying between the rear lot line and the rear building setback line as required in this Ordinance.

YARD, STREET SIDE. The yard extending along the length of the lot between the required front yard and the required rear yard adjacent to a public right-of-way or private access easement and between the side lot line and the side building setback line as required in this Ordinance.

ZONING LOT. See Lot, Zoning.

ZONING MAP AMENDMENT OR REZONING. An amendment to a zoning regulation to change the zoning district that is applied to a specified property or properties. It does not include the initial adoption of a zoning map by a local government or the repeal of a zoning map and re-adoption of a new zoning map for the entire planning and development regulation jurisdiction. It does not include updating the zoning map to incorporate amendments to the names of zoning districts made by zoning text amendments where there are no changes in the boundaries of the zoning district or land uses permitted in the district. It does include the initial application of zoning when land is added to the territorial jurisdiction of a local government that has previously adopted zoning regulations. It does include the application of an overlay zoning district or a conditional zoning district.

ZONING OFFICER. The Zoning Administrator or such other person as the adopting jurisdiction may designate as the officer principally responsible for the enforcement of this Ordinance.

ZONING PERMIT. A permit issued by the Zoning Officer, which authorizes the recipient to use or occupy a tract of land or a structure; or to erect, alter or install a structure, or sign which fully meets the requirements of this Ordinance.

ZONING REGULATION. A zoning regulation authorized by G.S. 160D Article 7.

CHAPTER B - *ZONING ORDINANCE*
ARTICLE I - PURPOSE AND AUTHORITY

1-1 SHORT TITLE

This Ordinance shall be known and may be cited as the *Zoning Ordinance*, except as referred to herein, where it shall be known as *this Ordinance*.

1-2 PURPOSE

The purpose of this Ordinance is to promote the health, safety, and general welfare of the residents within the zoning jurisdiction of the adopting jurisdiction through the stated regulations of this Ordinance. An additional purpose of this Ordinance is to implement the goals, objectives, and policies of the *Kernersville Development Plan*, as amended, including any specifically related land use plans, development guides, and the *Thoroughfare and Street Plan*.

1-3 JURISDICTION

1-3.1 APPLICABLE

The provisions of this Ordinance shall apply to the zoning jurisdiction of the Town of Kernersville, North Carolina.

1-3.2 BONA FIDE FARM EXEMPTION

Property that is located in Town of Kernersville's extraterritorial planning and development regulation jurisdiction and that is used for bona fide farm purposes is exempt from the Kernersville's zoning regulation to the same extent bona fide farming activities are exempt from county zoning pursuant to this section. "Property" means a single tract of property or an identifiable portion of a single tract. Property that ceases to be used for bona fide farm purposes shall become subject to exercise of the Kernersville's extraterritorial planning and development regulation jurisdiction. For purposes of complying with state or federal law, property that is exempt from the exercise of Kernersville's extraterritorial planning and development regulation jurisdiction shall be subject to the county's floodplain regulation or all floodplain regulation provisions of the county's unified development ordinance. Accessory building of a "bona fide farm" has the same exemption from the building code as it would have under county zoning.

1-4 AUTHORITY

1-4.1 STATE LAW

This Ordinance is adopted pursuant to General Statute Chapter 160D. This Ordinance is further adopted pursuant to the following Session Laws applicable to Forsyth County, and these laws are followed to the extent that they are not inconsistent with the cited General Statutes: Chapter 677, 1947 Session Laws, as amended, and other applicable laws.

1-4.2 INTENT

The intent of the adopting jurisdiction is to exercise its available power as authorized in the statutes cited in Section 1-4.1 to the maximum extent possible, as more fully set forth herein.

1-4.3 AMENDMENTS

This Ordinance may be amended in accordance with the provisions of this Ordinance as required or allowed by subsequent legislative enactments.

1-5 COMPLIANCE

1-5.1 COMPLIANCE WITH PROVISIONS

No building, premises, or structure shall be used, constructed, erected, modified, altered, converted, occupied, placed, maintained, removed or moved, and no land use shall be commenced, maintained, or modified except in compliance with the provisions, restrictions, and procedures set forth herein.

1-5.2 VESTED RIGHTS AND PERMIT CHOICE

(A) RIGHTS PERFECTED PRIOR TO THIS ORDINANCE

Development rights perfected prior to the effective date of this Ordinance shall be subject to the *Zoning Ordinance* under which the rights were perfected, unless and until such vested rights or permit choice are withdrawn or expire in accordance with law.

(B) GENERAL STATUTES 160D-108

(1) Purpose. The purpose of this section is to implement the provisions of General Statutes 160D-108 pursuant to which a statutory vested right and permit choice is established upon the approval of a site specific development plan and development regulations.

(2) Definitions. As used in this section, the following terms shall have the meaning indicated:

(a) Site Specific Development Plan. A plan of development submitted to the local jurisdiction for purposes of obtaining one of the following zoning or development permits or approvals in accordance with Chapter B, Article VI of this Ordinance.

(**1**) Approval of a use requiring a special use permit by the Elected Body in accordance with Chapter B, Article VI, Section 6-1.

(**2**) Approval of a one-phase conditional zoning district petition or a site plan amendment to a one-phase conditional zoning district petition by the Elected Body in accordance with Section 6-2.2.

(**3**) Approval of the first phase of a two-phase development plan which shows the type and intensity of use for a specific parcel or parcels with a lesser degree of certainty than a site-specific development plan as defined above, provided that adequate information is provided in the first-phase process as noted by Chapter B, Article VI, Section 6-2.2.

(**4**) Approval of a final development plan by the Planning Board in accordance with Section 6-2.2(D) pursuant to a two-phase conditional zoning district petition approved by the Elected Body in accordance with Section 6-2.2(G).

(**5**) Approval of a preliminary subdivision plan that shows type and intensity of use as approved by the Elected Body.

Notwithstanding the foregoing, neither a variance, a sketch plan nor any other document that does not describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property shall constitute a site specific development plan. The plan shall include the approximate boundaries of the site; significant topographical and other natural features effecting development of the site; the approximate location on the site of the proposed buildings, structures, and other improvements; the approximate dimensions, including height, of the proposed buildings and other structures; and the approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways.

(b) Vested Right. A right pursuant to General Statutes 160D-108 to undertake and complete the development and use of property under the terms and conditions of an approved site specific development plan.

(3) Establishment of Site-Specific Vested Right.

(**a**) A vested right shall be deemed established upon the valid approval or approval with conditions by the Elected Body in compliance with all provisions of this Ordinance or *Subdivision Ordinance*, as applicable, of a site specific development plan, following notice and public hearing.

(**b**) A vested right must be specifically requested as part of the approval specified in Chapter B, Article I, Section 1-5.2(B)(2)(a) above.

(**c**) The Elected Body may approve a site specific development plan upon such terms and conditions as authorized in Chapter B, Article VI, Section 6-2.2 of this Ordinance, and upon making such findings as are required for approval by this Ordinance.

(**d**) Notwithstanding Sections 1-5.2(B)(1) and (2), approval of a site specific development plan with the condition that a variance be obtained shall not confer a vested right unless and until the necessary variance is obtained.

(**e**) A site specific development plan shall be deemed approved upon the effective date of approval by the approving authority or ordinance relating thereto, and only to the extent of that approval.

(4) Approval Procedures and Vested Rights for Site Specific Development Plans.

(**a**) Plans shall be submitted and processed in accordance with the procedures established by this Ordinance and shall be considered by the designated approving authority for the specific type of zoning or land use permit or approval for which application is made. A vested right is established once approval is granted by the approving authority following notice and public hearing.

(**b**) The notice of public hearing required for vested rights shall follow the same advertisement procedure as is required by the approving authority for the specific type of zoning or development permit or approval for which application is made.

(**c**) A petitioner for preliminary subdivision approval may waive his/her rights by signing a waiver form attached to the application form. If these rights are waived, then a preliminary subdivision plan shall not be required to be an advertised public hearing.

(**d**) Nothing in this section shall prohibit the revocation of the original approval or other remedies for failure to comply with applicable terms and conditions of the approval by the approving authority or of this Ordinance.

(5) Duration.

(**a**) A right which has been vested as provided for in this section shall remain vested for a period of five (5) years.

(**b**) The rights regarding a site-specific vesting plan shall be vested for a period of five years, if warranted by, the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions or other considerations. This determination shall be in the discretion of the Elected Body and shall be made following the process specified for establishing a site-specific vesting plan involved.

Following approval or approval with conditions of a site specific development plan, nothing in this section shall exempt such a plan from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approval.

(**c**) A right vested as provided in this subsection 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. Upon issuance of a building permit, the provisions of G.S.160D-11-9 and G.S. 160D-11-13 shall apply, except that the permit shall not expire or be revoked because of the running of time while a vested right under this subsection exists.

(**d**) An approved site-specific vesting plan and its conditions may be amended with the approval of the owner and the local government as follows:

(**i**) Any substantial modification must be reviewed and approved in the same manner as the original approval;

(**ii**) Minor modifications may be approved by staff as granted by the Elected or Appointed Board.

(6) Voluntary Annexation. A petition for annexation filed with the Town of Kernersville under NCGS 160D-108 shall contain a signed statement declaring whether or not any zoning vested right with respect to the properties subject to the petition has been established under NCGS 160D-108. A statement that declares that no zoning vested right has been established under NCGS 160D-108, or the failure to sign a statement declaring whether or not a zoning vested right has been established, shall be binding on the landowner and any such zoning vested right shall be terminated.

(7) Violations. Any violation of a term or condition involved in the granting of a zoning vested right shall be treated the same as a violation of this Ordinance and shall be subject to the same remedies and penalties as any such violation. In addition, the Elected Body may, after public hearing, revoke any such zoning vested right for failure to abide by any such term or condition.

(8) Limitations. Nothing in this section is intended or shall be deemed to create any vested right other than those established pursuant to General Statutes NCGS 160D-108.

(C) PROCESS TO CLAIM VESTED RIGHT

(1) A person claiming a statutory or common law vested right may submit information to substantiate that claim to the Zoning Administrator, who shall make an initial determination as to the existence of the vested right. The Zoning Administrator's determination may be appealed under G.S. 160D-405.

(D) TYPES AND DURATION OF STATURORY VESTED RIGHTS

(**1**) Except as provided by this section and subject to subsection (E), amendments in the Town's development regulations shall not be applicable or enforceable with regard to development that has been permitted or approved so long as one of the approvals listed in this subsection remains valid and unexpired. Each type of vested right listed below is defined by and is subject to the limitations provided in this section and the cited statutes. Vested rights established under this section are not mutually exclusive. The establishment of a vested right under one subsection does not preclude vesting under one or more other subsections or by common law principles.

(a) Building permits. Pursuant to G.S. 160D-108(d)(1), a building permit expires six months after issuance unless work under the permit has commenced. Building permits also expire if work is discontinued for a period of 12 months after work has commenced.

(b) Other local development approvals. Pursuant to G.S. 160D-403(c), unless otherwise specified by this section, statute, or local ordinance, all other local development approvals expire one year after issuance unless work has substantially commenced. Expiration of a

local development approval does not affect the duration of a vested right established as a site-specific vesting plan, a multiphase development plan, a development agreement, or vested rights established under common law.

(c) **Site specific vesting plans.** A vested right for a site-specific vesting plan shall remain vested for a period of five years subject to Section B.

(d) **Multi-phase developments.** A multi-phased development shall be vested for the entire development at the time a site plan approval is granted for the initial phase of the multi-phased development. This right shall remain vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multi-phased development. For purposes of this subsection, "multi-phased development" means a development containing 25 acres or more that:

(**i**) is submitted for site plan approval for construction to occur in more than one phase; and

(ii) is subject to a master development plan with committed elements, showing the type and intensity of use of each phase.

(e) **Development agreements.** A vested right of reasonable duration may be specified in a development agreement approved under Article 10 of 160D.

(f) **Continuing review.** Following approval or conditional approval of a statutory vested right; the Town of Kernersville may make subsequent reviews and require approvals by the Town to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approval. The Town may revoke the original approval for failure to comply with applicable terms and conditions of the original approval or the applicable Town regulations.

(g) **Exceptions.**

(i) A vested right, once established precludes any zoning action that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved vested right, except:

a. With the written consent of the affected landowner;

b. Upon findings, after notice and an evidentiary hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, and safety, and welfare if the project were to proceed as contemplated in the approved vested right;

c. To the extent that the affected landowner receives compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultant's fees incurred after approval by the local government, together with interest as is provided in G.S. 160D-1-6. Compensation shall not include any diminution in the value of the property that is caused by such action;

d. Upon findings, after notice and an evidentiary hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations that made a difference in the approval by the local government of the vested right; or

e. Upon the enactment or promulgation of a State or federal law or regulation that precludes development as contemplated in the approved vested right, in which case the local government may modify the affected provisions, upon a finding that the change in State or federal law has a fundamental effect on the plan, after notice and an evidentiary hearing.

f. The establishment of a vested right shall not preclude the application of overlay zoning or other development regulation that imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to development regulation, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise applicable new regulations shall become effective with respect to property that is subject to a vested right established upon the expiration or termination of the vested rights period provided.

g. Notwithstanding any provision of this section, the establishment of a vested right under this section shall not preclude, change or impair the authority of the Town to adopt and enforce development regulation provisions governing nonconforming situations or uses.

(h) Miscellaneous provisions.

(**i**) A vested right obtained under this section is not a personal right, but shall attach to and run with the applicable property. After approval of a vested right under this section, all successors to the original landowner shall be entitled to exercise such rights.

(**ii**) Nothing in this section shall preclude judicial determination, based on common law principles or other statutory provisions, that a vested right exists in a particular case or that a compensable taking has occurred. Except as expressly provided in this section, nothing in this section shall be construed to alter the existing common law.

(E) PERMIT CHOICE

(**1**) If an application made in accordance with Unified Development Ordinance is submitted for a development approval and a development regulation changes between the time the application was submitted and a decision is made, the applicant may choose which version of the development regulation will apply to the application. If the development permit applicant chooses the version of the rule or ordinance applicable at the time of the permit application, the development permit applicant shall not be required to await the outcome of the amendment to the rule, map, or ordinance prior to acting on the development permit. The permit choice rule applies to all development approvals issued by the State and by local governments.

1-5.3 MULTIPLE USES

In cases of two (2) or more principal uses on the same zoning lot, the regulations for each use shall apply to that portion of the structure or land so used.

1-5.4 MINIMUM REQUIREMENTS

The requirements contained in this Ordinance shall be the minimum requirements for administration, enforcement, procedures, restrictions, standards, uses, variances, and all other areas addressed by this Ordinance; and, if any other existing ordinance or regulation allows lesser regulation, this Ordinance shall govern, so that in all cases, the more restrictive limitation or requirement shall govern.

1-6 SEVERABILITY

1-6.1 INVALIDATION OF PORTIONS OF ORDINANCE

Should any section, sentence, clause, phrase, or word of this Ordinance be held invalid or unconstitutional by a court of competent jurisdiction of either the State of North Carolina or of the United States, such decision shall not affect, impair, or invalidate the remaining parts of this Ordinance. The remaining parts shall remain in effect without the invalid provision, and to that extent they are severable.

1-6.2 INVALIDATION OF APPLICATION

This invalidation of the application of any provision of this Ordinance to any particular property or structure, or to any particular properties or structures, by any court of competent jurisdiction, shall not affect the application of such provision to any other property or structure not specifically included in such invalidation.

1-6.3 PRESUMPTION

When an administration officer or board authorizes regulatory action, it shall be conclusively presumed that such officer or board would not have authorized such action except in the belief that such action was lawful.

1-7 CONFLICTING PROVISIONS

1-7.1 CONFLICT WITHIN ORDINANCE

Where a conflict exists between any limitations or requirements in this Ordinance, the more restrictive limitation or requirements shall prevail.

1-7.2 CONFLICT WITH OTHER ORDINANCE OR LAW

Where a conflict exists between the provisions of this Ordinance and any other ordinance or law, or where the provisions of this Ordinance impose overlapping or contradictory regulations, the most restrictive provision or the one which imposes the highest standards or requirements shall prevail.

1-8 ILLUSTRATIONS

Illustrations are provided for purposes of describing, clarifying or providing examples of portions of the text, and do not replace or limit the text unless so stated in the text.

1-9 CUMULATIVE REQUIREMENTS

The requirements of this Ordinance are cumulative.

CHAPTER B - *ZONING ORDINANCE*
ARTICLE II - ZONING DISTRICTS*, OFFICIAL ZONING MAPS,* AND USES

2-1 ZONING DISTRICTS

2-1.1 ZONING DISTRICTS ESTABLISHED

(A) JURISDICTION

All the area within the zoning jurisdiction of the adopting jurisdiction is hereby divided into zoning districts within which the use of land and water areas, the location, height, bulk and use of structures, the provision of parking and loading areas, and other development requirements are regulated as herein provided. If a parcel of land lies within the planning and development regulation jurisdiction of more than one local government, the local governments may by mutual agreement, pursuant and with the written consent of the landowner, assign exclusive planning and development regulation jurisdiction for the entire parcel to any one of those local governments. Such a mutual agreement pursuant to G.S.160D-203 shall only be applicable to development regulations and shall not affect taxation or other non-regulatory matters. The mutual agreement shall be evidenced by a resolution formally adopted by each governing board and recorded with the register of deeds in the county where the property is located within 14 days of the adoption of the last required resolution.

(B) DESIGNATED DISTRICTS

A total of thirty-two (32) general use districts, thirty-three (33) conditional zoning districts, five (5) overlay and one (1) special purpose district, with the symbol designations, general purposes, and other requirements as cited herein, are hereby created.

(C) CONDITIONAL ZONING DISTRICT

The conditional zoning district are established as companion districts to the general use districts, except for the MU-C and TND-C References in this Ordinance to a general use district shall be construed to also include the corresponding conditional zoning district. Each conditional zoning district is intended to accomplish the purposes of the corresponding general use district through the development of identified uses at a specific location in accordance with a site plan acceptable to the Elected Body. All regulations which apply to a general use district also apply to the corresponding conditional zoning district. Additional reasonable site plan conditions which may be required by the Elected Body and agreed to by the petitioner as part of the rezoning process also apply.

(D) PURPOSE STATEMENTS

District purpose statements in this section refer only to general objectives for each zoning district.

(E) DIMENSIONAL REQUIREMENTS

The general dimensional requirements for each zoning district cited in this section are subject to additional provisions of this Ordinance as noted in Section 3-1.

2-1.2 RESIDENTIAL ZONING DISTRICTS - PURPOSE STATEMENTS AND REGULATIONS

The following residential zoning districts are established. For Single Family Districts (RS), the suffix number multiplied by one thousand indicates the minimum lot size in square feet. For Multifamily Districts (RM), the suffix number indicates the maximum number of dwelling units per acre. [For example, RS-40 requires a minimum lot size of forty thousand (40,000) square feet for a single family dwelling, while RM-8 allows multifamily development at a density of up to eight (8) units per acre.]

Table 2.1
Residential Zoning Districts

Symbol	District Name
AG	Agricultural
AG-C	Agricultural - Conditional
RS-40	Residential Single Family
RS-40-C	Residential Single Family - Conditional
RS-30	Residential Single Family
RS-30-C	Residential Single Family - Conditional
RS-20	Residential Single Family
RS-20-C	Residential Single Family - Conditional
RS-15	Residential Single Family
RS-15-C	Residential Single Family - Conditional
RS-12	Residential Single Family
RS-12-C	Residential Single Family - Conditional
RS-9	Residential Single Family
RS-9-C	Residential Single Family - Conditional
RS-7	Residential Single Family
RS-7-C	Residential Single Family - Conditional
RSQ	Residential Single Family Quadraplex
RSQ-C	Residential Single Family Quadraplex - Conditional
RM-5	Residential Multifamily
RM-5-C	Residential Multifamily - Conditional
RM-8	Residential Multifamily
RM-8-C	Residential Multifamily - Conditional
RM-12	Residential Multifamily
RM-12-C	Residential Multifamily - Conditional
RM-18	Residential Multifamily
RM-18-C	Residential Multifamily - Conditional
RM-U	Residential Multifamily
RM-U-C	Residential Multifamily - Conditional
MH	Manufactured Housing Development
MH-C	Manufactured Housing Development - Conditional

Each residential district is designed and intended to secure for the persons who reside there a comfortable, healthy, safe, and pleasant environment in which to live, protected from incompatible and disruptive activities which more properly belong in nonresidential districts. The districts are also intended to assist the community in meeting the goals of the *Kernersville Development Plan*. When a residential rezoning proposal is considered, the residential land use goals and locational criteria contained in the *Kernersville Development Plan* shall be used as guides, in conjunction with other factors, in determining the appropriateness of the proposed district. Other goals of these residential districts are explained in the remainder of this section.

(A) AG AGRICULTURAL DISTRICT.

(1) Purpose. The AG District is primarily intended to accommodate uses of an agricultural nature. The district is also intended to accommodate scattered non-farm residences on large tracts of land, but is not intended for residential subdivisions with small lots. The district is established for the following purposes.

(a) To preserve the rural character of portions of the county and encourage the continued use of land for agricultural, forest, and open space purposes;

(b) To discourage scattered commercial and industrial land uses;

(c) To concentrate urban development in and around existing urbanized areas and proposed activity centers, thereby preventing premature conversion of farmland into urban uses; and,

(d) To discourage any use which may create premature public infrastructure and service demands.

(2) General Dimensional Requirements - AG.

Zoning District	Minimum Zoning Lot		Minimum Setbacks					Maximum Impervious Surface Cover (%)	Maximum Height (ft)
					Side				
	Area (sf)	Width (ft)	Front (ft)	Rear (ft)	One Side (ft)	Combined (ft)	Street (ft)		
AG	40,000	150	45	50	20	50	30	--	40

Note: Nonconforming lots in the AG District meeting the provisions of Section 5-3.2 of this Ordinance must meet the minimum setback requirements of the RS-20 zoning district.

(3) One Principal Building per Zoning Lot. Only one residential building shall be placed on a zoning lot or lot of record, except as permitted under Section 2-6.4(C).

(B) RS-40 RESIDENTIAL SINGLE FAMILY DISTRICT.

(1) Purpose. The RS-40 District is primarily intended to accommodate single family detached dwellings on large lots in areas without access to public water and sewer services. The district is established to promote single family detached residences where environmental features, public service capacities, or soil characteristics necessitate very limited development. This district is intended for appropriate protected watershed areas. This district may also be applicable to older, larger lot development developed prior to the effective date of this Ordinance.

(2) General Dimensional Requirements - RS-40.

Zoning District	Minimum Zoning Lot		Minimum Setbacks					Maximum Impervious Surface Cover (%)	Maximum Height (ft)
					Side				
	Area (sf)	Width (ft)	Front (ft)	Rear (ft)	One Side (ft)	Combined (ft)	Street (ft)		
RS-40	40,000	100	35	40	10	25	20	--	40

(3) One Principal Building per Zoning Lot. Only one residential building shall be placed on a zoning lot or lot of record, except as permitted under Section 2-6.4(C).

(C) RS-30 RESIDENTIAL SINGLE FAMILY DISTRICT.

(1) Purpose. The RS-30 District is primarily intended to accommodate single family detached dwellings on approximately three-quarter (0.75) acre lots in areas without access to public water and sewer services. The district is applicable to older, larger lot development in developed prior to the effective date of this Ordinance.

(2) General Dimensional Requirements - RS-30.

Zoning District	Minimum Zoning Lot		Minimum Setbacks					Maximum Impervious Surface Cover (%)	Maximum Height (ft)
					Side				
	Area (sf)	Width (ft)	Front (ft)	Rear (ft)	One Side (ft)	Combined (ft)	Street (ft)		
RS-30	30,000	100	35	35	7	20	20	--	40

(3) One Principal Building per Zoning Lot. Only one residential building shall be placed on a zoning lot or lot of record, except as permitted under Section 2-6.4(C).

(D) RS-20 RESIDENTIAL SINGLE FAMILY DISTRICT.

(1) Purpose. The RS-20 District is primarily intended to accommodate single family detached dwellings in suburban areas and may also be applicable to older, large lot development constructed prior to the effective date of this Ordinance. The district is established to promote orderly development in areas where public water is available.

(2) General Dimensional Requirements - RS-20.

Zoning District	Minimum Zoning Lot		Minimum Setbacks					Maximum Impervious Surface Cover (%)	Maximum Height (ft)
					Side				
	Area (sf)	Width (ft)	Front (ft)	Rear (ft)	One Side (ft)	Combined (ft)	Street (ft)		
RS-20	20,000	95	30	30	7	20	20	--	40

(3) One Principal Building per Zoning Lot. Only one residential building shall be placed on a zoning lot or lot of record, except as permitted under Section 2-6.4(C).

(E) RS-15 RESIDENTIAL SINGLE FAMILY DISTRICT.

(1) Purpose. The RS-15 District is primarily intended to accommodate low to moderate density single family detached dwellings in suburban and urban areas.

(2) General Dimensional Requirements - RS-15.

Zoning District	Minimum Zoning Lot		Minimum Setbacks					Maximum Impervious Surface Cover (%)	Maximum Height (ft)
					Side				
	Area (sf)	Width (ft)	Front (ft)	Rear (ft)	One Side (ft)	Combined (ft)	Street (ft)		
RS-15	15,000	85	25	25	7	20	20	--	40

(3) One Principal Building per Zoning Lot. Only one residential building shall be placed on a zoning lot or lot of record, except as permitted under Section 2-6.4(C).

(F) RS-12 RESIDENTIAL SINGLE FAMILY DISTRICT.

(1) Purpose. The RS-12 District is primarily intended to accommodate moderate density single family detached dwellings in suburban and urban areas.

(2) General Dimensional Requirements - RS-12.

Zoning District	Minimum Zoning Lot		Minimum Setbacks					Maximum Impervious Surface Cover (%)	Maximum Height (ft)
					Side				
	Area (sf)	Width (ft)	Front (ft)	Rear (ft)	One Side (ft)	Combined (ft)	Street (ft)		
RS-12	12,000	75	20	25	7	20	20	--	40

(3) One Principal Building per Zoning Lot. Only one residential building shall be placed on a zoning lot or lot of record, except as permitted under Section 2-6.4(C).

(G) RS-9 RESIDENTIAL SINGLE FAMILY DISTRICT.

(1) Purpose. The RS-9 District is primarily intended to accommodate relatively high density single family detached dwellings in urban areas. This district may be suitable in activity centers where public facilities, including public water and sewer, public roads, parks, and other governmental support services, are available.

(2) General Dimensional Requirements - RS-9.

Zoning District	Minimum Zoning Lot		Minimum Setbacks					Maximum Impervious Surface Cover (%)	Maximum Height (ft)
					Side				
	Area (sf)	Width (ft)	Front (ft)	Rear (ft)	One Side (ft)	Combined (ft)	Street (ft)		
RS-9	9,000	65	20	25	7	20	20	--	40

(3) One Principal Building per Zoning Lot. Only one residential building shall be placed on a zoning lot or lot of record, except as permitted under Section 2-6.4(C).

(H) RS-7 RESIDENTIAL SINGLE FAMILY DISTRICT.

(1) Purpose. The RS-7 District is primarily intended to accommodate high density single family detached dwellings in urban areas. This may be suitable for activity centers where public facilities, including public water and sewer, public roads, parks, and other governmental support services, are available.

(2) General Dimensional Requirements - RS-7.

Zoning District	Minimum Zoning Lot		Minimum Setbacks					Maximum Impervious Surface Cover (%)	Maximum Height (ft)
					Side				
	Area (sf)	Width (ft)	Front (ft)	Rear (ft)	One Side (ft)	Combined (ft)	Street (ft)		
RS-7	7,000	50	15	20	5	15	20	--	40

(3) One Principal Building per Zoning Lot. Only one residential building shall be placed on a zoning lot or lot of record, except as permitted under Section 2-6.4(C).

(I) RSQ RESIDENTIAL SINGLE FAMILY QUADRAPLEX DISTRICT.

(1) Purpose. The RSQ District is primarily intended to accommodate predominantly single family areas containing a mixture of single family detached dwellings, duplexes, triplexes, and quadraplexes in urban neighborhoods and in areas with adequate infrastructure to support more intense development.

(2) General Dimensional Requirements - RSQ.

RSQ Zoning District/ Use	Minimum Zoning Lot		Minimum Setbacks					Maximum Impervious Surface Cover (%)	Maximum Height (ft)
					Side				
	Area (sf)	Width (ft)	Front (ft)	Rear (ft)	One Side (ft)	Combined (ft)	Street (ft)		
Single Family	5,000	40	15	15	5	15	15	--	40
Duplex	7,000	50	15	15	7	15	15	--	40
Twin Homes	3,750	25	15	15	0	15	15	--	40
Triplex	9,000	60	15	15	10	20	15	--	40
Quad-raplex	11,000	60	15	15	10	20	15	--	40
Other	11,000	60	15	15	10	20	15	--	40

(3) Supplementary District Requirements

(a) **Parking in Side or Rear**. All off-street parking shall be provided to the side or rear of the principal building(s) unless the Community Development staff determines that, due to lot size, shape or topographic features, some or all parking cannot be placed to the side or rear. All parking shall be set back at least five (5) feet off the property line. The intervening five (5) feet shall be landscaped to meet the type I bufferyard standards of Section 3-5. The provisions of this section shall not apply to single-family dwellings.

(b) **Vehicular Use Landscaping Requirements**. Vehicular use landscaping requirements of Section 3-4.3 must be met for multifamily developments (triplexes or quadraplexes) where parking is provided at the front of the principal building.

(c) **Landscaped Separation From Building**. A minimum three (3) foot wide landscaped area shall be provided between any parking area and building wall providing access into the unit(s).

(d) **Bufferyard**. The bufferyard requirements for multifamily uses in Section 3-5 shall not apply.

(e) **Roof Pitch**. A roof having a pitch with a minimum vertical rise of four (4) feet for each twelve (12) feet of horizontal run is required on all buildings.

(f) **Units per lot**. Only one principal residential building may be erected or placed on a zoning lot, except that two principal buildings existing on a single zoning lot as of the effective date of the *Unified Development Ordinances* are considered legal and not nonconforming.

(g) **Conversion**. Conversion of any existing residential building to accommodate more dwelling units must obtain a special use permit from the Board of Adjustment. No exterior alteration which would detract from the single family character of the building shall be permitted. No new stairways to upper floors are permitted on any side of a building which faces a public street.

(h) **HO District**. In any neighborhood with an Historic Overlay (HO) District, the HO District regulations shall supersede any conflicting RSQ standards.

(i) **Multifamily Use Conditions**. Multifamily buildings in the RSQ District do not need to comply with the use conditions for "Residential Building, Multifamily" in Section 2-5.60.

(J) RM-5 RESIDENTIAL MULTIFAMILY DISTRICT.

(1) **Purpose**. The RM-5 District is primarily intended to accommodate low density, pedestrian-oriented sites and communities containing duplexes, twin homes, multifamily and townhouse residential buildings with three, four or five units, and similar residential uses at a maximum overall density of five (5) units per acre. This district may be suitable for activity centers where public facilities, including public water and sewer, public roads, parks, and other governmental support services, are available.

(2) **General Dimensional Requirements - RM-5**.

Zoning District/ Use	Minimum Zoning Lot		Minimum Setbacks					Maximum Height (ft)
			Front (ft)	Rear (ft)	Side			
	Area (sf)	Width (ft)			One Side (ft)	Combined (ft)	Street (ft)	
Single Family	5,000	40	15	15	5	15	20	40
Duplex	7,000	50	15	15	7	15	20	40
Twin Homes	-	25	15	15	0	15	20	40
Triplex Multifamily	9,000	60	15	15	10	20	20	40
Quadraplex Multifamily	11,000	60	15	15	10	20	20	40
3- or 4-Unit Townhouse	-	0	15	15	0	0	20	40
Other	11,000	60	15	15	10	20	20	40

(3) **Supplementary District Requirements**. Minimum lot sizes for single family, two family, and multifamily residential buildings on small lots must meet the requirements of Table 3.3 (Section 3-1.1).

(4) **One Principal Building per Zoning Lot**. Only one residential building shall be placed on a zoning lot or lot of record, except as permitted under Section 2-6.4(C).

(K) RM-8 RESIDENTIAL MULTIFAMILY DISTRICT.

(1) **Purpose**. The RM-8 District is primarily intended to accommodate duplexes, twin homes, townhouses, multifamily, and other low intensity multifamily uses at a maximum overall density of eight (8) units per acre.

(2) General Dimensional Requirements - RM-8.

Zoning District	Minimum Zoning Lot		Minimum Setbacks					Maximum Impervious Surface Cover (%)	Maximum Height (ft)
					Side				
	Area (sf)	Width (ft)	Front (ft)	Rear (ft)	One Side (ft)	Combined (ft)	Street (ft)		
RM-8	8,000	70	25	25	7	20	20	70	40

(3) Supplementary District Requirements. Minimum lot sizes for single family, two family, and multifamily residential buildings on small lots must meet the requirements of Table 3.3 (Section 3-1.1).

(L) RM-12 RESIDENTIAL MULTIFAMILY DISTRICT.

(1) Purpose. The RM-12 District is primarily intended to accommodate multifamily uses at a maximum overall density of twelve (12) units per acre.

(2) General Dimensional Requirements - RM-12.

Zoning District	Minimum Zoning Lot		Minimum Setbacks					Maximum Impervious Surface Cover (%)	Maximum Height (ft)
					Side				
	Area (sf)	Width (ft)	Front (ft)	Rear (ft)	One Side (ft)	Combined (ft)	Street (ft)		
RM-12	7,000	70	25	25	15	30	20	75	45

(3) Supplementary District Requirements. Minimum lot sizes for single family, two family, and multifamily residential buildings on small lots must meet the requirements of Table 3.3 (Section 3-1.1).

(M) RM-18 RESIDENTIAL MULTIFAMILY DISTRICT.

(1) Purpose. The RM-18 District is primarily intended to accommodate multifamily uses at a maximum overall density of eighteen (18) units per acre. This district may be suitable for Suburban Neighborhoods and activity centers where public facilities, including public water and sewer, public roads, parks, and other governmental support services, are available and the site has direct access to a minor or major thoroughfare.

(2) General Dimensional Requirements - RM-18.

Zoning District	Minimum Zoning Lot		Minimum Setbacks					Maximum Impervious Surface Cover (%)	Maximum Height (ft)
					Side				
	Area (sf)	Width (ft)	Front (ft)	Rear (ft)	One Side (ft)	Combined (ft)	Street (ft)		
RM-18	5,000	70	25	25	15	30	20	80	60

(3) Supplementary District Requirements. Minimum lot sizes for single family, two family, and multifamily residential buildings on small lots must meet the requirements of Table 3.3 (Section 3-1.1).

(N) RM-U RESIDENTIAL MULTIFAMILY DISTRICT.

(1) Purpose. The RM-U District is primarily intended to accommodate multifamily uses at unrestricted densities. This district may be suitable for activity centers where public facilities, including public water and sewer, public roads, parks, and other governmental services, are available and the site has direct access to a minor or major thoroughfare.

(2) General Dimensional Requirements - RM-U.

Zoning District	Minimum Zoning Lot		Minimum Setbacks					Maximum Impervious Surface Cover (%)	Maximum Height (ft)
					Side				
	Area (sf)	Width (ft)	Front (ft)	Rear (ft)	One Side (ft)	Combined (ft)	Street (ft)		
RM-U	5,000	70	10	10	10	10	10	85	--

(3) Supplementary District Requirements. Minimum lot sizes for single family, two family, and multifamily residential buildings on small lots must meet the requirements of Table 3.3 (Section 3-1.1).

(O) MH MANUFACTURED HOUSING DEVELOPMENT DISTRICT.

(1) Purpose. The MH District is primarily intended to accommodate manufactured housing developments with a maximum overall density of five (5) units per acre. This district is intended for application in Suburban Neighborhoods where public facilities, including public water and sewer, public roads, parks, and other governmental support services, are available.

(2) General Dimensional Requirements - MH. The general dimensional requirements for a single home on an individual lot in the MH District are given below. The dimensional requirements for manufactured housing developments are contained in the use conditions for manufactured housing developments (Section 2-5.45).

Zoning District	Minimum Zoning Lot		Minimum Setbacks					Maximum Impervious Surface Cover (%)	Maximum Height (ft)
					Side				
	Area (sf)	Width (ft)	Front (ft)	Rear (ft)	One Side (ft)	Combined (ft)	Street (ft)		
MH	10,000	70	30	20	10	25	20	--	40

2-1.3 COMMERCIAL ZONING DISTRICTS - PURPOSE STATEMENTS AND REGULATIONS

The following commercial districts are established:

Table 2.2
Commercial Zoning Districts

Symbol	District Name
NO NO-C	Neighborhood Office Neighborhood Office - Conditional
LO LO-C	Limited Office Limited Office - Conditional
CPO CPO-C	Corporate Park Office Corporate Park Office - Conditional
GO GO-C	General Office General Office - Conditional
NB NB-C	Neighborhood Business Neighborhood Business - Conditional
PB PB-C	Pedestrian Business Pedestrian Business - Conditional
LB LB-C	Limited Business Limited Business - Conditional
NSB NSB-C	Neighborhood Shopping Center Business Neighborhood Shopping Center Business - Conditional
HB HB-C	Highway Business Highway Business - Conditional
GB GB-C	General Business General Business - Conditional
CB CB-C	Central Business Central Business – Conditional
MBP	Medical Business Park

The purposes of establishing these commercial districts are to provide areas which accommodate the establishment and operation of business and office uses and to assist the community in meeting the growth management goals of the *Kernersville Development Plan*. When a commercial rezoning proposal is considered, the commercial, office, and industrial land use goals and recommendations contained in the *Kernersville Land Use Plan*, shall be used as guides, in conjunction with other factors, in determining the appropriateness of the proposed district.

(A) NO NEIGHBORHOOD OFFICE DISTRICT.

(1) Purpose. The NO District is primarily intended to accommodate very low intensity office uses within converted single family detached units. The district is intended to be located on the periphery of established residential areas, along major and minor thoroughfares. The district is established to provide convenient locations for offices, the size and operating characteristics of which require limited parking and which generate little traffic. Standards are designed so that this district may serve as a transitional land use between residential districts and commercial districts.

(2) General Dimensional Requirements - NO.

Zoning District	Minimum Zoning Lot		Minimum Contiguous Site Area (ac)	Minimum Setbacks				Maximum Impervious Surface Cover (%)	Maximum Height (ft)
	Area (sf)	Width (ft)		Front (ft)	Rear (ft)	Side			
						Interior Side (ft)	Street (ft)		
NO	6,000	65	--	20	25	7	20	60	40

(3) **Supplementary District Requirements**. Minimum lot sizes for single family residences, duplexes, twin homes and multifamily developments must meet the requirements of Table 3.4. Other supplemental district requirements are:

(a) **Structures Size**. New structures in the NO District shall not exceed four thousand (4,000) square feet in gross floor area.

(b) **Parking Requirements**.

(i) **Reductions**. Off-street parking requirements contained in Section 3-3 are reduced fifteen percent (15%).

(ii) **Location**. All off-street parking shall be provided to the rear or to the side of the principal structure with the exception of two (2) parking spaces which may be located in front of the structure. The side parking area may be no closer to the street than the principal structure.

(c) **Landscaping, Bufferyard, and Streetyard Standards**. The following landscaping and bufferyard standards apply in the NO District.

(i) **Front Yard**. Ten (10) feet of the front yard in the NO District shall be landscaped with plant materials to provide a grassed lawn or other maintained landscaping.

(ii) **Rear Parking**. Parking area shall be buffered by a type I bufferyard, as defined in Section 3-5, adjacent to residentially zoned property.

(iii) **Side Parking**. Type I plantings will be provided in the required streetyard. A type II bufferyard, as defined in Section 3-5, shall be provided if side parking abuts a residentially zoned property.

(d) **Signage**. Only one sign per structure will be permitted in NO Districts. This sign may be a ground sign, projecting sign, roof sign, or wall sign. This sign will be limited to eight (8) square feet as defined in Section 3-2.

(e) **Trash Facilities**. Dumpsters shall be enclosed on three (3) sides with walls at least eight (8) feet high and constructed of the same material as the principal building on the zoning lot; the fourth side of the enclosure shall be a permanent gate of wood or other opaque material.

(f) **Exterior Lighting.** Exterior lighting on the property shall not be installed at a height of more than eight (8) feet above the finished grade and shall be so shielded as to cast no direct light upon adjacent property.

(g) **Multifamily Residential Development**. Multifamily residential development is permitted at a maximum density of four (4) units per acre. Multifamily residential buildings may

contain no more than four (4) units per structure.

(B) LO LIMITED OFFICE DISTRICT.

(1) Purpose. The LO District is primarily intended to accommodate moderately intense medical, professional, administrative, and government office uses on small to mid-sized sites, in a suburban setting. The district is typically located near the intersection of a collector street or thoroughfare in areas which are otherwise developed with residences. Standards are designed so this district may serve as a transition between residential districts and commercial districts.

(2) General Dimensional Requirements - LO.

Zoning District	Minimum Zoning Lot		Minimum Contiguous Site Area (ac)	Minimum Setbacks[1]				Maximum Impervious Surface Cover (%)	Maximum Height (ft)
				Front (ft)	Rear (ft)	Side			
	Area (sf)	Width (ft)				Interior Side (ft)	Street (ft)		
LO	10,000	100	--	20	20	5	20	75	40

1. Whenever a lot in a nonresidential district other than the NB or NO Districts shares a common boundary line with a lot in a residential district (except RM-U), YR, AG, or H District with no intervening street or highway, the lot in the nonresidential district shall have a required setback along the shared boundary line of not less than forty (40) feet or shall have the required setback for the nonresidential district, whichever is greater, unless the development conforms to the Land Use Plan and is a Conditional Zoning District, then a minimum setback of the Bufferyard (3-5 Bufferyard Standards) shall be considered for a setback.

(3) Supplementary District Requirements.

(a) Structures in the LO District shall not exceed thirty thousand (30,000) square feet in gross floor area.

(b) Minimum lot sizes for multifamily developments must meet the requirements of Table 3.4.

(4) Multifamily Residential Development. Multifamily residential development is permitted at a maximum density of twelve (12) units per acre.

(C) CPO CORPORATE PARK OFFICE DISTRICT

(1) Purpose. The CPO District is primarily intended to accommodate office and research and development uses in a planned, campus-like setting compatible with adjacent residential uses. Auxiliary assembly and warehousing activities may be permitted as part of a total project. The district may contain limited commercial uses within employment centers. The district is intended for large sites with direct access to thoroughfares which provide locations for major development in activity centers.

(2) General Dimensional Requirements - CPO.

Zoning District	Minimum Zoning Lot		Minimum Contiguous Site Area (ac)	Minimum Setbacks[3]				Maximum Impervious Surface Cover (%)	Maximum Height (ft)[2]
				Front (ft)	Rear (ft)	Side			
	Area (sf)	Width (ft)				Interior Side (ft)	Street (ft)		
CPO	--[1]	250[1]	10	60	40	40	40	80	60/ unlimited

1. For outparcels with internal access to the property provided, the minimum lot size is twenty thousand (20,000) square feet; the required minimum lot width is reduced to one hundred (100) feet; and the interior rear and side yard requirements are deleted, except that any side yard provided adjacent to an interior lot line shall not be less than twelve (12) feet. Negative access along external roads must be provided and on record.
2. Height of structure above sixty (60) feet may be increased by one foot for each foot of additional setback beyond minimum required, if adjacent to property zoned RS, RM (except RM-U), YR, AG, or H.
3. Whenever a lot in a nonresidential district other than the NB or NO Districts shares a common boundary line with a lot in a residential district (except RM-U), YR, AG, or H District with no intervening street or highway, the lot in the nonresidential district shall have a required setback along the shared boundary line of not less than forty (40) feet or shall have the required setback for the nonresidential district, whichever is greater, unless the development conforms to the Land Use Plan and is a Conditional Zoning District, then a minimum setback of the Bufferyard (3-5 Bufferyard Standards) shall be considered for a setback.

(3) Supplementary District Requirements.

(a) Limited Industrial Uses Allowed. Industrial uses permitted in the LI District which are specifically related to the principal use are permitted to a maximum of thirty percent (30%) of the square footage within each building or of the total building square footage of the zoning lot.

(b) Limited Commercial Uses Allowed. Commercial uses permitted in the LO and LB Districts are limited to a maximum of thirty percent (30%) of the square footage within each building or of the total building square footage of the zoning lot. Noncommercial uses must be developed prior to or concurrent with commercial uses.

(c) Vehicular Access. Vehicular access onto a major or minor thoroughfare or onto a road improved to necessary standards as determined by the Community Development Director or the North Carolina Department of Transportation.

(D) GO GENERAL OFFICE DISTRICT.

(1) Purpose. The GO District is primarily intended to accommodate high intensity office uses and supporting services. The district is established to provide locations for employment within activity centers and Suburban Neighborhoods with access to thoroughfares.

(2) General Dimensional Requirements - GO.

Zoning District	Minimum Zoning Lot		Minimum Contiguous Site Area (ac)	Minimum Setbacks[3]				Maximum Impervious Surface Cover (%)	Maximum Height (ft)[2]
						Side			
	Area (sf)	Width (ft)		Front (ft)	Rear (ft)	Interior Side (ft)	Street (ft)		
GO	10,000	75	--	20	--	--	20	80[1]	60/ unlimited

1. The eighty percent (80%) limit applies only to Suburban Neighborhoods.
2. There is no height limit unless adjacent to property zoned RS, RM (except RM-U), YR, AG, or H. Height of structure above sixty (60) feet may be increased one foot for each foot of additional setback beyond the forty (40) foot minimum required if adjacent to property zoned RS, RM (except RM-U), YR, AG, or H.
3. Whenever a lot in a nonresidential district other than the NB or NO Districts shares a common boundary line with a lot in a residential district (except RM-U), YR, AG, or H District with no intervening street or highway, the lot in the nonresidential district shall have a required setback along the shared boundary line of not less than forty (40) feet or shall have the required setback for the nonresidential district, whichever is greater, unless the development conforms to the Land Use Plan and is a Conditional Zoning District, then a minimum setback of the Bufferyard (3-5 Bufferyard Standards) shall be considered for a setback.

(E) NB NEIGHBORHOOD BUSINESS DISTRICT.

(1) Purpose. The NB District is primarily intended to accommodate very low intensity office, retail, and personal service uses close to or within residential areas. The district is established to provide convenient locations for businesses which serve the everyday household needs of nearby residents without disrupting the character of the neighborhood. The district is not intended to accommodate retail uses which attract customers from outside the neighborhood or which primarily cater to motorists.

(2) General Dimensional Requirements - NB.

Zoning District	Minimum Zoning Lot		Minimum Contiguous Site Area (ac)	Minimum Setbacks				Maximum Impervious Surface Cover (%)	Maximum Height (ft)
						Side			
	Area (sf)	Width (ft)		Front (ft)	Rear (ft)	Interior Side (ft)	Street (ft)		
NB	6,000	65	-	10	25	7	20	60	40

(3) Supplementary District Requirements. Minimum lot sizes for single family residences must meet the requirements of Table 3.4 Other Dimensional Requirements (Section 3-1.1). Other supplemental district requirements are:

(a) Size and Location. Individual NB Districts shall conform to the following requirements:

(i) Size. The district shall comprise not more than one acre of contiguous site area.

(ii) Proximity to other NB District. A NB District shall not be established within one-half mile of another NB District, measured in a straight line from the closest points on the boundary lines of the two (2) districts.

(b) **Floor Area Limitation**. The following uses are limited to a maximum gross floor area of two thousand five hundred (2,500) square feet:

(i) Banking/Financial Services;
(ii) Convenience Store;
(iii) Drug Store;
(iv) Food Store;
(v) Government Office;
(vi) Medical and Surgical Office;
(vii) Neighborhood Organization Office; and,
(viii) Professional Offices.

(c) **Prohibited Uses**. The following uses are not permitted:

(i) Motor Vehicle Repair and Maintenance;
(ii) Convenience Store with Gasoline Sales;
(iii) Retail Store Specializing in Automobile Supply;
(iv) Hardware Store; and,
(v) Veterinary Service.

(d) **Prohibited Activities**.

(i) No drive-through or in-car service shall be permitted.
(ii) No gasoline sales shall be permitted in an NB District.

(e) **Motor Vehicle Storage Yard.** A motor vehicle storage yard with a maximum enclosed storage area of three thousand (3,000) square feet shall be permitted as an accessory use to a motor vehicle repair and maintenance facility, where permitted in accordance with Section 2-1.3(E)(3)(c) above. Such yard shall meet all use conditions applicable to motor vehicle storage yards (Section 2-5.51).

(f) **Automatic Teller Machines**. Automatic teller machines shall be permitted as an accessory use if not constructed as a drive-through facility.

(g) **Parking Requirements**.

(i) **Location**. All off-street parking shall be provided to the rear or to the side of the principal structure with the exception of two (2) parking spaces which may be located in front of the structure. The side parking area may be no closer to the street than the principal structure.

(h) **Landscaping, Bufferyard and Streetyard Standards**. The following landscaping and bufferyard standards apply in the NB District.

(i) **Front Yard**. Ten (10) feet of the front yard in the NB District shall be landscaped with plant materials.

(ii) **Rear Parking**. Parking area shall be buffered by a type I bufferyard, as defined in Section 3-5, adjacent to residentially zoned property.

(iii) **Side Parking**. Type I plantings will be provided in the required streetyard. A type II bufferyard, as defined in Section 3-5, shall be provided if side parking abuts residentially zoned property.

(i) **Signage**. Only one sign per structure will be permitted in NB Districts. This sign may be

a ground sign, projecting sign, roof sign, or wall sign. This sign will be limited to four (4) square feet as defined in Section 3-2.

(j) **Trash Facilities**. Dumpsters shall be enclosed on three (3) sides with walls at least eight (8) feet high and constructed of a material similar to the principal building on the zoning lot; the fourth side of the enclosure may be a permanent gate of wood or other opaque material.

(k) **Exterior Lighting**. Exterior lighting on the property shall not be installed at a height of more than twenty-five (25) feet above the finished grade and shall be so shielded as to cast no direct light upon adjacent property.

(F) PB PEDESTRIAN BUSINESS DISTRICT

(1) **Purpose**. The PB District is primarily intended to accommodate office, retail, service, institutional, and high density residential uses which customarily serve community and convenience business needs of smaller communities and urban nodes in the city and county. The district is intended to encourage the development of attractive, identifiable small towns, and to accommodate the pattern of building in the business concentrations surrounding the central core of Kernersville.

(2) **General Dimensional Requirements - PB**.

Zoning District	Minimum Zoning Lot		Minimum Contiguous Site Area (ac)	Minimum Setbacks[2]				Maximum Impervious Surface Cover (%)	Maximum Height (ft)
				Front (ft)	Rear (ft)	Side			
	Area (sf)	Width (ft)				Interior Side[1] (ft)	Street (ft)		
PB	-	-	-	-	-	-	-	-	60

1. Side yards are not required, however any side yard provided adjacent to an interior lot line shall be not less than twelve (12) feet in width. A space less than six (6) inches in width between an interior lot line and a building wall shall not be regarded as a side yard.
2. Whenever a lot in a nonresidential district other than the NB or NO Districts shares a common boundary line with a lot in a residential district (except RM-U), YR, AG, or H District with no intervening street or highway, the lot in the nonresidential district shall have a required setback along the shared boundary line of not less than forty (40) feet or shall have the required setback for the nonresidential district, whichever is greater, unless the development conforms to the Land Use Plan and is a Conditional Zoning District, then a minimum setback of the Bufferyard (3-5 Bufferyard Standards) shall be considered for a setback.

(3) **Supplementary District Standards**.

(a) **Parking**. Parking shall be located to the rear or side of the principal building, except that the Planning Board may allow up to two spaces in the front of the building if all spaces can't be provided in the rear or side, due to lot size, shape, or topographic features. Any parking in the front of the building shall be subject to the streetyard provisions of Section 3-4.3(B).

(i) **Rear Parking**. Parking area shall be buffered by a type I bufferyard, as defined in Section 3-5, adjacent to residentially zoned property.

(ii) **Side Parking**. The streetyard requirements of Section 3-4.3(B) shall be met. A type II bufferyard, as defined in Section 3-5, shall be provided if side parking abuts residentially zoned property.

(iii) **Number of Spaces**. Off-street parking for any use in the PB District may be reduced thirty percent (30%) from the requirements of Table 3.8.

(b) **Screening Mechanical Equipment**. All on-site mechanical equipment shall be screened.

(G) LB LIMITED BUSINESS DISTRICT.

(1) **Purpose**. The LB District is primarily intended to accommodate moderately intense neighborhood shopping and service centers close to residential areas. The district is established to provide locations for businesses which serve nearby neighborhoods, including smaller business locations up to ten (10) acres in size in rural areas. The district is typically located near the intersection of a collector street or thoroughfare in areas which are otherwise developed with residences. Standards are designed so that this district, in some instances, may serve as a transition between residential districts and other commercial districts.

(2) **General Dimensional Requirements - LB**.

Zoning District	Minimum Zoning Lot		Minimum Contiguous Site Area (ac)	Minimum Setbacks[2]				Maximum Impervious Surface Cover (%)	Maximum Height (ft)
	Area (sf)	Width (ft)		Front (ft)	Rear (ft)	Side			
						Interior Side (ft)	Street (ft)		
LB	10,000	100	--	20	5	0.5/12[1]	20	75	40

1. Side yards are not required, however any side yard provided adjacent to an interior lot line shall be not less than twelve (12) feet in width. A space less than six (6) inches in width between an interior lot line and a building wall shall not be regarded as a side yard.
2. Whenever a lot in a nonresidential district other than the NB or NO Districts shares a common boundary line with a lot in a residential district (except RM-U), YR, AG, or H District with no intervening street or highway, the lot in the nonresidential district shall have a required setback along the shared boundary line of not less than forty (40) feet or shall have the required setback for the nonresidential district, whichever is greater, unless the development conforms to the Land Use Plan and is a Conditional Zoning District, then a minimum setback of the Bufferyard (3-5 Bufferyard Standards) shall be considered for a setback.

(3) **Supplementary District Requirements.**

(a) **Lot Area Limitations**. The following uses are limited to a maximum zoning lot size of one acre:

(i) Outdoor Display Retail;
(ii) Motor Vehicle Repair and Maintenance.

(b) **Motor Vehicle Storage Yard**. A motor vehicle storage yard with a maximum enclosed storage area of three thousand (3,000) square feet shall be permitted as an accessory use to a motor vehicle repair service. Such yard shall meet all use conditions applicable to motor vehicle storage yards (Section 2-5.51).

(c) **Signage**. Only one sign per structure will be permitted in LB Districts. The sign will be limited to thirty-six (36) square feet as defined in Section 3-2.

(d) **Trash Facilities**. Dumpsters shall be screened on three (3) sides with walls of a material similar to the principal building or with vegetation.

(H) NSB NEIGHBORHOOD SHOPPING CENTER BUSINESS DISTRICT.

(1) Purpose. The NSB District is intended to provide for the development of integrated, self-contained shopping and service centers designed to meet the daily retail and service needs of residents in the surrounding area. The district is designed to be compatible with adjacent residential areas by limiting uses and access drives, and by providing substantial setbacks and landscape buffers. The district is intended for application on sites with good road access and activity centers. Development should be considered only where there is a demonstrated need for retail and service uses. The establishment of a neighborhood shopping center district does not establish justification for future commercial zoning in the area.

(2) General Dimensional Requirements - NSB.

Zoning District	Minimum Zoning Lot		Minimum Contiguous Site Area (ac)	Minimum Setbacks[2]				Maximum Impervious Surface Cover (%)	Maximum Height (ft)
				Front (ft)	Rear (ft)	Side			
	Area (sf)	Width (ft)				Interior Side (ft)	Street (ft)		
NSB	--[1]	250[1]	4	40	40	40	20	75	40

1. For outparcels with internal access to the property provided, the minimum lot size is twenty thousand (20,000) square feet; the required minimum lot width is reduced to one hundred (100) feet; and the interior rear and side yard requirements are deleted, except that any side yard provided adjacent to an interior lot line shall not be less than twelve (12) feet.
2. Whenever a lot in a nonresidential district other than the NB or NO Districts shares a common boundary line with a lot in a residential district (except RM-U), YR, AG, or H District with no intervening street or highway, the lot in the nonresidential district shall have a required setback along the shared boundary line of not less than forty (40) feet or shall have the required setback for the nonresidential district, whichever is greater, unless the development conforms to the Land Use Plan and is a Conditional Zoning District, then a minimum setback of the Bufferyard (3-5 Bufferyard Standards) shall be considered for a setback.

(3) Supplementary District Requirements.

(a) Site Plan. A site plan must be submitted for any development within the district in conformance with the site plan requirements of Article VII.

(b) Site Size. The minimum site size shall be four (4) acres, and the maximum site size shall be fifteen (15) acres.

(c) Building Square Footage. Total building square footage shall be at least thirty-five thousand (35,000) square feet and not more than one hundred thousand (100,000) square feet.

(d) Access.

(i) Site Access. The site shall have direct access to a major or minor thoroughfare.

(ii) Internal Access. All uses shall access only internally to the site.

(iii) Access Driveways. The location and number of driveways shall be limited to assure safe access and circulation and to promote compatibility with surrounding residential areas. In reviewing site plans, the following conditions may be required by the North Carolina Department of Transportation.

[A] **Turn Lanes and Signals**. Ingress turn lanes and traffic signals provided at all access driveways.

[B] **Pedestrian Access**. Safe pedestrian access from adjacent residential areas.

[C] **Width of Driveways**. Access driveways meeting Town or State standards.

[D] **Driveway Alignment**. Access driveways shall be aligned with other existing and planned intersections and/or streets, including, but not limited to, streets identified in the *Transportation Plan.*

[E] **Minimum Number of Driveways**. A minimum of two (2) access driveways shall be provided unless approved by the Town or the State.

[F] **Maximum Number of Driveways**. No more than two (2) access driveways per road frontage shall be permitted, unless approved by the Town or the State. The Town or the State may approve up to a total of three (3) access driveways per road frontage.

[G] **Parking Aisles**. Parking spaces shall not be located along the first forty (40) feet of the access driveway aisles.

[H] **Pedestrian Access**. Safe pedestrian access shall be provided internally.

(iv) **Bus Shelters**. Sites on current or planned Winston-Salem Transit Authority bus routes shall provide at least one bus shelter, as determined by the Winston-Salem Transit Authority.

(e) **Right-of-Way Dedication**. Land shall be dedicated for public right-of-way to meet projected needs for roads shown on the *Transportation Plan*, or for other roads as determined by the City, Town, or North Carolina Department of Transportation.

(f) **Alternative Parking Allowance**. Up to ten percent (10%) of the required parking spaces may be unmarked and used for open space purposes during off peak hours, according to the provisions of Section 3-3.5(L).

(g) **Loading Areas/Docks**. Loading areas and docks are considered part of the principal structure and shall meet building setback requirements.

(h) **Storm Water Management**. The developer shall demonstrate adequate provision for control of storm water runoff.

(i) **Signs**. Signs shall meet the requirements of Section 3-2.

(j) **Motor Vehicle Storage Yard**. A motor vehicle storage yard with a maximum enclosed storage area of three thousand (3,000) square feet shall be permitted as an accessory use to a motor vehicle repair service. Such yard shall meet all use conditions applicable to motor vehicle storage yards (Section 2-5.51).

(k) **Other Department Requirements**. All site plan requirements of departments reviewing the project shall be met.

(I) HB HIGHWAY BUSINESS DISTRICT.

(1) **Purpose**. The HB District is primarily intended to accommodate retail service and distributive uses. The district is established to provide locations for establishments which require high visibility and good road access, or which cater primarily to passing motorists. However, the district is not intended to encourage or accommodate strip commercial development. Developments in this district generally have substantial front setbacks.

(2) **General Dimensional Requirements - HB**.

Zoning District	Minimum Zoning Lot		Minimum Contiguous Site Area (ac)	Minimum Setbacks[2]				Maximum Impervious Surface Cover (%)	Maximum Height (ft)
				Front (ft)	Rear (ft)	Side			
	Area (sf)	Width (ft)				Interior Side (ft)	Street (ft)		
HB	20,000	100	--	40	20	0.5/12[1]	20	85	60

1. Side yards are not required, however any side yard provided adjacent to an interior lot line shall be not less than twelve (12) feet in width. A space less than six (6) inches in width between an interior lot line and a building wall shall not be regarded as a side yard.
2. Whenever a lot in a nonresidential district other than the NB or NO Districts shares a common boundary line with a lot in a residential district (except RM-U), YR, AG, or H District with no intervening street or highway, the lot in the nonresidential district shall have a required setback along the shared boundary line of not less than forty (40) feet or shall have the required setback for the nonresidential district, whichever is greater, unless the development conforms to the Land Use Plan and is a Conditional Zoning District, then a minimum setback of the Bufferyard (3-5 Bufferyard Standards) shall be considered for a setback.

(J) **GB GENERAL BUSINESS DISTRICT**.

(1) **Purpose**. The GB District is primarily intended to accommodate a wide range of retail, service, and office uses located along thoroughfares in areas which have developed with minimal front setbacks. However, the district is not intended to encourage or accommodate strip commercial development. The district would accommodate destination retail and service uses, characterized by either a larger single business use or the consolidation of numerous uses in a building or planned development, with consolidated access. This district is intended for application in activity centers.

(2) General Dimensional Requirements - GB.

Zoning District	Minimum Zoning Lot		Minimum Contiguous Site Area (ac)	Minimum Setbacks[2]				Maximum Impervious Surface Cover (%)	Maximum Height (ft)[1]
				Front (ft)	Rear (ft)	Side			
	Area (sf)	Width (ft)				Interior Side (ft)	Street (ft)		
GB	10,000	75	--	20	--	--	20	--	60/ unlimited

1. There is no height limit unless adjacent to property zoned RS, RM (except RM-U), YR, AG, or H. Height of structure above sixty (60) feet may be increased by one foot for each foot of additional setback beyond the forty (40) foot minimum required, if adjacent to property zoned RS, RM (except RM-U), YR, AG, or H.
2. Whenever a lot in a nonresidential district other than the NB or NO Districts shares a common boundary line with a lot in a residential district (except RM-U), YR, AG, or H District with no intervening street or highway, the lot in the nonresidential district shall have a required setback along the shared boundary line of not less than forty (40) feet or shall have the required setback for the nonresidential district, whichever is greater, unless the development conforms to the Land Use Plan and is a Conditional Zoning District, then a minimum setback of the Bufferyard (3-5 Bufferyard Standards) shall be considered for a setback.

(3) Supplementary District Requirements. Minimum lot sizes for multifamily developments must meet the requirements of Table 3.4.

(K) CB Central Business District.

(1) Purpose. The CB District is intended for application in City/Town Centers, and the Town of Kernersville. The district is established to encourage high intensity, compact urban development. The district is intended to accommodate a wide range of uses, including office, retail, service, and institutional developments in a pedestrian-oriented setting. The district also accommodates high density residential development. These uses may be mixed on the same tract or within the same structure.

(2) General Dimensional Requirements. There are no general dimensional requirements for the CB District with the exception that whenever a lot in a nonresidential district other than the NB or NO Districts shares a common boundary line with a lot in a residential district (except RM-U), YR, AG, or H District with no intervening street or highway, the lot in the nonresidential district shall have a required setback along the shared boundary line of not less than forty (40) feet or shall have the required setback for the nonresidential district, whichever is greater.

(3) Streetyard. Please refer to Section 3-4.3(B)(5) for streetyard requirements applicable in the CB District.

(4) Setbacks from Residential Districts. Whenever a lot in a nonresidential district other than the NB or NO Districts shares a common boundary line with a lot in a residential district (except RM-U), YR, AG, or H District with no intervening street or highway, the lot in the nonresidential district shall have a required setback along the shared boundary line of not less than forty (40) feet or shall have the required setback for the nonresidential district, whichever is greater unless the development conforms to the Land Use Plan and is a Conditional Zoning District then a minimum setback of the Bufferyard (3-5 Bufferyard Standards) shall be considered for a setback.

(L) MBP Medical Business Park District

(1) Purpose. The MBP District is a specialized zoning district to accommodate a hospital, offices and limited amount of commercial retail uses that compliment a hospital. Due to the need to prevent traffic congestion to the hospital the zoning district is not intended to be expanded to allow for additional commercial retail uses beyond the forty (40) percent standard.

(2) General Dimensional Requirements - MBP. The zoning district has the minimum standards listed below in (L)(2)[A] "Standard Site Plan Design" or an alternative standard in (L)(10)[A] "New Urbanism Village Site Plan Design".

[A] Standard Site Plan Design

Zoning District	Minimum Zoning Lot		Minimum Contiguous Site Area (acres)	Minimum Setbacks[1,2]				Maximum Impervious Surface Cover (%)	Maximum Height (feet)[4]
				Front (feet)	Rear (feet)	Side			
	Square Footage	Street Frontage (feet)				Side (feet)	Street (feet)		
MBP	43,560	150	150	50[5]	0.5/12[3]	0.5/12[3]	30[4]	--	unlimited

1. No side or rear setback shall be required if property abuts a railroad right-of-way.
2. Whenever a lot in a nonresidential district other than the NB or NO Districts shares a common boundary line with a lot in a residential district (except RM-U), YR, AG, or H District or similar zoning district within an adjacent jurisdiction, with no intervening street or highway, the lot in the nonresidential district shall have a required setback along the shared boundary line of not less than fifty (50) feet or shall have the required setback for the nonresidential district, whichever is greater, unless the development conforms to the *Land Use Plan* and then a minimum setback of the Bufferyard (3-5 Bufferyard Standards) shall be considered for a setback.
3. Side and rear yards are not required, however any side yard provided adjacent to an interior lot line shall be not less than twelve (12) feet in width. A space less than six (6) inches in width between an interior lot line and a building wall shall not be regarded as a side yard.
4. Setback along Interstate and the within the perimeter bufferyard shall fifty (50) feet.
5. Front setbacks along non-thoroughfare roads shall be thirty five (35) feet.

Base, Middle and Top



(3) Limitations for Retail and Residential Uses in the MBP. Retail Uses are limited to forty percent (40%) of the Zoning District acreage and having a maximum single tenant area of 75,000 square feet. The forty percent (40%) retail uses shall apply separately to each area that is rezoned. On multi-tenant buildings, the square footage shall be pro-rated against the acres. Mixed residential and commercial uses are permitted provided any residential use is located above the first floor; residential unit minimum size shall be five hundred (500) square feet; and each residential dwelling unit is provided with its own bathroom and kitchen facilities.

(4) Building Standards: The facades of any building within the development using the standard site plan design standards shall comply with the following standards.

[A] Architecture The construction of any building shall be restricted by use of the following minimum architectural standards:

Entrance



Entrance



1) Façade Composition of Base, Middle, and Top

- Shall have a horizontal separation of the base.
- On a two or more story building the base shall be distinct from facades above.
- Base shall be in proportion to overall building.
- Entrances shall be clearly identifiable.

Middle Expression



- Front wall shall have at a minimum thirty percent (30%) of the vertical façade as window and door features and thirty (30) linear feet of a wall shall be the maximum length without such a feature.
- All walls facing the primary street shall incorporate at a minimum, three architectural accent elements of doors, windows, columns, color changes, texture change, recesses, and/or material changes. Fifty (50) linear feet of a wall shall be the maximum length without an architectural accent element.

2) Middle-*Expression*

- The middle sections shall be in proportion to overall building.
- Building elements shall have a rhythmic recurrence.
- Surface variation shall be provided with fenestration and material changes.
- Windows and trim shall be incorporated that provide a consistent proportional harmony within the facades composition and details.

Unique Top



Unique Top



3) Top-*Unique Formal Identity*

- Rooflines and/or cornice shall form a distinctive upper band.
- All mechanical equipment shall be screened using a parapet wall or screened using material visually consistent with the building design aesthetics.

(5) <u>Building Materials & Colors</u>

[A] Building Materials. The construction of any new building shall be restricted by use of the following:

Architectural Cast Stone



1) <u>Building Facade</u> The primary facade material shall consist of brick and/or architectural precast or architectural cast stone, but may contain facade accent elements of drainable stucco, textured tinted concrete block, tile, native stone, columns, pre-cast trim, and/or canvas canopies. The primary facade material used in construction shall compose at a minimum seventy five percent (75%) of the non-glass wall surface. Quik Brik™ or similar product may be used as a substitute to brick. Architectural metal panels and columns, such as aluminum compost panels, copper, zinc or stainless steel, making up less than 25% of the façade, used to enhance the entrance(s), middle expression, or create a unique formal identity shall be allowed.

2) <u>Colors.</u> All facade colors shall be of low reflectance, subtle, neutral, or earth tone colors. The use of high intensity colors, metallic colors, black or fluorescent colors, excluding white, are prohibited. Building trim and accent areas may feature brighter colors and black, including primary colors; however, neon tubing shall not be an acceptable feature for building trim or accent elements.

Architectural Precast



3) <u>Expansion Walls</u>. If, at the time of building permit submittal, an expansion plan is submitted illustrating the need for temporary expansion walls, the wall may be vinyl siding, metal façade covering, or other synthetic veneer materials. Expansion walls are allowed only on two sides and shall not be the front wall facing the primary street.

(6) Site Plan Standards

[A] Layout

Entrance



1) Entrances.

a. Entrance area shall be clearly identified, easily accessible and visible from the street or parking area.

b. Entrance design shall incorporate pedestrian scale elements along with landscape features.

2) Outdoor Spaces.

a. Useable and functional plaza(s) or courtyard(s) with benches, and/or seating areas shall be provided.

b. Outdoor spaces and site amenities shall be included in the design. Outdoor spaces and site amenities are intended to enhance the vehicular and pedestrian entryways to the site and the buildings on the site and shall have direct access to public pedestrian walkways. An "outdoor space" or "site amenity" shall include, but is not limited to, the following:

i. A landscaped median for the driveway(s) leading into the site and landscaped pedestrian areas;

ii. Kiosk area, water feature, or clock tower; or other such deliberately shaped area and/ or focal feature or amenity that adequately enhances the outdoor space.

Outdoor Space



3) Circulation.

a. Vehicles

i. Traffic calming techniques shall be incorporated in pedestrian areas.

ii. Unless prevented by topographical features, internal connections between existing or potential parking lots on adjacent properties shall be provided.

Circulation



b. Sidewalks.

i. Along private entrances sidewalk shall be constructed at a minimum five feet (5') in width behind a five-feet (5') grassy strip.

ii. Sidewalks shall be provided along any side of any building where parking or a driveway is provided. Any such required sidewalk shall be parallel to the building, but located at least five feet (5') from the building in order to provide an area for planting beds for foundation and entranceway landscaping, unless it is a covered walkway or a sidewalk with a minimum width of eight feet (8') along the façade with an entrance or window display area.

iii. Sidewalks shall link to sites within development and connect to adjacent developments.

iv. All pedestrian walkways and crosswalks shall be distinguished from driving surfaces through the use of some alternative material differing from that used within the parking lot such as pavers, bricks, or scored pavement.

v. Sidewalks along all streets with curb and gutter shall be required upon development of any property within the MBP. Sidewalks shall be constructed a minimum five feet (5') in

width behind a five foot (5') grassy strip parallel to any thoroughfare and behind a three foot (3') grassy strip parallel to any other streets, unless said sidewalk is located within New Urbanism Site Design project then the sidewalks shall meet the New Urbanism Site Design Standards.

4) Bicycle Facilities.

a. Bicycle parking shall be provided on site.

5) Drive-Through.

a. Drive-through and pick-up windows may be placed only to the side and/or rear of a main building.

b. Canopy materials and design shall be the same as the primary building.

[B] Bufferyards, Streetscape & Parking Lotscape

1) Streetyard.

a. Minimum Width

Entrance Area Planting



i. A minimum streetyard of twenty feet (20') for lots with a depth of two hundred feet (200') or less. Lots greater than two hundred feet (200') in depth shall provide one foot (1') of additional streetyard per ten feet (10') of depth over two hundred feet (200') with a maximum streetyard requirement of fifty feet (50'), or

ii. A minimum streetyard of twenty-two feet (22') coupled with a three-foot (3') berm including a two-foot (2') wide crown on the berm, or

iii. Streetyards along Interstates shall have a minimum width of fifty feet (50').

b. Material.

i. Unless otherwise set forth within this ordinance or when overhead utility lines restrict tree height, large variety trees shall be used to meet any streetyard requirements of this ordinance.

ii. Where streetyards are required, all shrubs shall be planted in either a linear row within three feet (3') to fifteen feet (15') of any required parking lot or in clusters to create a natural effect.

iii. The entrance areas of the streetyard shall include in addition to the tree and shrub requirements perennial and/or annual plant material that provide seasonal colors.

Parking Lot Islands



2) Parking Lots.

a. Front and side parking lots shall include a minimum of a six feet (6') island between parking and at the entrances of parking aisles, for every other parking aisle.

b. Large variety trees, or two small or medium varieties for each in lieu thereof, shall be used to meet any parking lot planting requirements.

3) Perimeter Bufferyard of the Zoning District.

a. A minimum of a fifty feet (50') bufferyard shall be located adjacent or across the street from residentially zoned property, except along interstates.

b. Planting amount shall meet the planting requirements of a Type I, 10' Bufferyard.

c. Large variety of trees shall be used.

[C] Detention Ponds

1) Detention ponds shall be landscaped.

2) A landscape plan shall be submitted that includes at a minimum vegetative banks with a ratio of planting meeting the streetyard planting standards to establish the pond as an amenity.

(7) Signage

[A] **Style.** Freestanding signage shall be either:

1) monument style signs, eight feet (8') or less in height and fifty (50) square feet or less in area; or

2) decorative double post signs, six feet (6') or less in height and thirty two (32) square feet or less in area; or

3) decorative single post signs, six feet (6') or less in height and twelve (12) square feet or less in area.

[B] **Lighting.** Backlit freestanding signage is not permitted except in knockout backlit signs.

[C] **Entrance Signs and Focal Points.** The sign height limitation shall not apply to an architecturally enhanced entrance or focal point structure(s) that incorporates signage.

(8) General Site Plan Requirements

[A] **Screening and Fencing.** The screening standards of *Chapter B-Zoning Ordinance, Article III, 3-4 Landscape Standards* shall apply with additional screening requirements as follows:

1) All manufacturing, storage, offices, retail or wholesale uses, shall be conducted within an enclosed building.

2) No public utility or related facility, heating, ventilation and air conditioning (HVAC) unit, including on-ground and/or rooftop mechanical system, or dumpster, shall be visible from view of the abutting streets unless topography prevents full screening.

3) Material and design of any screening device shall either match or incorporate into its construction the same type of material as that used as the predominant material(s) and color(s) of the primary facade. The screening may include wood or wood imitation material, such as brick façade post with wood fencing.

4) All electrical and communication utility lines providing service to any individual building, together with all distribution lines running parallel to any right of way within the MBP, which are installed or relocated in conjunction with any new development or street widening which involves the relocation of power lines and poles, which are visible from

the right-of-way, shall be located underground, unless required to be placed above ground by the applicable utility provider. The conversion of overhead electric transmission line facilities operated at voltages in excess of 12.47 kV and utilized exclusively for providing service to electric distribution substation facilities, are exempted from consideration for conversion to underground as are overhead electric distribution line facilities sharing a common pole line with such transmission facilities.

[B] Tree Preservation for New Construction

1) Unless grading for construction or erosion control requires the removal, existing healthy trees having a diameter of twelve inches (12") or greater, located within any required streetyard, bufferyard and parking lot planting area shall be preserved.

2) Preservation of trees shall follow the standards of *Section 3-4 Landscape Standards, 3-4.2 Application Procedures and General Requirements, (H) Use of Existing Trees for Credit.*

[C] Lighting

1) The lighting for the project shall be "cut-off lighting fixtures" and pedestrian scale along all walkways. Cut off lighting fixtures are lights that cast light downward. Pedestrian scale lighting shall illuminate so that lighting dissolves at the rooflines of buildings or the top of the light pole. During the review for building permits the petitioner shall submit the outdoor lighting plan. Individual fixtures and lighting systems shall be designed, constructed, and installed to control glare and light trespass, minimize obtrusive light while maintaining safety, security and productivity, and curtail the degradation of the night time visual environment by reducing light pollution.

(9) Phasing of Infrastructure

[A] Application for a Building Permit shall take place after compliance with Preliminary Subdivision conditions that pertain to the specific Zoning Lot.

(10) New-Urbanism Village Site Plan Design

[A] General Dimensional Requirements

Zoning District	Minimum Zoning Lot		Minimum Contiguous Site Area (ac)	Minimum Setbacks[1]				Maximum Impervious Surface Cover (%)	Maximum Height (ft)
				Front (ft)	Rear (ft)	Side			
	Area (sf)	Width (ft)				Interior Side (ft)	Street (ft)		
MBP	5,000	30	7	0[3]	0[2]	--	0[2]	--	unlimited

1. Whenever a lot in a nonresidential district other than the NB or NO Districts shares a common boundary line with a lot in a residential district (except RM-U), YR, AG, or H District with no intervening street or highway,

the lot in the nonresidential district shall have a required setback along the shared boundary line of not less than forty (40) feet or shall have the required setback for the residential district, whichever is greater, unless the development conforms to the *Land Use Plan* and then a minimum setback of the Bufferyard (3-5 Bufferyard Standards) shall be considered for a setback.

2. Setback along Interstate and the within the perimeter bufferyard shall fifty (50) feet.
3. Setback along a major thoroughfare shall be fifty (50) feet.

[B] Supplementary Requirements for the New-Urbanism Site Plan Design.



1) Preapplication Conference. Prior to the formal submission of a proposed New Urbanism Site Plan, the developer or representative shall attend a preapplication conference with the Community Development Director concerning the proposed plan of development. At this preapplication conference, the developer shall submit a sketch plan and general information on building design, pedestrian flow, traffic circulation, and utilities for tentative review, comments, and recommendations by the Community Development Director. The Community Development Director shall comment on the information presented at that meeting in writing within sixty (60) days. The official plan of development request shall be submitted for subdivision or building permit approval only after the completion of the preapplication conference and the written response.

2) Application.

a. Time. The developer shall file an application for approval within one hundred eighty (180) days after the written response from the Community Development Director.

b. Site Plan Requirements and Procedure. The site plan shall conform to the Form 1 requirements specified in 7-4.1 of this ordinance.

(i) Natural Features. Petitioner shall show in the first phase submittal the sensitive natural areas to be retained and indicate impervious surface coverage.

(ii) Streetyards. A minimum fifty (50) foot wide streetyard shall be provided along a major thoroughfare or an alternative compliance. The alternative approval shall be based upon findings that the proposed streetyard plan fulfills the intent and purpose of a streetyard and the following shall be met:

(1) Minimum number of plants shall be calculated as required by Chapter B, Section 3-4.3(B) Streetyards;
(2) Plantings are dispersed throughout the required streetyard.
(3) A landscape plan shall be prepared that includes additional plant material.
(4) Streetyard and building set-back shall be in a harmonious pattern with other developments along the main road.

(iii) Bufferyards. Both peripheral and internal

bufferyards, if required, shall be determined as appropriate through the site plan review process.

(iv) **Screening Mechanical Equipment**. All on-site mechanical equipment shall be screened from public roads unless grades prevent screening.

3) **Development in Phases**. The applicant may propose the site be developed in phases.

a. The phasing provisions shall be approved only if the proposed plan meets the following standards:

(i) All phases shall be shown with precise boundaries on the site plan and shall be numbered in the proposed order of development;

(ii) All data required for the project as a whole shall be given for each phase shown on the plan;

(iii) Phasing plan shall demonstrate a balanced and integrated mixture of uses in accordance with the overall development plan concept. In general, development components shall be proportionately phased.

4) **Maintenance**. An application for approval shall be accompanied by copies of documents related to the proposed property owner association or other entity proposed to manage and maintain private streets, open space, and other common areas and facilities, if any. Such documents shall:

a. Set forth the nature of the permanent organization under which common ownership is to be established, including its purposes; how it shall be governed and administered; the provisions made for permanent care and maintenance of the common property, and, the method of assessing the individual property for its share of the cost of administering and maintaining such common property; and,

b. Set forth the extent of common interest held by the owner of each individual parcel in the tract held in common with others.

5) **Design Standard.** The submittal material shall include site plan, landscape plan, and architectural plans. The plans shall meet the following standards:

a. Developments shall comply with the *Central Kernersville Zoning Overlay District* "store front" or "office" style building design standards and *General Site Plan Requirements.*

b. Double face buildings shall be used along all thoroughfares and collector roads. Along other roads parking shall be to the side, rear, or if to the front, parking rooms shall be created. The parking rooms shall be established by enhanced landscaped

islands that break up the bulk of the parking lot

c. All facades visible from adjoining properties and/or streets shall contribute to the pleasing scale of the features of the building(s) and encourage community integration by treating characteristics similar other front facades.

d. All sides of a principal building directly facing abutting streets shall include a least one customer entrance. The entrance(s) shall be clearly defined and highly visible with distinguishing features such as canopies or porticos.

e. Loading docks, trash collection and other outdoor storage and activity areas shall be incorporated into the overall pedestrian scale of the building and landscaping.

f. Sidewalk display areas shall be planned in the overall design of the site plan. The area shall contribute to the pedestrian scale and use of the development.

g. Retail space stores that are a part of a larger principal building shall have at a minimum display windows and separate entrances at the front façade.

h. Fuel pumps and drive-throughs shall be placed either to the side and/or rear of a main building.

i. Variation in roofline required.

j. Building bulk shall be softened with pedestrian scale elements.

k. Scale of structures and site plan to have rhythm in proportions of heights, width, and setbacks in order to create a pedestrian scale atmosphere.

l. Sidewalks shall be provided along any side of any building where parking or a driveway is provided. Any such required sidewalk shall be parallel to the building, but located at least five feet (5') from the building in order to provide an area for planting beds for foundation and entranceway landscaping, unless it is a covered walkway or a sidewalk with a minimum width of eight feet (8') along the façade with a entrance or window display area.

m. Public pedestrian walkways throughout the developments linking all areas.

n. One or more useable and functional plazas or courtyards with benches, and/or seating areas.

o. Outdoor spaces and site amenities shall be included in the design. The outdoor spaces and site amenities are intended to enhance the vehicular and pedestrian entryways and buildings on the site and shall have direct access to the public pedestrian walkways.

p. An "outdoor space" or "site amenity" shall include, but is not limited to, the following:

i. A landscaped median for driveway(s) leading into the site and landscaped pedestrian areas;

ii. A public square, park, or outdoor playground area on the site, or on adjacent land;

iii. Window shopping walkways;

iv. Kiosk area, water feature, or clock tower; or other such deliberately shaped area and/ or focal feature or amenity that adequately enhances such community and public spaces.

q. Complete connection of the sidewalks that connect to potential bikeways and greenways shall be developed.

r. Streets shall be laid out in a grid or modified grid to allow for connectivity.

s. Traffic calming techniques shall be incorporated.

t. Unless prevented by topographical features, internal connections between existing or potential parking lots on adjacent properties shall be provided.

u. All pedestrian walkways and crosswalks in the commercial areas shall be distinguished from driving surfaces through the use of some alternative material differing from that used within the parking lot such as pavers, bricks, or scored pavement.

v. On street parking shall be allowed as described in the "Traditional Neighborhood Development' standards of the *Town of Kernersville Design and Construction Specifications (Dated December 6, 2016).* On street parking includes consideration for diagonal or parallel parking.

2-1.4 INDUSTRIAL ZONING DISTRICTS - PURPOSE STATEMENTS AND REGULATIONS

The following industrial districts are established:

Table 2.3
Industrial Zoning Districts

Symbol	District Name
LI LI-C	Limited Industrial Limited Industrial - Conditional
CPI CPI-C	Corporate Park Industrial Corporate Park Industrial - Conditional
GI GI-C	General Industrial General Industrial - Conditional
CI CI-C	Central Industrial Central Industrial – Conditional
BI	Business Industrial

These industrial districts are established to accommodate enterprises engaged in the manufacturing, processing, or assembling of goods, merchandise, or equipment. The standards established for these districts are designed to promote industrial development and to protect nearby residential areas from undesirable aspects of industrial development. Whenever possible, these districts should be separated from residential districts by natural or structural boundaries, such as streams, topographic features, vegetation, major streets, or similar features. When an industrial rezoning proposal is considered, the industrial land use goals and recommendations in the Kernersville *Land Use Plan* shall be used as guides, in conjunction with other factors, in determining the appropriateness of the proposed district.

(A) LI LIMITED INDUSTRIAL DISTRICT

(1) Purpose. The LI District is primarily intended to accommodate limited manufacturing, wholesaling, warehousing, research and development, and related commercial and service activities which, in their normal operations, have little or no adverse effect upon adjoining properties. The district is established to provide locations for industrial development and activity centers.

(2) General Dimensional Requirements - LI.

Zoning District	Minimum Zoning Lot		Minimum Contiguous Site Area (ac)	Minimum Setbacks[1,4]				Maximum Impervious Surface Cover (%)	Maximum Height (ft)[2]
				Front (ft)	Rear (ft)	Side			
	Area (sf)	Width (ft)				Interior Side (ft)	Street (ft)		
LI	10,000	100	--	20	20	0.5/12[3]	20	90	70/ unlimited

1. No side or rear setback shall be required if property abuts a railroad right-of-way, public or private. A minimum twenty (20) foot setback shall be required if projects abut a street or highway.

2. There is no height limit unless adjacent to property zoned RS, RM (except RM-U), YR, AG, or H. Height of the structure above seventy (70) feet may be increased by one foot for each foot of additional setback above the minimum required, if adjacent to property zoned RS, RM (except RM-U), YR, AG, or H, unless the RS district contains a habitable residential single family unit located within 150' of an LI property line, then the maximum height shall be 40' for the adjacent LI zoning lot. Height of the structure above forty (40) feet may be increased by one foot for each foot of additional setback above the minimum required, if adjacent to property zoned RS, RM (except RM-U), YR, AG, or H, but in no case shall the structure be higher than fifty (50) feet.
3. Side yards are not required, however any side yard provided adjacent to an interior lot line shall be not less than twelve (12) feet in width. A space less than six (6) inches in width between an interior lot line and a building wall shall not be regarded as a side yard.
4. Whenever a lot in a nonresidential district other than the NB or NO Districts shares a common boundary line with a lot in a residential district (except RM-U), YR, AG, or H District with no intervening street or highway, the lot in the nonresidential district shall have a required setback along the shared boundary line of not less than forty (40) feet or shall have the required setback for the nonresidential district, whichever is greater.

(3) Supplementary District Requirements. See Section 2-6.2 for permitted accessory uses and limitations.

(4) Development Standards for LI Zoning District created on or after October 6, 2009 that are adjacent to a Residential Zoning District (excluding MH) and located within One Hundred Fifty (150) feet of a habitable Residential Primary Structure.

[A] **Building Materials.** At a minimum, the bottom ten (10) feet of the exterior wall façade of the structure shall be brick. Quik Brik™ or similar product may be used as a substitute to brick.

[B] **Bufferyard.** The bufferyard shall, at a minimum, be forty (40) feet wide and contain a berm.

1.) Berm Height

a. Rear or Side Parking, Loading Docks, or Storage. When parking, loading docks or storage areas are located to the side or rear of a building, the top of the berm shall be at a minimum of six (6) feet higher than the parking lot, vehicle maneuvering area and/or storage lot, measured from the highest rear elevation of the parking lot, vehicle maneuvering area and/or storage lot.

b. Building. When there is no intervening parking, loading docks, or storage area to the side or rear of a building, the top of the berm shall be at a minimum of two (2) feet higher than the building's finished floor elevation.

2.) Plantings. The minimum planting shall meet the planting standards of a Type IV, 30' Bufferyard and be planted on the crown of the berm, or a minimum 6' high sound wall meeting NCDOT specifications, constructed along the top of the berm, and 7 primary evergreen trees per one hundred feet (100') between the sound wall and buildings(s), may be used as an alternative.

3.) Shape. Berm shall have a minimum crown width of eight (8) feet and shall have side slopes stabilized to sedimentation and erosion control standards.

[C] **Lighting.**

1.) Cut-off Lighting. Exterior lighting shall be "cut-off lighting fixtures."

Cut-off lighting fixtures are lights that cast light downward and away from adjacent property.

2.) **Wall Packs.** Wall pack lighting shall be no higher than sixteen (16) feet above the finished floor elevation.

3.) **Light Poles.** The maximum light pole height shall be twenty-four (24) feet.

4.) **Lighting Plan.** During the review for building permits, the petitioner shall submit the outdoor lighting plan. Individual fixtures and lighting systems shall be designed, constructed and installed to control:

a. Glare by prohibiting direct illumination higher than sixteen (16) feet above the finished floor elevation of any structure. At the time of building permit submittal, the light fixture specifications shall be provided to show compliance with the standards.

b. Light by allowing no illumination greater than .5 candle light onto adjacent property.

[D] Noise.

1.) **Interior Operation.** Rear doors and windows located to the rear or side of the building, providing direct access to areas used for manufacturing and assembly shall remain closed except while items are being loaded or unloaded.

2.) **Exterior Devices.** No exterior heating, ventilation, and air conditioning (HVAC) units, including on-ground and/or rooftop mechanical systems or air handling machinery, dumpsters, compressors, or water coolers shall be located at the rear of the building, unless screened on three sides with the opening on the opposite side of the residential. Material and design of any screening device shall either match or incorporate into its construction the same type of material as that used as the predominant material(s) and color(s) of the facade.

[E] Prohibited Uses.

Fuel Dealer; Adult Entertainment; Motor Vehicle, Repair and Maintenance; Motor Vehicle, Body or Paint Shop; Dirt Storage; Landfill, Construction and Demolition; Landfill, Land Clearing/Inert Debris; Borrow Site; Helistop; Transmission Tower.

[F] Exception to Standards

1.) **Modification to Standards.** A Conditional Zoning District rezoning application, as described in *Chapter B, Article VI, 6-2.2* may request departure from the above described standards within this subsection provided that the applicant presents, at the time of rezoning application, proposed findings of facts that the proposed Conditional Zoning District would address the adverse impacts of industrial uses adjacent to residential and fulfills the intent and purposes of this section better than would strict requirements of this section.

2.) **Grades.** If the grade of the adjacent residential site is such that the residential structure is twelve (12) feet higher than the building finish floor elevation or parking lot, or storage areas, whichever is the highest, the Berm requirement of Sub-Section [B] Bufferyard, shall not apply.

3.) **Stormwater Pond.** If a stormwater pond is located along the residential property line the berm requirement of Sub-Section [B] Bufferyard, shall not apply.

(B) CPI CORPORATE PARK INDUSTRIAL DISTRICT

(1) **Purpose**. The CPI District is intended to accommodate a wide range of assembling, fabricating, and light manufacturing activities, and such ancillary industrial activities as warehousing and distribution. Commercial uses are also permitted accessory to industrial development. The district is established to provide locations for industrial development which have little or no impact on adjoining properties. The district is intended for application in activity centers and other large sites with direct access to thoroughfares.

(2) **General Dimensional Requirements - CPI**.

Zoning District	Minimum Zoning Lot		Minimum Contiguous Site Area (ac)	Minimum Setbacks[1,3]				Maximum Impervious Surface Cover (%)	Maximum Height (ft)
						Side			
	Area (sf)	Width (ft)		Front (ft)	Rear (ft)	Interior Side (ft)	Street (ft)		
CPI	-----	150[2]	30	40	20	20	20	70	70

1. No side or rear setback shall be required if property abuts a railroad right-of-way, public or private. A minimum twenty (20) foot setback shall be required if projects abut a street or highway.
2. For outparcels with internal access to the property provided, the minimum lot size is twenty thousand (20,000) square feet; the required minimum lot width is reduced to one hundred (100) feet; and the interior rear and side yard requirements are deleted, except that any side yard provided adjacent to an interior lot line shall not be less than twelve (12) feet. Negative access along external roads must be provided and on record.
3. Whenever a lot in a nonresidential district other than the NB or NO Districts shares a common boundary line with a lot in a residential district (except RM-U), YR, AG, or H District with no intervening street or highway, the lot in the nonresidential district shall have a required setback along the shared boundary line of not less than forty (40) feet or shall have the required setback for the nonresidential district, whichever is greater.

(3) **Supplementary District Requirements**.

(a) **Limited Commercial Uses Allowed**. Commercial uses permitted in the LO and LB Districts are permitted in the CPI District and limited to fifteen percent (15%) of the total building square footage of the zoning lot.

(b) **Bufferyard**. A minimum forty (40) foot wide type IV bufferyard shall be required wherever the CPI District abuts RM or RS Districts, as required in Section 3-5.

(c) **Size**. CPI Districts shall equal thirty (30) acres or more of contiguous area with a minimum of two hundred (200) feet of frontage along a major or minor thoroughfare.

(d) **Driveway Access**. Driveway access to public streets shall be a minimum of two hundred (200) feet apart.

(e) Vehicular Access. Vehicular access onto a major or minor thoroughfare or onto a road improved to necessary standards as determined by the Community Development Director or the North Carolina Department of Transportation.

(C) GI GENERAL INDUSTRIAL DISTRICT

(1) Purpose. The GI District is primarily intended to accommodate a wide range of assembling, fabricating, and manufacturing activities. The district is established for the purpose of designating appropriate locations and establishing development regulations for uses which may have significant environmental impacts or which require special measures to ensure compatibility with adjoining properties.

(2) General Dimensional Requirements - GI.

Zoning District	Minimum Zoning Lot		Minimum Contiguous Site Area (ac)	Minimum Setbacks[1,4]				Maximum Impervious Surface Cover (%)	Maximum Height (ft)[2]
				Front (ft)	Rear (ft)	Side			
	Area (sf)	Width (ft)				Interior Side (ft)	Street (ft)		
GI	43,560	150	5	40	20	0.5/12[3]	20	--	70/ unlimited

1. No side or rear setback shall be required if property abuts a railroad right-of-way, public or private. A minimum twenty (20) foot setback shall be required if projects abut a street or highway.
2. There is no height limit unless adjacent to property zoned RS, RM (except RM-U), YR, AG, or H. Height of the structure above seventy (70) feet may be increased by one foot for each foot of additional setback beyond the minimum required, if adjacent to property zoned RS, RM (except RM-U), YR, AG, or H.
3. Side yards are not required, however any side yard provided adjacent to an interior lot line shall be not less than twelve (12) feet in width. A space less than six (6) inches in width between an interior lot line and a building wall shall not be regarded as a side yard.
4. Whenever a lot in a nonresidential district other than the NB or NO Districts shares a common boundary line with a lot in a residential district (except RM-U), YR, AG, or H District with no intervening street or highway, the lot in the nonresidential district shall have a required setback along the shared boundary line of not less than forty (40) feet or shall have the required setback for the nonresidential district, whichever is greater.

(3) Supplementary District Requirements. See Section 2-6.2 for permitted accessory uses and limitations.

(D) CI CENTRAL INDUSTRIAL DISTRICT

(1) Purpose. The CI District is intended to accommodate assembly, fabrication, and manufacturing activities. The central areas of the Town of Kernersville contain a variety of industrial land uses. These uses provide a substantial non-office employment base, as well as meeting certain needs in the community for industrial type goods. The CI District is intended to encourage and permit the continuation of a significant non-office employment base in the central area of Kernersville and to enable the development of new industrial uses compatible with the goals of the *Kernersville Development Plan*.

(2) Dimensional Requirements. There are no general dimensional requirements for the CI District, except that a minimum twenty (20) foot setback shall be required if projects abut a street or highway.

(3) Setbacks from Residential Districts. Whenever a lot in a nonresidential district other than the NB or NO Districts shares a common boundary line with a lot in a residential

district (except RM-U), YR, AG, or H District with no intervening street or highway, the lot in the nonresidential district shall have a required setback along the shared boundary line of not less than forty (40) feet or shall have the required setback for the nonresidential district, whichever is greater.

(E) BI BUSINESS INDUSTRIAL DISTRICT

(1) Purpose. The BI District is primarily intended to accommodate a wide range of business park and limited accessory commercial uses.

(2) General Dimensional Requirements - BI.

Zoning District	Minimum Zoning Lot		Minimum Contiguous Site Area (ac)	Minimum Setbacks[1,2]				Maximum Impervious Surface Cover (%)	Maximum Height (ft)[4]
						Side			
	Area (sf)	Width (ft)		Front (ft)	Rear (ft)	Side (ft)	Street (ft)		
BI	43,560	150	200	20	0.5/12[3]	0.5/12[3]	20	--	70/ unlimited

1. No side or rear setback shall be required if property abuts a railroad right-of-way.
2. Whenever a lot in a nonresidential district other than the NB or NO Districts shares a common boundary line with a lot in a residential district (except RM-U), YR, AG, or H District or similar zoning district within an adjacent jurisdiction, with no intervening street or highway, the lot in the nonresidential district shall have a required setback along the shared boundary line of not less than forty (40) feet or shall have the required setback for the nonresidential district, whichever is greater.
3. Side and rear yards are not required, however any side yard provided adjacent to an interior lot line shall be not less than twelve (12) feet in width. A space less than six (6) inches in width between an interior lot line and a building wall shall not be regarded as a side yard.
4. There is no height limit unless adjacent to property zoned RS, RM (except RM-U), YR, AG, or H or similar zoning district within an adjacent jurisdiction. Height of the structure above seventy (70) feet may be increased by one foot for each foot of additional setback beyond the minimum required, if adjacent to property zoned RS, RM (except RM-U), YR, AG, or H or similar zoning district within an adjacent jurisdiction.

(3) Supplementary District Requirements. Retail Uses are limited to 30% of the Zoning District acreage, with the maximum size retail building unit space being 60,000 square feet. Multi-tenant buildings with 50% or greater of it building space used for retail uses shall be counted towards the 30% limitation of retail within the BI. Retail uses within an industrial building, including but not limited to show rooms and employee services, shall be permitted as accessory uses. Said accessory uses shall not exceed twenty-five percent (25%) of the floor area of the principal industrial building.

(4) Building Standards: The facades of any building, which is visible from any existing or planned public right-of-way shall comply with the following standards, unless at the time of the building permit standards are presented that would more adequately exceed the standards. Highway Corridor Overlay District shall not apply within the BI.

[A] Building Design. The construction of any building shall be restricted by use of the following:

1.) **Walls.** Walls visible from any existing or planned public right-of-way shall incorporate architectural accent elements of doors, windows, columns, color changes, texture change, recesses, and/or material changes such as wood, brickwork, stucco, tile, and/or canvas canopies. Fifty (50) lineal feet of any such wall shall be the maximum length without an architectural accent element. A building located on a zoning lot greater than one hundred (100) acres and greater than three hundred (300) feet from the public right-of-way shall be exempted from the wall design standards.

2.) **Windows.** Windows shall be recessed or shall include visually prominent sills, lintels, or other such forms of framing and trim.

[B] **Building Materials**. The construction of any new building shall be restricted by use of the following:

1.) **Façades Visible from Public Right of Way.** The primary material of any façade visible from an existing or proposed right-of-way shall be hard wall construction, which may consist of brick, concrete, stucco texture, texture concrete block, tile, native stone, columns, and /or pre-cast trim. Quik Brik™ or similar product may be used as a substitute to brick. If, at the time of building permit submittal, an expansion plan is submitted illustrating the need for temporary expansion walls, the walls may be vinyl siding, metal façade covering, or other synthetic veneer materials. Expansion walls are allowed only on two (2) sides and shall not be the front wall facing the primary street. A Building located on a zoning lot greater than one hundred (100) acres and greater than three hundred (300) feet from the public right-of-way shall be allowed a steel wall exterior façade with stucco paint finish.

2.) **Facade Not Visible from Public ROW.** Vinyl siding, metal facade covering or other synthetic veneer materials shall be allowed as construction material(s) when a façade is not fronting or visible from an existing or proposed right-of-way.

3.) **Colors.** All facade colors shall be of low reflectance, subtle, neutral, or earth tone colors. The use of high intensity colors, metallic colors, black or fluorescent colors, excluding white, are prohibited. Building trim and accent areas may feature brighter colors, including primary colors; however, neon tubing shall not be an acceptable feature for building trim or accent elements.

(5) **Site Plan Standards**

[A] **Landscaped Streetyard.** A minimum streetyard of twenty feet (20') shall be provided.

[B] **Fuel Pumps & Drive-Through.** Fuel pumps, drive-through and pick-up windows may be placed only to the side and/or rear of a main building. Fuel pumps greater than one hundred (100) feet from the public right-of-way shall be allowed in the front if they are an accessory use.

[C] **Bufferyard.** The minimum bufferyard width shall be forty feet (40') adjacent to residentially zoned property containing a single-family residence, and the plantings shall meet the 15' Type IV Bufferyard planting standards. If a

development has a semi-tractor trailer loading dock(s) and/or parking within one hundred fifty feet (150') of single-family residences the minimum bufferyard shall include:

(i) minimum of a one hundred-foot (100') bufferyard along the entire development property line;

(ii) a fifteen-foot (15') berm;

(iii) a minimum planting meeting the 15' Type IV Bufferyard planting standards;

(iv) the bufferyard plantings being place top of berm;

(v) a six-foot (6') security fence on the business side of the berm; or

(vi) maintain at a minimum a one hundred and fifty foot (150') undisturbed wooded area.

Where the one hundred-foot (100') bufferyard is required it shall be extended along any drive to be used by delivery trucks or delivery truck parking and loading areas a minimum distance of seven hundred feet (700') from a residentially zoned property containing a single-family residence.

(6) Signage

[A] **Style.** Freestanding signage shall be either:

(i) monument style signs, eight feet (8') or less in height and fifty (50) square feet or less in area; or

(ii) decorative double post signs, six feet (6') or less in height and thirty-two (32) square feet or less in area; or

(iii) decorative single post signs, six feet (6') or less in height and twelve (12) square feet or less in area.

[B] **Lighting.** Backlit freestanding signage is not permitted except in knockout backlit signs.

[C] **Entrance Signs and Focal Points.** The sign height limitation shall not apply to an architecturally enhanced entrance or focal point structure(s) that incorporates signage.

(7) General Site Plan Requirements

[A] **Screening and Fencing.** The screening standards of *Chapter B-Zoning Ordinance, Article III, 3-4 Landscape Standards* shall apply with additional screening requirements as follows:

(i) All manufacturing, storage, offices, or wholesale uses, other than retail sales, located within one hundred feet (100') of the adjacent right-of-way or planned right-of-way shall be conducted within an enclosed building, except as otherwise provided below.

a.) Outside storage located within one hundred feet (100') of any existing or proposed public right-of-way shall be permitted only if screened, as described in *Chapter B, Article III, 3-4.5*, from view of the primary abutting street.

b.) No public utility or related facility, heating, ventilation and air conditioning (HVAC) unit, including on-ground and/or rooftop mechanical system, or dumpster, shall be visible from view of the primary abutting street, unless located on a zoning lot greater than one hundred (100) acres and the building is located greater than three hundred (300) feet from the public right-of-way.

c.) Material and design of any screening device shall either match or incorporate into its construction the same type of material as that used as the predominant material(s) and color(s) of the primary facade. The screening may include wood or wood imitation material, such as brick façade post with wood fencing.

(ii) All electrical and communication utility lines providing service to any individual building, together with all distribution lines running parallel to any right of way within the BI, which are installed or relocated in conjunction with any new development or street widening which involves the relocation of power lines and poles, which are visible from the right-of-way, shall be located underground, unless required to be placed above ground by the applicable utility provider. The conversions of overhead electric transmission line facilities operated at voltages in excess of 12.47 kV and utilized exclusively for providing service to electric distribution substation facilities, are exempted from consideration for conversion to underground as are overhead electric distribution line facilities sharing a common pole line with such transmission facilities.

(iii) Fencing within one hundred (100) feet of a public right-of-way shall be colors of low reflectance, subtle, neutral, or earth tone colors. The use of barb wire type fencing and high intensity colors and metallic colors are prohibited within one hundred (100) feet of the public right-of-way. The streetyard required plantings shall be placed between the fence and the right of way.

[B] Landscaping and Bufferyard

(i) Large variety trees, or two small or medium varieties for each in lieu thereof, shall be used to meet any parking lot planting requirements.

(ii) Unless otherwise set forth within this ordinance or when overhead utility lines restrict tree height, large variety trees shall be used to meet any streetyard requirements of this ordinance.

(iii) Where streetyards are required, all shrubs shall be planted in either a linear row within three feet (3') to fifteen feet (15’) of any required parking lot or in clusters to create a natural effect.

(iv) Detention ponds, visible from any existing or planned public right-of-way shall be landscaped. A landscape plan shall be submitted that includes at a minimum vegetative banks with a minimum of nine (9)

supplemental large or medium variety trees and clusters of shrubs.

[C] Tree Preservation for New Construction

(i) Unless grading for construction or erosion control requires the removal, existing healthy trees having a diameter of twelve inches (12") or greater, located within any required streetyard, bufferyard and parking lot planting area shall be preserved.

(ii) Preservation of trees shall follow the standards of *Section 3-4 Landscape Standards, 3-4.2 Application Procedures and General Requirements, (H) Use of Existing Trees for Credit.*

[D] Sidewalks and Pedestrian Flow. Sidewalks shall be provided along one side of all public roads. The sidewalk shall be constructed at a minimum five feet (5') in width behind a five-foot (5') grassy strip.

[E] Lighting. Exterior lighting shall be "cut-off lighting fixtures". Cut off lighting fixtures are lights that cast light downward. Wall pack lighting shall be designed to dissolve at the rooflines of buildings. During the review for building permits, the petitioner shall submit the outdoor lighting plan. Individual fixtures and lighting systems shall be designed, constructed and installed to control glare and light trespassing onto adjacent property, while maintaining safety, security and productivity, and curtail the degradation of the night time visual environment by reducing light pollution**.** The maximum light pole height for automobile parking lots shall be thirty (30) feet and truck areas shall be sixty (60) feet.

[F] Stormwater. Stormwater shall be diverted around residential zoned property when feasible; or additional stormwater peak reduction shall be provided for 2-year, 10-year and 25-year storm events.

2-1.5 INSTITUTIONAL AND MIXED USE ZONING DISTRICTS - PURPOSE STATEMENTS AND REGULATIONS

The following institutional and mixed use districts are established:

Table 2.4
Institutional and Mixed Use Zoning Districts

Symbol	District Name
IP IP-C	Institutional and Public Institutional and Public - Conditional
C C-C	Campus Campus - Conditional
MU-C	Mixed Use - Conditional
TND-C	Traditional Neighborhood Design - Conditional

The purpose of establishing these districts is to accommodate institutional and major mixed-use developments in compliance with the Kernersville *Land Use Plan*.

(A) IP INSTITUTIONAL AND PUBLIC DISTRICT

(1) Purpose. The IP District is intended to accommodate public and institutional uses which have a limited land use impact or traffic generation potential upon surrounding uses. The district is intended to accommodate smaller, less intensive public and institutional uses which have concentrated service areas and are located in or near residential areas, or larger, less intensive recreational or institutional facilities in rural areas.

(2) General Dimensional Requirements - IP.

Zoning District	Minimum Zoning Lot		Minimum Contiguous Site Area (ac)	Minimum Setbacks[1]				Maximum Impervious Surface Cover (%)	Maximum Height (ft)
				Front (ft)	Rear (ft)	Side			
	Area (sf)	Width (ft)				Interior Side (ft)	Street (ft)		
IP	10,000	65	--	25	10	5	20	70	60

1. Whenever a lot in a nonresidential district other than the NB or NO Districts shares a common boundary line with a lot in a residential district (except RM-U), YR, AG, or H District with no intervening street or highway, the lot in the nonresidential district shall have a required setback along the shared boundary line of not less than forty (40) feet or shall have the required setback for the nonresidential district, whichever is greater.

(B) C CAMPUS DISTRICT

(1) Purpose. The C District is intended to accommodate medium to large-sized public, semi-public, and institutional uses which have a major land use impact or traffic generation potential upon surrounding uses. The district is intended to accommodate larger, more intensive public and institutional uses which have extensive service areas and are centrally located.

(2) General Dimensional Requirements - C.

Zoning District	Minimum Zoning Lot		Minimum Contiguous Site Area (ac)	Minimum Setbacks[3]				Maximum Impervious Surface Cover (%)	Maximum Height (ft)[2]
				Front (ft)	Rear (ft)	Side			
	Area (sf)	Width (ft)				Interior Side (ft)	Street (ft)		
C	20,000	100	20	20	20	20	20	70[1]	40/75 or 60/ unlimited

1. There is no height limit unless adjacent to property zoned RS, RM (except RM-U), YR, AG, or H. Height of structure above sixty (60) feet may be increased by one foot for each foot of additional setback beyond the minimum forty (40) foot required, if adjacent to property zoned RS, RM (except RM-U), or H. If structure is set back at least one hundred twenty (120) feet from property zoned RS, RM (except RM-U), YR, AG or H, there is no height limit. However, the maximum permitted height of any structure may be increased by one (1) foot for every additional five (5) feet of setback beyond the minimum setbacks required, up to a maximum building height of seventy-five (75) feet.

3. Whenever a lot in a nonresidential district other than the NB or NO Districts shares a common boundary line with a lot in a residential district (except RM-U), YR, AG, or H District with no intervening street or highway, the lot in the nonresidential district shall have a required setback along the shared boundary line of not less than forty (40) feet or shall have the required setback for the nonresidential district, whichever is greater.

(3) Supplementary District Requirements.

(a) Site Plan. A site plan must be submitted for any development within the district in conformance with the site plan requirements of Article VII.

(b) Access. Vehicular access onto a major or minor thoroughfare or onto a road improved to necessary standards as determined by the Community Development Director or the North Carolina Department of Transportation.

(c) Automatic Teller Machine. Automatic teller machines shall be permitted as an accessory use.

(C) MU-C MIXED USE – CONDITIONAL ZONING DISTRICT.

(1) Purpose. MU-C District is intended to accommodate and positively integrate a balanced mixture of residential, commercial, and in some cases light industrial uses within the district and the surrounding area. Depending upon the existing land use context in which the MU-C District is proposed, at least three distinctly different use components are expected for any MU-C zoning proposal. Building mass, rhythm, scale, and transition, as well as a cohesive and connected pedestrian and vehicular network are intended to be key elements of the overall design concept. This district encourages innovation by offering flexibility in design and layout requirements to achieve a greater choice of living and working environments. The development design should also be compatible with the natural terrain and surrounding uses, protect natural and/or historic resources, and provide useful open space. This district is only permitted through the conditional zoning district process. This district is suitable in activity centers.

(2) General Dimensional Requirements - MU-C.

Zoning District	Minimum Zoning Lot		Minimum Contiguous Site Area (ac)	Minimum Setbacks[2]				Maximum Impervious Surface Cover (%)	Maximum Height (ft)[1]
				Front (ft)	Rear (ft)	Side			
	Area (sf)	Width (ft)				Interior Side (ft)	Street (ft)		
MU-C	5,000	30	15	0	--	--	0	--	60/ unlimited

1. There is no height limit unless adjacent to property zoned RS, RM (except RM-U), YR, AG, or H. Height of structure above sixty (60) feet may be increased by one foot for each foot of additional setback beyond the forty (40) foot minimum required, if adjacent to property zoned RS, RM (except RM-U), YR, AG, or H.
2. Whenever a lot in a nonresidential district other than the NB or NO Districts shares a common boundary line with a lot in a residential district (except RM-U), YR, AG, or H District with no intervening street or highway, the lot in the nonresidential district shall have a required setback along the shared boundary line of not less than forty (40) feet or shall have the required setback for the residential district, whichever is greater.

(3) Supplementary District Requirements. Minimum lot sizes for single family residences, duplexes, twin homes and multifamily developments must meet the requirements of Table 3.4 Other Dimensional Requirements (Section 3-1.1). Other supplemental district requirements are:

(a) Preapplication Conference. Prior to the formal submission of a proposed MU-C District, the developer or representative shall attend a preapplication conference with the Community Development Director concerning the proposed plan of development. At this preapplication conference, the developer shall submit a sketch plan for the MU-C District and general information on traffic circulation and utilities for tentative review, comments, and recommendations by the Community Development Director. The Community Development Director shall comment on the information presented at that meeting in writing within sixty (60) days. The official plan of development and rezoning request shall be submitted to the Planning Board only after the completion of the preapplication conference and the written response.

(b) MU-C District Application.

(i) Time. The developer shall file an application for approval of a MU-C District within one hundred eighty (180) days after the written response from the Community Development Director.

(ii) Site Plan Requirements and Procedure. The procedure for approval of a MU-C District shall be the same as a two-phase conditional zoning district rezoning in conformance with procedures set forth in Section 7-4.2 of this Ordinance.

[A] Natural Features. Petitioner shall show in the first phase submittal the sensitive natural areas to be retained and indicate impervious surface cover limits greater than or equal to the standards in comparable general use zoning district permitting the use(s).

[B] Streetyards. A minimum fifty (50) foot wide streetyard shall

be provided along all public rights-of-way adjacent to the district or an alternative compliance approved by the Planning Board during Phase II. The alternative approval shall be based upon findings that the proposed streetyard plan fulfills the intent and purpose of a streetyard and the following shall be met:

[1] Minimum number of plants, shall be calculated as required by Chapter B, Section 3-4.3(B) Streetyards;

[2] plantings are dispersed throughout the required streetyard.

[C] Bufferyards. Both peripheral and internal bufferyards, if required, shall be determined as appropriate through the site plan review process in accordance with the MU-C purpose statement.

[D] Larger Sites. Larger sites containing more than one hundred (100) acres will be evaluated to determine if development will negatively impact existing or future public facilities and services. Depending upon the size, intensity, and/or complexity of the proposal, the Community Development Director may require the petitioner to submit additional information to assist regulatory agencies with their findings, including, but not limited to, analysis of traffic impacts, availability of public water and sewer, and capacity of schools. As warranted, staff may also recommend certain on-site or off-site infrastructure improvements or other mitigation measures as conditions for zoning approval.

[E] Screening Mechanical Equipment. All on-site mechanical equipment shall be screened.

(c) Effects of Approval. The approval of a development plan and the accompanying preliminary plat shall have the following effects:

(i) The area of an approved MU-C District shall be noted on the *Official Zoning Maps*. After approval of a final development plan, such plan shall control the development of the property. After approval of a final development plan, no building or structure may be erected or building permit issued nor any lots sold from any such plat nor any final plat approved or recorded, unless such building, structure, permit or plat is consistent with every respect with the approved final development plan.

(ii) Approval of the application shall also constitute the required approval for the preliminary plat included in the application. The applicant may then request approval of a final plat in accordance with the *Subdivision Ordinance*.

(d) Development in Phases. The applicant may propose that a MU-C District be developed in phases.

(i) The phasing provisions of a proposed final development plan shall be approved only if the proposed plan meets the following standards:

[A] All phases shall be shown with precise boundaries on the final development plan and shall be numbered in the proposed order of development;

[B] All data required for the project as a whole shall be given for each phase shown on the plan;

[C] Phasing plan shall demonstrate a balanced and integrated mixture of uses in accordance with the overall MU-C plan concept. In general, residential components of the MU-C District shall be proportionately phased with commercial elements.

[D] The cumulative density of a phase and all phases to be developed prior to that phase shall not exceed the proposed net density of the entire MU-C District by more than ten percent (10%) or as approved by the Planning Board upon findings that the development pattern of all approved density levels has been followed with consistency;

[E] A proportionate share of the project's open space and common facilities, if any, shall be included in each phase of development; and,

[F] The phasing shall be consistent with the development plan for the entire MU-C District.

(ii) If an approved development plan includes phasing provisions, then:

[A] The landowner may submit final plats for the projects for areas including one or more complete phases. Unless, however, approved by the Planning Board based on a consistent density level and land use pattern, no application for a final plat shall be accepted for a phase unless applications for final plat for all phases with lower numbers have already been approved or are included with such application;

[B] No final plat for a phase of a MU-C District shall be approved unless all open space and common facilities included in previous phases are substantially complete or a performance surety is provided meeting the requirements of the *Unified Development Ordinances*; and,

[C] No final plat for a phase of a MU-C District shall be approved if there is any uncorrected violation of the development plan, a preliminary plat, a final plat or this section in any previous phase.

(f) **Maintenance**. An application for approval of a MU-C District shall be accompanied by copies of documents related to the proposed homeowner's association or other entity proposed to manage and maintain private streets, open space, and other common areas and facilities, if any. Such documents shall:

(i) Set forth the nature of the permanent organization under which common ownership is to be established, including its purposes; how it shall be

governed and administered; the provisions made for permanent care and maintenance of the common property, including necessary bonds when required by the city; and, the method of assessing the individual property for its share of the cost of administering and maintaining such common property; and,

(ii) Set forth the extent of common interest held by the owner of each individual parcel in the tract held in common with others.

(D) TND-C TRADITIONAL NEIGHBORHOOD DEVELOPMENT – CONDITIONAL ZONING DISTRICT.

(1) Purpose. The TND-C District is intended to promote compact mixed-use development projects that includes a range of housing types, a network of well-connected streets, alleys and blocks, public spaces, and amenities such as stores, schools, and places of worship within walking distance of residences or is within walking distance to those land uses. TND projects incorporate many different high quality architectural styles and site plan design elements to create an enhanced livable neighbor(s). This district encourages innovation by offering flexibility in design and layout requirements to achieve a greater choice of living, and working environments. The development design should also be compatible with the natural terrain and surrounding uses, protect natural and/or historic resources, and provide useful open space. This district is only permitted through the conditional zoning district process. This district is suitable in activity centers.

(2) General Dimensional Requirements - TND-C.

Zoning District	Minimum Zoning Lot		Minimum Contiguous Site Area (ac)	Minimum Setbacks[2]				Maximum Impervious Surface Cover (%)	Maximum Height (ft)[1]
				Front (ft)	Rear (ft)	Side			
	Area (sf)	Width (ft)				Interior Side (ft)	Street (ft)		
TND-C	1,100	16[3]	5	0	--	--	0	--	60/ unlimited

1. There is no height limit unless adjacent to property zoned RS, RM (except RM-U), or AG. Height of structure above sixty (60) feet may be increased by one foot for each foot of additional setback beyond the forty (40) foot minimum required, if adjacent to property zoned RS, RM (except RM-U), or AG.
2. Whenever a lot in a nonresidential district other than the NB or NO Districts shares a common boundary line with a lot in a residential district (except RM-U), or AG District with no intervening street or highway, the lot in the nonresidential district shall have a required setback along the shared boundary line of not less than forty (40) feet or shall have the required setback for the residential district, whichever is greater.
3. Minimum zoning lot width for rear loading townhouse developments containing a variety of lot widths may be reduced to sixteen (16) feet.

(3) Supplementary District Requirements. Minimum lot sizes for single family residences, duplexes, twin homes and multifamily developments must meet the requirements of Table 3.4 Other Dimensional Requirements (Section 3-1.1). Other supplemental district requirements are:

(a) Preapplication Conference. Prior to the formal submission of a proposed TND-C District, the developer or representative shall attend a preapplication conference with the Community Development Director concerning the proposed plan of development. At this preapplication conference, the developer shall submit a sketch site plan for the TND-C District, general information on traffic circulation and utilities for tentative review, along with a master plan document. The master plan document shall include architectural details

on the buildings and amenities mass, rhythm, pedestrian scale, and transition, as well narrative and illustration of the connectivity of the pedestrian, bicycle, and vehicular network within the overall design concept. The Community Development Director shall comment on the information presented at that meeting in writing within sixty (60) days. The official plan of development and rezoning request shall be submitted to the Planning Board only after the completion of the preapplication conference and the written response.

(b) TND-C District Application.

(i) Time. The developer shall file an application for approval of a TND-C District within one hundred eighty (180) days after the written response from the Community Development Director.

(ii) Site Plan Requirements and Procedure. The procedure for approval of a TND-C District shall be the same as a conditional zoning district rezoning in conformance with procedures set forth in Section 7-4.2 of this Ordinance.

[A] Master Plan. The master plan document shall include architectural details on the buildings and amenities mass, rhythm, pedestrian scale, and transition, as well narrative and illustration of the connectivity of the pedestrian, bicycle, and vehicular network within the overall design concept.

[B] Natural Features. Petitioner shall show in the first phase submittal the sensitive natural areas to be retained.

[C] Open Space. Petitioner shall describe in the first phase of submittal the open space plan with a description of uses.

[D] Streetyards. A minimum fifty (50) foot wide streetyard shall be provided along all public rights-of-way adjacent to the district or an alternative compliance approved by the Board of Aldermen or Planning Board during Phase II. The alternative approval shall be based upon findings that the proposed streetyard plan fulfills the intent and purpose of a streetyard and the following shall be met:

[1] Minimum number of plants shall be calculated as required by Chapter B, Section 3-4.3(B) Streetyards.

[2] Plantings are dispersed throughout the required streetyard.

[3] If within an urban setting, the streetyard may be replaced with buildings fronting the streets.

[E] Bufferyards. Both peripheral and internal bufferyards, if required, shall be determined as appropriate through the site plan review process in accordance with the TND-C purpose statement.

[F] Larger Sites. Larger sites containing more than one hundred (100) acres will be evaluated to determine if development will negatively impact existing or future public facilities and services. Depending upon the size, intensity, and/or complexity of the proposal, the Community Development Director may require the petitioner to submit additional information to assist regulatory agencies with their findings, including, but not limited to, analysis of traffic impacts, availability of public water and sewer, and capacity of schools. As warranted, staff may also recommend certain on-site or off-site infrastructure improvements or other mitigation measures as conditions for zoning approval.

[G] Screening Mechanical Equipment. All on-site mechanical equipment shall be screened.

(c) Effects of Approval. The approval of a development plan and the accompanying preliminary plat shall have the following effects:

(i) The area of an approved TND-C District shall be noted on the *Official Zoning Maps*. After approval of a single phase site plan or final development plan, such plans shall control the development of the property. After approval of a plan, no building or structure may be erected or building permit issued nor any lots sold from any such plat nor any final plat approved or recorded, unless such building, structure, permit or plat is consistent with the approved plan.

(ii) Approval of the application shall also constitute the required approval for the preliminary plat included in the application. The applicant may then request approval of a final plat in accordance with the *Subdivision Ordinance*.

(d) Development in Phases. The applicant may propose that a TND-C District be developed in phases.

(i) The phasing provisions of a proposed final development plan shall be approved only if the proposed plan meets the following standards:

[A] All data required for the project as a whole shall be given for each phase shown on the plan;

[B] Phasing plan shall demonstrate a balanced and integrated mixture of uses in accordance with the overall TND-C plan concept.

[C] A proportionate share of the project's open space and common facilities, if any, shall be included in each phase of development; and,

[D] The phasing shall be consistent with the development plan for the entire TND-C District.

(ii) If an approved development plan includes phasing provisions, then:

[A] The landowner may submit final plats for the projects for areas including one or more complete phases.

[B] No final plat for a phase of a TND-C District shall be approved unless all open space and common facilities included in previous phases are substantially complete or a performance surety is provided meeting the requirements of the *Unified Development Ordinances*; and,

[C] No final plat for a phase of a TND-C District shall be approved if there is any uncorrected violation of the development plan, a preliminary plat, a final plat or this section in any previous phase.

(e) Maintenance. An application for approval of a TND-C District shall be accompanied by copies of documents related to the proposed homeowners association or other entity proposed to manage and maintain private streets, open space, and other common areas and facilities, if any. Such documents shall:

(i) Set forth the nature of the permanent organization under which common ownership is

to be established, including its purpose; how it shall be governed and administered; the provisions made for permanent care and maintenance of the common property, including necessary bonds when required by the city; and, the method of assessing the individual property for its share of the cost of administering and maintaining such common property; and,

(ii) Set forth the extent of common interest held by the owner of each individual parcel in the tract held in common with others.

2-1.6 OVERLAY AND SPECIAL PURPOSE ZONING DISTRICTS - PURPOSE STATEMENTS AND REGULATIONS

The following overlay and special purpose zoning districts are established:

Table 2.5
Overlay and Special Purpose Zoning Districts

Symbol	District Name
NCO	Neighborhood Conservation Overlay
TO	Thoroughfare Overlay
H	Historic
HO	Historic Overlay
LUTO	Land Use Transition Overlay
CKOD	Central Kernersville Overlay District
HCOD	Highway Corridor Overlay District
NSCOD	Neighborhood Scale Commercial Overlay District
ICOD	Industrial Corridor Overlay District

The purpose of establishing these districts is to assist the community in meeting the recommendations of the *Kernersville Development Plan* and to meet requirements of State and federal law. When a rezoning proposal for one of these districts is considered, historic preservation, watershed protection, and other applicable goals and recommendations contained in the *Kernersville Development Plan* and its *Land Use Plan*, shall be used as guides, in conjunction with other factors, in determining the appropriateness of the proposed district.

(A) NCO NEIGHBORHOOD CONSERVATION OVERLAY DISTRICT

(1) Purpose. The NCO District is intended:

(a) To preserve and enhance the appearance and special character of certain older neighborhoods by encouraging reuse of existing buildings and new infill development which respects the context of the existing built and natural characteristics;

(b) To recognize these characteristics as a major part of the community's identity and positive image, and thereby enhance the visual quality of the community;

(c) To stabilize and improve property values; and,

(d) To reduce conflicts between new construction and existing development.

(2) NCO District Requirements.

(a) Applicability

(i) New Development. The regulations of the NCO District shall apply to all new development within the boundaries of the NCO District except as specifically exempted by the provision of this section.

(ii) **Existing Development**. A structure existing at the time a NCO District is approved shall not be deemed a nonconformity because of the NCO District regulations.

(iii) **Work by Local Governments and Utility Companies**. The regulations of the NCO District shall apply to changes in appearance made by local governments or utility companies to street paving, sidewalks, trees, utility installations, walls, lighting, fences, structures and buildings on public property, easements, or streets.

(b) **Exemptions**. The following types of activities are exempt from the provisions of this section:

(i) Replacement of existing structures with a like structure.

(ii) Interior alterations.

(iii) Remodeling or other alterations which do not create additional building floor area, and/or to which the conservation standards are not applicable.

(iv) Routine maintenance or repair of any structure or site feature.

(v) Routine maintenance or repair of streets, sidewalks, pavement markings, utility service lines, street signs, traffic signals, and/or replacement of street light fixtures.

(vi) The construction, reconstruction, alteration, restoration, moving, or demolition of any structure or site feature which the Zoning Administrator determines is required to protect the public safety because of an unsafe or dangerous condition.

(c) **Development Review Process**

(i) **Site Plan Requirement**. Except for projects as specifically exempted herein, no building, grading, or demolition permit shall be issued within the NCO District prior to the submittal and approval of plans by the Community Development Director. The plans shall meet the requirements of Article VII.

(ii) **Compliance Required**. No site plan or subdivision plat shall be approved which does not demonstrate compliance with the provisions of this section and the conservation standards of the applicable design study.

(iii) **Appeals**. Any aggrieved party may take an appeal from the actions of the Community Development Director to the Board of Adjustment, whether the site plan was approved or disapproved.

(d) **Standards for Development Within the NCO District**.

(i) **Conservation Standards**. All development within the NCO District shall be subject to the conservation standards contained in the applicable Neighborhood Design Study. These conservation standards may be more stringent or less stringent than the regulations of the underlying zone; in the event of any conflict, the neighborhood conservation standard shall

apply. However, the conservation standards shall be objective standards and may regulate only the following: Dimensional requirements, natural and constructed landscape and bufferyard features, parking requirements, signage, lighting, vehicular access, location of exterior entrances and stairways, roof shape, building orientation and scale, outdoor storage, location and screening of utilities.

(ii) **Demolition**. A demolition permit may not be denied within a NCO District; however, the effective date of such certificate may be delayed not more than ninety (90) calendar days from the date of approval. During the period of delay, the Zoning Administrator, in consultation with the Community Development Director, may conduct efforts to preserve the building. If the Zoning Administrator, in consultation with the Community Development Director, finds that the building has no particular significant value toward maintaining the character of the district, he/she may waive all or part of such period and authorize earlier demolition or removal.

(3) Zoning Applications

Except for applications filed by the City or County, the Planning Board shall not accept applications for zoning property to a NCO District unless the application meets all of the following criteria:

(a) The area to be zoned shall contain at least fifteen (15) contiguous acres or shall be an expansion of an existing NCO District.

(b) The area to be zoned is an area whose development began at least twenty-five (25) years prior to the application for zoning to the NCO District.

(c) A Neighborhood Design Study which outlines the conservation standards for the area has been adopted by the Elected Body.

(4) Neighborhood Design Study

(a) The Neighborhood Design Study shall include at least the following elements:

(i) A determination that the area meets the size and age of development criteria.

(ii) An inventory and description of the distinctive natural and built features of the area.

(iii) A listing of the conservation standards to be met within the area if NCO District zoning is adopted.

(iv) A listing of voluntary conservation guidelines for the area.

(b) The Neighborhood Design Study shall be submitted to the Planning Board for review and recommendation prior to submission to the Elected Body for adoption.

(c) When a NCO District is approved, the conservation standards contained in the applicable Neighborhood Design Study are adopted by reference and become a part of the *Zoning Ordinance*, and are included as an appendix item to the *Zoning Ordinance*.

(B) TO THOROUGHFARE OVERLAY DISTRICT.

(1) Purpose. The TO District is intended to:

(a) Encourage development and redevelopment which preserves the visual quality and functional operation of major roadways;

(b) Enhance the visual image of the community;

(c) Promote traffic safety;

(d) Preserve property values; and,

(e) Implement the goals, policies, and objectives of the *Kernersville Development Plan*

(2) Overlay District Requirements.

(a) Applicability. Within a TO District, every use of a building or land hereafter established, including demolition and reconstruction of new uses, shall meet the requirements of this section unless otherwise exempted below.

(b) Exemptions.

(i) New Residential Development. New single family, duplex, or twin home development shall be exempt from all of the provisions of this section.

(ii) Reuse or Redevelopment. Reuse, remodeling, repairs, or other redevelopment which do not create additional building floor area or parking spaces shall be exempt from the provisions of this section.

(iii) Expansions. Building additions, parking lot expansions or other redevelopment that creates additional building floor area or parking spaces not exceeding twenty-five percent (25%) of the floor area or parking spaces existing on the site on the effective date of this Ordinance shall be exempt from the provisions of this section, except no expansion may occur within a required setback area. There shall be only one such expansion.

(iv) Shallow Lots. Vacant lots of record existing as of the effective date of this Ordinance with less than one hundred fifty (150) feet of depth shall be exempt from the provisions of this section, except that these lots are required to meet the ten (10) foot setback for parking off right-of-way and streetyard planting.

(v) Streetyard. If existing structures or parking areas are located within a landscaped streetyard area required pursuant to this section on the effective date of this Ordinance, reduction in streetyard width is permitted as provided in Section 3-4.3(A)(3)(b).

(c) Applicable Roads and Boundaries. The TO District shall consist of the public right-of-way and those lands within one hundred (100) feet of either side of the right-of-way, including access ramps of all freeways and expressways and roads in the Interstate System. Additional roads may be included in a TO District

pursuant to Section 2-1.6(B)(3). The TO District does not include land lying underneath bridges or elevated portions of roadways.

(d) **Development Review**. No building or zoning permit or subdivision plat shall be approved which does not demonstrate compliance with the provisions of this section.

(e) **Standards for Development Within the TO District**. All development within the TO District shall be subject to the site development standards of the underlying district, in addition to the following:

(i) **Enclosed Facilities**. All manufacturing, storage, offices, wholesale, retail sales, or similar uses, other than display areas for motor vehicle sales and plant nurseries, shall be conducted within an enclosed building, except as otherwise provided below.

(ii) **Outside Storage**. Outside storage shall be permitted only if screened from view from the thoroughfare. The outside storage shall not occupy an area larger than one-half of the area covered by the principal building.

(iii) **Loading and Garage Bays**. All loading areas and entrances to motor vehicle repair bays shall be screened from view from the thoroughfare.

(iv) **Shielding On-Site Utilities**. All public utilities and related facilities, heating, ventilation and air conditioning (HVAC) units, including on-ground and rooftop mechanical systems, and dumpsters, shall be so located and/or shielded so as to not be visible from the public right-of-way.

(v) **Utilities**. All utilities providing direct service to individual buildings shall be placed underground. All distribution lines running parallel to the roadway within the TO District and installed or relocated in conjunction with construction of a new thoroughfare or widening of an existing thoroughfare which involves the relocation of power lines and poles shall be located underground, unless required to be placed above ground by the applicable utility provider.

(vi) **Landscaped Streetyard**. Within the setback area, the landscaped streetyard requirements of Section 3-4 shall be met. Use of existing vegetation to meet the requirements is encouraged.

(3) **Establishment of Other Designated TO Districts**

(a) Along segments of existing and proposed major and minor thoroughfares designated on the adopted *Transportation Plan*, a TO District may be established following the preparation of a corridor study and plan to protect and enhance the appearance and/or functioning of the roadway, consistent with the purpose of the TO District.

(b) The corridor study and plan shall describe the conditions and boundaries of the segment of thoroughfare being studied, and may make recommendations in regard to setbacks, landscaping, right-of-way plantings, shielding utilities, access, enclosing facilities, outdoor storage, loading and garage bay provisions, underground utilities, or other areas as deemed appropriate.

(c) The study and plan shall be submitted to the Planning Board for review and recommendation prior to submission to the Elected Body for adoption.

(d) The boundaries and recommendations of each corridor plan shall be adopted as a separate and distinct TO District. The development standards contained in the applicable TO District are adopted by reference and become a part of the *Zoning Ordinance*, and are included as an appendix item to the *Zoning Ordinance.*

(4) Variance

Applications for variances from the setback and landscaping requirements of the TO District may be approved by the Board of Adjustment in accordance with the procedures in Section 6-1.4(B). Approval of a variance shall include the determination that there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance because of one or more of the following conditions:

(a) **Narrow**. Unusually narrow sections of land available for planting within the back and/or side yards because of existing permanent structures, existing paving, or natural features such as rock outcroppings.

(b) **Elevation Change**. Elevation change of more than twelve (12) feet within the area where screening would be located.

(c) **Public Safety**. Specialized land uses such as public utilities, airports, etc. where strict adherence to the screening standard would significantly interfere with the function of that use and would create a public safety problem.

(d) **Public Agency**. Actions of a public agency.

(e) **Platting or Deeding**. Difficulties arising from the recorded platting or deeding of land prior to the adoption of this Ordinance.

(C) H HISTORIC DISTRICT

Please refer to Article IV of this Ordinance.

(D) HO HISTORIC OVERLAY DISTRICT

Please refer to Article IV of this Ordinance.

(E) LAND USE TRANSITION ZONE OVERLAY DISTRICT (LUTO)

(1) **Purpose**. The LUTO District is intended to:

(a) protect existing residential uses from planned non-residential uses;

(b) encourage the transition of existing residential uses into land uses recommended by the *Kernersville Development Plan* and its *Land Use Plan*;

(c) stabilize and improve property values;

(d) reduce conflicts between new construction & existing development. and

(e) implement the goals, policies, and objectives of *Kernersville Development Plan* and its *Land Use Plan.*

(2) Boundaries and the Establishment of Other Designated LUTO Districts.

(a) More than one LUTO may be created.

(b) The boundaries shall be depicted on the Official Zoning Maps of Kernersville.

(c) Existing residential areas that the *Kernersville Development Plan* and its *Land Use Plan* recommends non-residential uses are eligible to be designated as LUTO Districts.

(3) LUTO District Requirements.

(a) Applicability

(i) New Development. The regulations of the LUTO District shall apply to all new development within the boundaries of a LUTO District except as specifically exempted by the provision of this section.

(ii) Existing Development. A structure(s) existing at the time that a LUTO District is approved shall not be deemed a nonconforming structure as a result of the LUTO District regulations.

(b) Exemptions.
The following types of activities are exempt from the provisions of this section:

(i) Replacement of existing structures with the same type structure.

(ii) Interior alterations which include reuse, remodeling, repairs, or other forms of redevelopment that do not create additional building floor area or parking spaces shall be exempt from the provisions of this district.

(iii) Routine maintenance or repair of any structure or site feature.

(iv) The construction, reconstruction, alteration, restoration, moving, or demolition of any structure or site feature which the Zoning Administrator determines is required to protect the public safety because of an unsafe or dangerous condition.

(c) Development Review Process

(i) Compliance Required. No building permit or subdivision plat shall be approved which does not demonstrate compliance with the provisions of this district.

(ii) Appeals. Any aggrieved party may take an appeal from the actions of the Zoning Administrator to the Board of Adjustment, whether the building permit was approved or disapproved.

(d) Standards for Development within the LUTO District.

All development within the LUTO District shall be subject to the site development standards of the underlying zoning district, in addition to the following:

(i) Bufferyard Standards. Non-residential uses that are adjacent to lot(s) containing an occupied residential structure or a public park shall install, at a minimum, a type IV bufferyard. A twelve foot (12') setback with a fence or wall meeting the requirements of Chapter B, Article III, Section

3-5.2(B)(3) may be used as an alternative to the bufferyard. Screening may need to be installed to meet other requirements of the district.

(ii) **Enclosed Facilities**. All manufacturing, storage, offices, wholesale, retail sales, or similar uses, other than display areas for motor vehicle sales and plant nurseries, shall be conducted within an enclosed building, except as otherwise provided below.

(iii) **Outside Storage**. Outside storage shall be permitted only if screened from view from occupied residential structures. Screening shall meet the requirements of Section 3-4.5 Outdoor Storage Area Screening Standards, (B) Screening.

(iv) **Loading and Garage Bays**. All loading areas and entrances to motor vehicle repair bays shall be screened from view from occupied residential structures. Screening shall meet the requirements of Section 3-4.5 Outdoor Storage Area Screening Standards, (B) Screening.

(v) **Shielding On-Site Utilities**. All mechanical facilities including but not limited to; heating, ventilation and air conditioning (HVAC) units, including on-ground and rooftop mechanical systems; refrigeration units; and dumpsters shall be so located and/or shielded so it is not visible from occupied residential structures and to reduce the sound.

(vi) **Noise**. Noise related equipment and motor vehicles use areas shall be located in the least intrusive areas from occupied residential structures as determined by the Community Development Director.

(4) **Permitted Uses**

Limited Industrial (LI) Districts: the following uses shall be the allowed permitted uses in Limited Industrial districts: Access Easement, Private Off-Site; Arts and Crafts Studio; Banking and Financial Services; Broadcast Studio; Child Day Care Center; Church or Religious Institution, Community; Church or Religious Institution, Neighborhood; College or University; Building Contractors, General; Building Materials Supply; Fish Hatchery (excluding poultry); Government Offices; Hospital or Health Center; Manufacturing A; Manufacturing B; Medical or Dental Laboratory; Medical and Surgical Offices; Non-Store Retailer; Offices, Miscellaneous; Police or Fire Station; Post Office; Postal Processing Center; Professional Offices; Recreation Facility, Public; School, Vocational or Professional; Services, Business A; Services, Business B (without outdoor storage);Storage Services Retail; Testing and Research Laboratory; Utilities; Warehousing; Wholesale Trade A.

(5) **Waiver**

Request for a waiver from the landscaping and screening requirements of the LUTO District may be approved by the Community Development Director with conditions. Approval of a waiver shall include the determination that there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the requirements because of one or more of the following conditions:

(a) **Narrow**. Unusually narrow sections of land available for planting within the back and/or side yards because of existing permanent structures, existing paving, or natural features.

(b) **Elevation Change**. Elevation change of more than twelve (12) feet within the area where landscaping and/or screening would be located.

(c) **Public Safety**. Where strict adherence to the landscaping and/or screening standard would create a safety problem.

(6) **External Expansion Including Demolition and Expanded Reconstruction**
The Zoning Administrator and Board of Adjustment shall have authority to issue a special use permit for the expansion, which may include demolition and expanded reconstruction, of a building which contains a nonconforming use; provided, under the following circumstances, the following limitations, conditions, and provisions are met:

(a) **Expansion Limitations**. No expansion, with or without demolition and reconstruction, of a building which contains a nonconforming use, shall be permitted which would result in any increase in the size of the building in excess of:

(i) Twenty-five percent (25%) of the floor area lawfully existing as of the effective date establishing the nonconforming status of the use may be granted by the Zoning Administrator; and

(ii) Fifty percent (50%) of the floor area lawfully existing as of the effective date establishing the nonconforming status of the use may be granted by the Board of Adjustment.

(7) The proposed Land Use Transition Overlay (LUTO) zoning district incorporates screening and landscape requirements to buffer the impact on industrial sights and sound.

(8) Residential accessory structures that meet the requirement Chapter B, Article III, Section 3-1.2 (F) Accessory Structures Permitted in Required Yards shall be allowed.

(F) Town of Kernersville Zoning Overlay Districts

(1) **Purpose.** The State of North Carolina General Statutes permit municipalities to establish zoning overlay districts. Within the zoning overlay district, additional requirements may be imposed over the underlying general use and conditional zoning districts. The Town of Kernersville recognizes, through an extensive community discussion process, that general use and conditional zoning districts alone cannot accomplish the goals of the community. It is determined that zoning overlay districts offer the opportunity to develop growth management regulations that will guide development towards accomplishing the community goals of maintaining Kernersville's small town atmosphere, creating a quality community, and improving the community's livability. These goals protect and enhance individuals' welfare and market the community for quality development.

The zoning overlay district's standards require a basic level of site and structural design. The standards are not intended to limit creativity nor create a community where everything looks the same. The intent is to serve as a tool for design in the context of developing Kernersville as a unique place within the Triad while maintaining its sense of place. Consideration is given to balancing the interests of property owners with the betterment of the community's safety, welfare, well-being and aesthetic character.

(2) **Overlay Districts General Requirements:**

(a) **Applicability.** Within the districts, every use of land, including use of any building or structure thereon and their demolition and reconstruction, shall meet the requirements of the applicable overlay district(s) unless otherwise exempted below.

(b) **Exemptions from the Provisions of this Ordinance**

(i) Interior remodeling, repairs, or other forms of redevelopment.

(ii) Exterior repairs, which do not change design features.

(iii) Routine maintenance or repair of any structure or site feature.

(iv) The construction, reconstruction, alteration, restoration, moving, or demolition of any structure or site feature that the Zoning Officer determines is required by law to protect the public safety due to an unsafe or dangerous condition.

(v) Building and parking lot expansions adding no more than twenty percent (20%) of additional square footage.

(vi) Residential structures that are regulated under North Carolina Code for One and Two-Family Dwellings.

(vii) Temporary Uses as defined in Chapter B, Article II, 2-7 Temporary Uses and structures being used during the construction of a permanent structure. The zoning permit shall specify a limited duration for the temporary structure.

(c) **Landscaping and Parking.** Unless specifically exempted from the requirements of the Zoning Overlay districts, or used as a multi-tenant building, any future change in land use (as provided for in Permitted Uses Table 2.6), or parking or building expansion, requires compliance with the landscape standards of Chapter B, Article III, Section 3-4 and (2) the off-street Parking, Stacking and Loading Area requirements of Chapter B, Article III, Section 3-3. Multi-tenant building compliance is required at such time as fifty percent (50%) or more of the square footage of such building is changed in land use.

Where existing development is located upon property not having sufficient area available to accommodate the required landscaping, due to the need for proper internal vehicular aisle width, turning radius, and/or circulation, the Community Development Director shall permit the on-site relocation of trees and shrubs from the landscape standards provided the following are met:

(i) Plant material type, and number of plants, shall be calculated as required by the landscape standards of *Chapter B, Article III, 3-4 Landscape Standards*.

(ii) Plantings are dispersed throughout the required streetyard and parking planting area.

(iii) Removal of asphalt is not considered as a reason for alternating from the requirements.

Where existing development is located upon property not having sufficient area available to accommodate the required parking lot design standards and parking requirements, due to the need for proper internal vehicular aisle width, turning radius, and/or circulation, the Community Development Director may permit modification of the design standards to assure public safety is protected. Removal of asphalt is not considered as a reason for alternating from the requirements.

(d) **Signage.** Any signage either erected or replaced, shall comply with all applicable signage requirements, except for a multi-tenant sign structure. Multi-tenant signage compliance is required after fifty percent (50%) or more of the business signage has been changed, to have their free standing signage incorporate the buildings architectural design and material features into their signage and be allowed twelve (12) square feet per tenant with a maximum of one hundred fifty (150) square feet, and a minimum of fifty (50) square feet shall be allowed. Signage for any business that has either ceased operation or vacated the premise shall be removed within thirty (30) days. Any signage existing on or before December 5, 2000 which is thereafter changed by the same entity due to an addition of the same type of product sold or service offered on December 5, 2000 shall not constitute a replacement of such signage as long as the size of the fascia does not change.

(e) **Development Review**

(i) A pre-submittal conference with the Community Development Department is required prior to the submittal of any building and zoning application.

(ii) A building elevation and site plan shall be submitted with each building permit application. The elevation and site plan shall illustrate and describe proposed:

[A] Building Design Features;

[B] Material(s) and Color(s);

[C] Signage;

[D] Landscaping;

[E] Parking and Walkways; and

[F] Screening Walls, Fences, and Covers.

(iii) All building and zoning permits shall, on their face, be executed by a zoning officer illustrating compliance with all provisions of the Overlay District(s).

(f) **Underlying Districts.** All development within the area of a zoning overlay district(s) shall be subject to the site development standards of the applicable underlying general use and/or conditional zoning district(s). The overlay district standards shall apply in addition to the applicable underlying general use and/or conditional zoning district(s). Where two overlay districts overlap, the more restrictive provisions of either shall apply.

(3) Modification of the Districts:

(a) **Rezoning or Text Amendment.** Prior to any Public Hearing by either the Planning Board or Board of Aldermen, upon an application for rezoning of any property within an overlay district, or upon consideration of any text amendment affecting an overlay district, Public Hearings shall be held before both the Planning Board and Board of Aldermen to consider amending the Kernersville Development Plan which would permit such overlay district

rezoning or text amendment. The Public Hearings for both the amendment to the Kernersville Development Plan and any rezoning and/or text amendment may be held at the same public meeting; however, the Public Hearings considering amendments to the Kernersville Development Plan shall be held first.

(b) **Conditional Zoning District.** A Conditional Zoning District rezoning application, as described in *Chapter B, Article VI, 6-2.2* may request departure from the standards and uses of the Zoning Overlay Districts provided that the applicant presents, at the time of rezoning application, proposed findings of facts that the proposed development would implement the *Purposes* of the overlay district more adequately than development which would meet the strict requirements of the overlay district.

(4) General Site Plan Requirement

(a) **Screening and Fencing.** The screening standards of *Chapter B-Zoning Ordinance, Article III, 3-4 Landscape Standards* shall apply with additional screening requirements as follows:

(i) All manufacturing, storage, offices, or wholesale uses, other than retail sales, located within one hundred feet (100') of the adjacent right-of-way shall be conducted within an enclosed building, except as otherwise provided below.

(ii) Outside storage located within one hundred feet (100') of any existing or proposed public right-of-way shall be permitted only if screened, as described in *Chapter B, Article III, 3-4.5,* from view of the primary abutting street.

(iii) No public utility or related facility, heating, ventilation and air conditioning (HVAC) unit, including on-ground and/or rooftop mechanical system, or dumpster, shall be visible from view of the primary abutting street.

(iv) Material and design of any screening device shall either match or incorporate into its construction the same type of material as that used as the predominant material(s) and color(s) of the primary facade. The screening may include wood or wood imitation material; such as brick façade post with wood fencing.

(v) All electrical and communication utility lines providing service to any individual building, together with all distribution lines running parallel to any right of way within an overlay district, which are installed or relocated in conjunction with any new development or street widening which involves the relocation of power lines and poles, which are visible from the right-of-way, shall be located underground, unless required to be placed above ground by the applicable utility provider. The conversion of overhead electric transmission line facilities operated at voltages in excess of 12.47 kV and utilized exclusively for providing service to electric distribution substation facilities, are exempted from consideration for conversion to underground as are overhead electric distribution line facilities sharing a common pole line with such transmission facilities.

(b) **Landscaping and Bufferyard**

(i) All new residential subdivisions fronting any street within an overlay district shall contain a twenty foot (20') streetyard running parallel thereto, with a minimum planting of two (2) large variety deciduous trees and four (4) understory ornamental trees per one hundred feet (100').

(ii) Large variety trees, or two small or medium varieties for each in lieu thereof, shall be used to meet any parking lot planting requirements.

(iii) Unless otherwise set forth within this ordinance or when overhead utility lines restrict tree height, large variety trees shall be used to meet any streetyard requirements of this ordinance.

(iv) Where streetyards are required, all shrubs shall be planted in either a linear row within three feet (3') to fifteen feet (15') of any required parking lot or in clusters to create a natural effect.

(v) Any development along streets within an overlay district, where streetyards are not required shall contain the minimum planting of two (2) large variety deciduous trees and four (4) understory ornamental trees per one hundred (100) linear feet.

(c) **Tree Preservation for New Construction**

(i) Unless grading for construction or erosion control requires the removal, the developer undertaking new construction of any parcel of property within an overlay district shall preserve existing healthy trees having a diameter of twelve inches (12") or greater, located within any required streetyard, bufferyard and parking lot planting area.

(ii) Preservation of trees shall follow the standards of *Section 3-4 Landscape Standards, 3-4.2 Application Procedures and General Requirements, (H) Use of Existing Trees for Credit.*

(iii) If a protected tree is located within any proposed streetyard berm, the tree's encouragement protection area is not required to be bermed.

(d) **Sidewalks.**

(i) Sidewalks along all streets with curb and gutter shall be required upon development of any property within an overlay district. Sidewalks shall be constructed a minimum five feet (5') in width behind a five foot (5') grassy strip parallel to any thoroughfare and behind a three foot (3') grassy strip parallel to any other streets, unless said sidewalk is located within the Central Kernersville Overlay District in which case the grassy strip may match the adjacent grassy strip width. All sidewalks shall be properly flared to match any existing connecting sidewalk.

(ii) Except where arcades and entranceways are part of the façade of a building, sidewalks shall be installed:

[A] Along the full length of the sides of any building constructed within an overlay district which features a customer or multi-family unit entrance; and

[B] Along any side of any building where parking or a driveway is provided. Any such required sidewalk shall be parallel to the building, but located at least five feet (5') from the building in order to provide an area for planting beds for foundation and entranceway landscaping.

(iii) Parking lots having greater than one hundred (100) spaces shall place pedestrian walkways over access drives which are distinguishable from the driving surface. The minimum spacing of distinguishable walkways shall be one hundred and eighty three feet (183'). All internal pedestrian walkways shall also be distinguished from driving surfaces through the use of some alternative material differing from that used within the parking lot such as pavers, bricks or scored pavement.

(e) **Outdoor Displays.** Outdoor retail display is permitted only if the display is of the same product line sold by the occupant in the primary use of the zoning lot or if it is a seasonal sale.

(5) Institutional and Public Use Buildings

(a) **Exempted.** The following Institutional and Public Uses Buildings shall be exempted from the building design and material standards of the overlay districts, but shall comply with the standards set forth in this section:

Cemetery; Church or Religious Institution, Community; Church or Religious Institution, Neighborhood; College or University; School, Private; School, Public; School, Vocational or Professional; Stadium or Exhibition Building.

(b) **Building Design**

(i) **Front Facade** Unless otherwise provided, no less than fifty percent (50%) of the horizontal length of any facade fronting on the primary abutting street within an overlay district shall have arcades, windows, entry areas or awnings.

(ii) **Walls.** Any wall visible from an existing or proposed public right-of-way, shall incorporate, at a minimum, two architectural accent elements of doors, windows, columns, pre-cast trim, color changes, texture change, recesses and/or material changes such as wood, brickwork, stucco, tile and/or canvas canopies. Fifty (50) linear feet of a wall shall be the maximum length without an architectural accent element.

(iii) **Windows.** Windows shall be recessed and shall include visually prominent sills, lintels, shutters, or other such forms of framing and trim.

(iv) **Cornice.** Flat roofs shall include cornice trim along the top of the walls.

(c) **Building Materials.**

(i) **Facade Visible from Existing and Proposed Public Rights-of-Way.** Facades shall be brick, wood, and/or horizontal vinyl siding of 5" or less in width, but may contain facade accent elements of stucco, textured tinted concrete block, tile, native stone, columns, and/or canvas canopies. The primary facade material used in construction shall

compose, at a minimum, seventy five percent (75%) of the non-glass wall surface. Quik Brik™ or similar product may be used as a substitute to brick.

(ii) **Facade Not Visible from Existing or Proposed Public Right-of-Way.** Material used in the construction of a facade which is not visible from a existing or proposed public right-of-way may consist of one, or a combination of brick, native stone, wood, 5" minimum horizontal vinyl siding decorative cast concrete, stucco, textured concrete block and/or tile. If not visible from right-of-way and adjacent residential property the facade may be metal.

(iii) **Colors.** All facade colors shall be of low reflectance, subtle, neutral, or earth tone colors. The use of high intensity colors, metallic colors, black or fluorescent colors, are prohibited. High intensity whites used for the façade shall be prohibited unless low reflecting, subtle, neutral or earth tone trim is used. Building trim and accent areas may feature brighter colors, including primary colors; however, neon tubing shall not be an acceptable feature for building trim or accent elements. Roof colors shall be of low reflectance and non-metallic.

(6) Central Kernersville Overlay District (CKOD).



(a) **Location.** The *Central Kernersville Overlay District (CKOD)* generally includes the: historic downtown center of Kernersville; existing and planned commercial areas that have expanded from the center; and adjacent historic housing areas.

Specifically, the *CKOD* shall include any zoning lot, which is adjacent to the right-of-way of any of the following streets:

- South Main Street & North Main Street between the right of way of Salem Parkway/US 421 to the right-of-way of Norfolk Southern Railroad;

- South Cherry Street & North Cherry Street between the right-of-way of South Main Street to the right-of-way of Norfolk Southern Railroad;

- East Mountain Street between the intersection of South Main Street to the intersection NC66;

- West Mountain Street between the intersection of South Main Street to the intersection of NC66;

- Salisbury Street between the intersection of South Main Street to the right-of-way of Salem Parkway/US 421;

- Pineview Drive between the right-of-way of Salisbury Street and South Main Street;

- Greenfield Meadow Way between the intersection of Old Winston Road to the intersection of Southern Street;

- Southern Street between the intersection of S Cherry Street and Greenfield Meadow Way; and

  - Oakhurst Street -Sylvan Lane
  - Church Lane -Tanyard Lane
  - Short Street -Moravian Lane
  - Drummond Street -Durham Street
  - English Street -Armfield Street
  - Davis Street -Hugh Street
  - Corum Street -Harmon Lane
  - Broad Street -Woodbine Street
  - Beard Street -Allen Street

(b) **Specific Purposes.** The purposes of the Zoning Overlay District requirements in the CKOD include:

(i) Preserving and enhancing the overall image of the downtown and its surrounding area.

(ii) Encouraging development that compliments and expands the unique character of the downtown and historic districts.

(iii) Enhancing and retaining the small town atmosphere of Kernersville by maintaining vibrant downtown and historic areas with their social and cultural benefits.

(iv) Establishing Kernersville as a unique high quality community within the Triad by creating development that provides visual interest consistent with the community goals.

(v) Enhancing the business economy through the creation of attractive commercial areas.

(vi) Preserving and enhancing property values through creation of high quality developments.

(vii) Implementing the goals, policies, and objectives recommendation of *Kernersville Development Plan.*

(viii) Promoting the overall health, safety, and welfare of the citizens, residents, workers, and business owners.

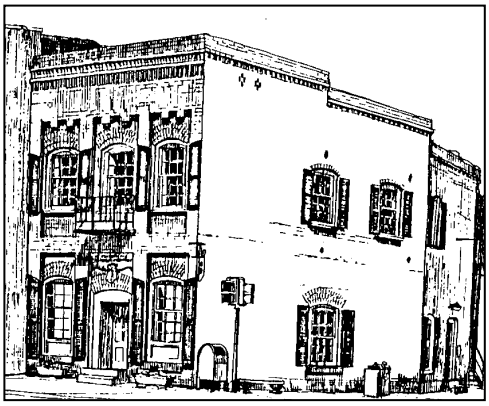
(c) Building Standards:

(i) Facade. The facades of any new building or any addition to an existing building visible from any existing or planned public right-of-way shall meet *Building Design* and *Building Materials* standards set forth in subsection [A] and [B] herein.

(ii) Walls. Any wall visible from any existing or planned public right-of-way shall incorporate, at a minimum, two architectural accent elements of doors, windows, columns, color changes, texture change, recesses, and/or material changes such as wood, brickwork, stucco, tile and/or canvas canopies. Thirty (30) linear feet of any side or rear wall shall be the maximum length without incorporating an architectural accent element.



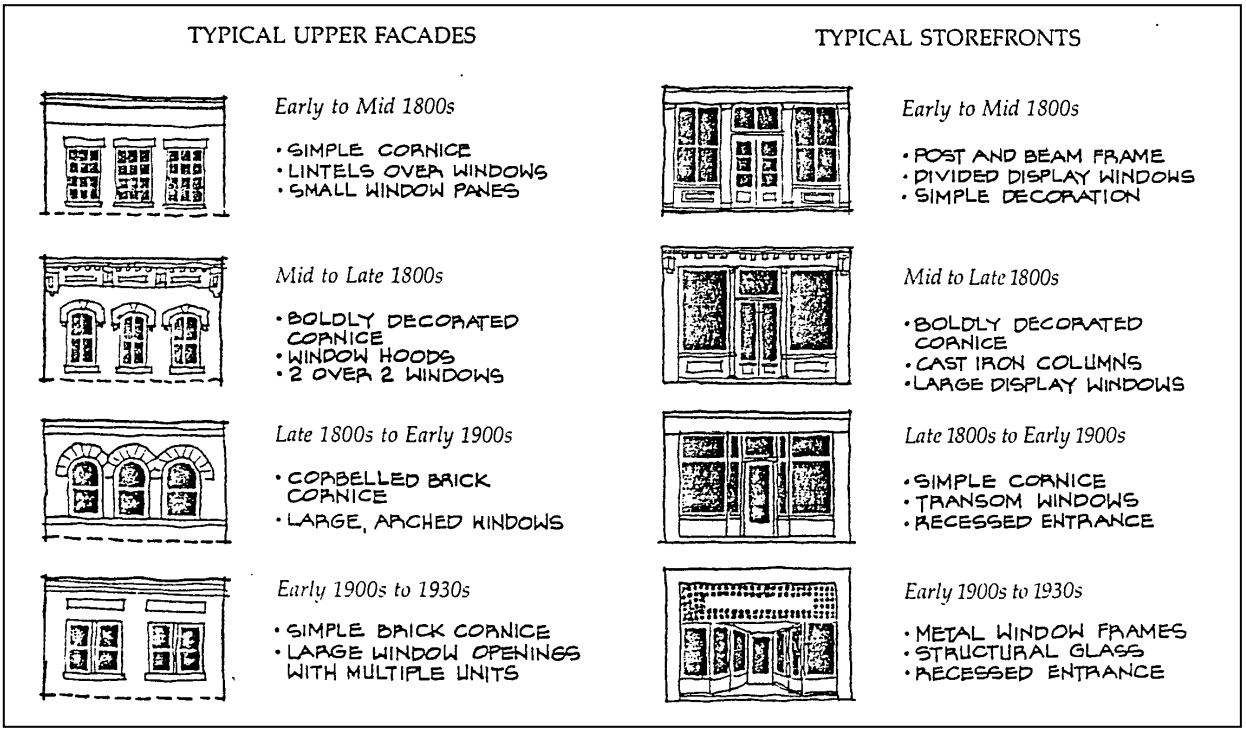
Example of wall architectural accent elements



[A] Building Design

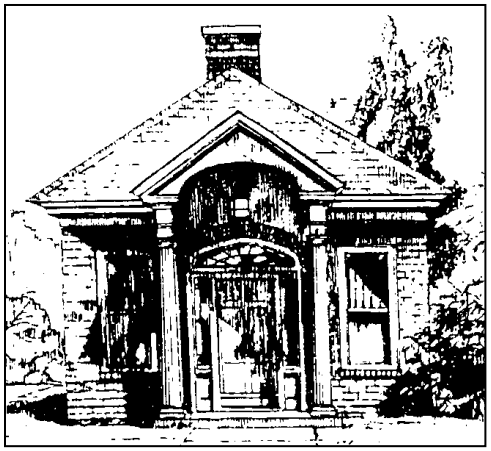
Building design is defined as incorporating roof, window, entrance, trim and architectural characteristics of one of the three applicable historic building styles set forth below.

1.) Store Front Style Building. This building design includes architectural features of a historic storefront. The architectural features shall include a combination of the following:



2.) **<u>Office Style Building</u>.** This building design includes architectural features of a historic office building. The architectural features shall include a combination of the following:

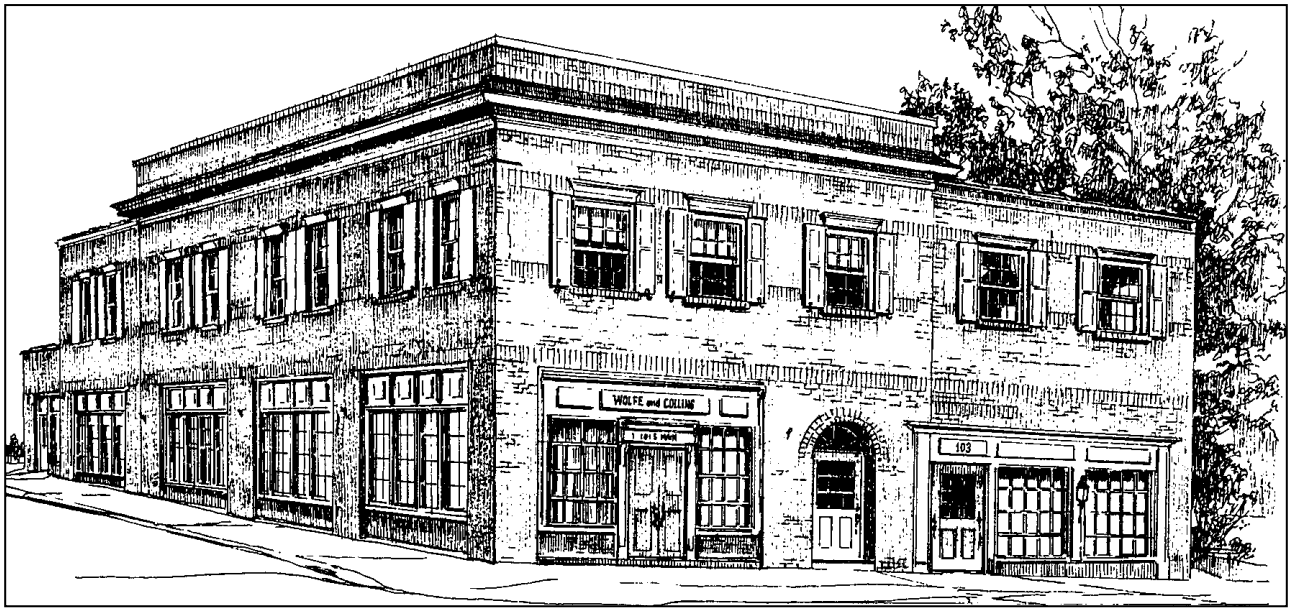
Roofs:
- ✓ Cornice on Flat Roofs; or
- ✓ Hip and/or Gable(s) Roof, with a Pitch between 4:12 and 12:12.



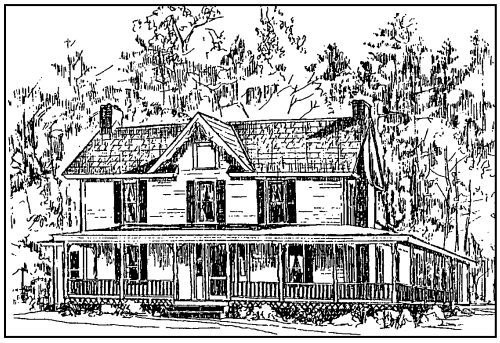
Windows (panes):
- ✓ Window Sills and Lintels;
- ✓ Window Hood;
- ✓ Arched Windows; and/or
- ✓ Decorative Shutters

Entrances:
- ✓ Recessed Entrance; and/or
- ✓ Paneled Doors

Trim:
- ✓ Post & Beam Frame;
- ✓ Columns;
- ✓ Canvas Canopies; and/or
- ✓ Brick Work

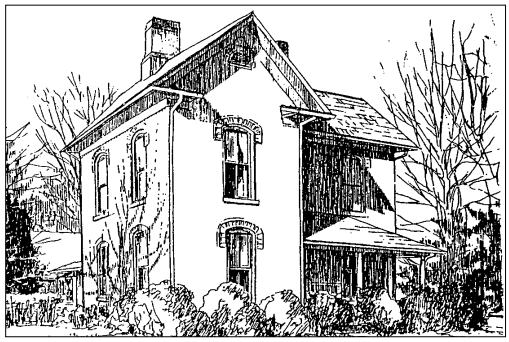


3.) **<u>Residential Style Building</u>.** This building design includes architectural style features known as "neoclassical". Neoclassical incorporates a variety of classical architectural features into a structure. The architectural features shall include a combination of the following:



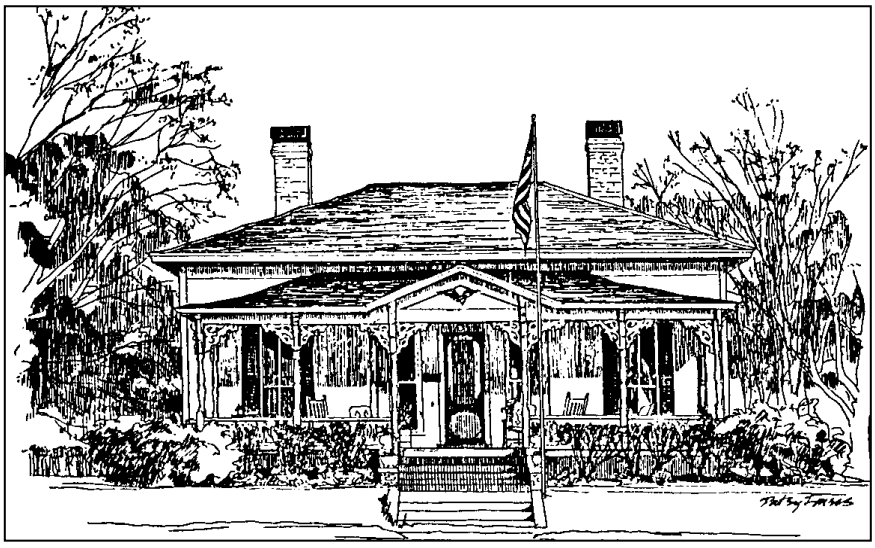
Roofs:
- ✓ Hip and/or Gable(s) Roof, with a Pitch between 4:12 and 12:12.

Windows:
- ✓ Window Sills and Lintels;
- ✓ Small Window Panes; and
- ✓ Window trim that incorporates the use of decorative shutters, heads, aprons and/or cornices.



Entrances:
- ✓ Porches for the front Entrance; and
- ✓ Paneled Doors.

Trim:
- ✓ Brick Chimney; and
- ✓ Brick facade Foundation



[B] **Building Materials**. The construction of any new building, or any addition to an existing building, not exempt, shall be restricted by use of the following:

1.) **Facades.** Facades shall be brick and/or wood except that horizontal vinyl siding of 5" or less in width may be used in new construction of a *Residential Style* Building or in cases where horizontal vinyl siding existed on a facade at the time of the adoption of this ordinance.



Example of Residential Style Building with Horizontal Vinyl Siding

2.) **Accent Elements.** Facade accent elements of stucco, tile, columns, pre-cast trim, and/or canvas canopies are permitted, but shall not exceed 10% of the non-glass building façade elevation. Vinyl or metal fascia boards, soffits, doors or windows are also permitted.

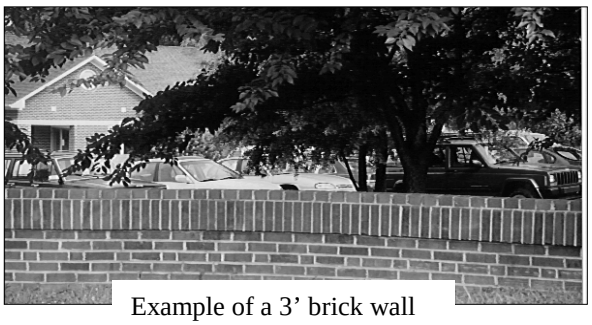
3.) **Colors.** All facade colors shall be of low reflectance, subtle, neutral, or earth tone colors. The use of high intensity colors, metallic colors, black or fluorescent colors, are prohibited. High intensity whites used for the façade shall be prohibited unless low reflecting, subtle, neutral or earth tone trim is used. Building trim and accent areas may feature brighter colors, including primary colors; however, neon tubing shall not be an acceptable feature for building trim or accent elements. Roof colors shall be low reflectance and non-metallic.

(d) **Site Plan Standards:**

(i) **Parking**

[A] **North & South Main Street.** All non-residential parking shall be located either on the side of, or to the rear of, the non-residential structure in use unless a minimum of a three foot (3') or greater brick or stucco wall, or picket or wrought iron fence (for Residential Style Building), is constructed parallel to the street separating the parking area from the said street.

[B] **Remaining Streets.** No more than fifty percent (50%) of any off-street parking area shall be located between the front facade of the principal building(s) and the abutting street, unless a minimum of a three foot (3') or greater brick or stucco wall, or picket or wrought iron fence (for Residential Style Building), is constructed parallel to the street separating the parking area from the said street.



Example of a 3' brick wall

[C] **Internal Connections.** If topography allows, internal connections shall be provided between existing or potential future parking lots of adjacent property(s).

(ii) Setbacks

Building setbacks along both sides of South Main Street and North Main Street, from Harmon Park to the Norfolk Southern Railroad right-of-way, shall be even with existing building(s) on blocks that have a sidewalk width setback. Institutional use buildings are exempt from this requirement.

(iii) Landscaped Streetyard

[A] Where the landscape ordinance requires the use of a deciduous tree in the streetyard the following shall be met:

1.) South Main Street, north of Salem Parkway/US 421 to Cherry Street: Lagerstroemia indica (Red Crepe Myrtle); and

2.) East Mountain Street, from South Main Street to Bodenhamer Street: Lagerstroemia indica (Red Crepe Myrtle).

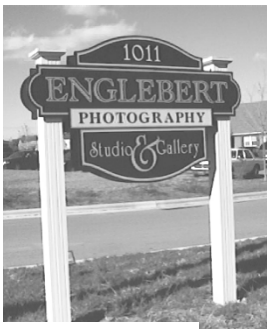
3.) Additional streetyard trees desired by developer are allowed.

(iv) Signage

[A] **Style.** Freestanding signage shall be either:

1.) Monument style signs, eight feet (8') or less in height and fifty (50) square feet or less in area; or





Example of a monument and double post sign

2.) Decorative double post signs, six feet (6') or less in height and thirty-two (32) square feet or less in area; or

3.) Decorative single post signs, six feet (6') or less in height and twelve (12) square feet or less in area.

[B] Lighting. Backlit freestanding signage is not permitted except in knockout backlit signs and reader board areas.



Example of a knockout backlit sign

[C] Neon. No neon signage shall be allowed.

(v) Fuel Pumps & Drive-Through.

Fuel pumps and drive-through may be placed only either to the side and/or rear of a main building.



Example of fuel pumps located to the rear

(e) **Other Building & Site Plan Elements:**

(i) Any addition and/or change to a facade of an historic structure shall meet the Building Standards of this Section.

(ii) Ventilators, utility boxes, antennas and satellite dishes shall be positioned so as not to be visible from the primary abutting street. Antennas and satellites dishes may be visible if reception cannot be obtained where they are not visible.

(iii) No outdoor retail display shall, unless it is the primary use, extend further than a business building frontage side to side and shall not exceed seventy-two (72) square feet in area. Any such display shall be positioned within three feet (3') of a building. Any retail display shall consist only of merchandise offered by the primary business use located within the on premise building.

(f) **Demolition of Historic Structures.** No demolition of an historic structure as defined herein and located upon South Main Street, North Main Street, West Mountain Street, East Mountain Street, South Cherry Street, North Cherry Street or Salisbury Street shall occur until a *Demolition Permit* is approved by the Permit & Enforcement Division. A *Demolition Permit* may not be denied; however, the Community Development Director may set an effective date for such demolition ninety (90) calendar days from the date of demolition permit submittal, during which time the Community Development Director may conduct efforts to preserve the building. If prior to establishing an effective date for demolition the Community Development Director finds public safety requires the removal of the structure, he/she may reestablish the effective date of demolition.

(g) **Residential Uses Within Non-Residential District**

(i) Existing single-family residential structures are hereby deemed to be conforming for single-family residential use.

(ii) Mixed residential and commercial uses are permitted provided:

[A] any residential use is located above the first floor;

[B] any residential unit minimum size shall be five hundred (500) square feet; and

[C] each residential dwelling unit is provided with its own bathroom and kitchen facilities;

h) **Prohibited Uses:** For purposes of Prohibited Uses within the Central Kernersville Overlay District, the District is divided into the *Gateway Area* and the *Downtown & Historic Area*.



Central Kernersville Overlay District – *Gateway Area*

The *Gateway Area* is described as follows: South Main Street from a line across South Main Street, the eastern most point of which line is located in the south margin of the right of way of South Main Street at the northwest corner of Tax Lot designated PIN# 6876-82-5300 (Tax Lot 115, Block 5351) on the Forsyth County Tax Maps and the western most point of said line being located in the north margin of the right of way of South Main Street at the southeast corner of Tax Lot designated PIN# 6876-81-8455 (Tax Lot 502B, Block 5351) on the Forsyth County Tax Maps in a westerly direction to the north right of way of Business 40.

Prohibited Uses. The following uses shall be prohibited within the CKOD *Gateway Area*:

Adult Entertainment; Animal Feeding Operation; Asphalt and Concrete Plant; Borrow Site; Bulk Storage of Petroleum Products; Correctional Institution; Fuel Dealer; Implement Sales and Services; Building Contractor, Heavy; Dirt Storage; Hazardous Waste Management Facility; Meat Packing Plant; Landfill, Construction & Demolition; Landfill, Land Clearing/Inert Debris; Landfill, Sanitary; Mining, Quarry, or Extractive; Motor Vehicle, Storage Yard; Motor Vehicle Dismantling and Wrecking Yard; Outdoor Display Retail (less than two acres); Recycling Center; Recycling Plant; Services, Business B; Signs, Off-Premises; Storage Service, Retail; Storage Trailer; Storage and Salvage Yard; Transmission Tower; Wholesale Trade B (with outside storage).

Central Kernersville Overlay District – *Downtown & Historic Area*

The *Downtown & Historic Area* is described as follows: All property located within the Central Kernersville Overlay District with the exception of those properties within the *Gateway Area* as referenced above.

Prohibited Uses. The following uses shall be prohibited within the CKOD *Downtown & Historic Area:*

Adult Entertainment; Asphalt and Concrete Plant; Borrow Site; Building Materials Supply; Bulk Storage of Petroleum Products; Fuel Dealer; Implement Sales and Services; Building Contractor, Heavy; Dirt Storage; Hazardous Waste Management Facility; Meat Packing Plant; Landfill, Construction & Demolition; Landfill, Land Clearing/Inert Debris; Landfill, Sanitary; Motor Vehicle, Rental and Leasing; Motor Vehicle, Body and Paint Shop; Motor Vehicle, Storage Yard; Motor Vehicle Dismantling and Wrecking Yard; Outdoor Display Retail (less than one acre); Recreation Services, Outdoor; Recycling Center; Recycling Plant; Restaurant (with drive-through service); Services, Business B; Signs, Off-Premises; Storage Trailer; Storage Services, Retail; Storage and Salvage Yard; Transmission Tower; Wholesale Trade B.

(7) Highway Corridor Overlay District (HCOD).

(a) Location:

The HCOD shall include any zoning lot, which is adjacent to the right-of-way of any of the following streets:

- Kernersville Medical Parkway;

- South Main Street from the right-of-way of Salem Parkway/US 421 south;

- North Main Street from the right-of-way of Bodenhamer Street north;

- East Mountain Street between the right-of-way of NC 66 to right-of-way of Old Greensboro Road;

- West Mountain Street from the right-of-way of Bodenhamer Street west, excluding the north side between the right of way of Bodenhamer to the right-of-way of Old Hollow Road;

- Salisbury Street (Union Cross) from the right-of-way of Salem Parkway/US 421 south;

- NC 66 between the right-of-way of East Mountain Street to the right-of-way of Industrial Park Drive;

- NC 66 from right-of-way of I-40 south;

- Bodenhamer Street;

- Dobson Street (Kerner Road) north of Bodenhamer;

- Old Valley School Road;

- Piney Grove Road;

- Hopkins Road;

- Old Salem Road;

- Pineview Drive between the right-of-way of NC 66 and Salisbury Street;

- Old Winston Road between the right-of-way of South Main Street to right-of-way of Salem Parkway/US 421;

- Salem Parkway/US 421, except for parcels within the Business Industrial (BI) zoning district;

- I-40; and

- "Loop Road" as shown on the adopted *Thoroughfare and Street Plan* except for the following sections:

  Shields Road/Loop Road between Abbotts Creek and the right-of-way of Macy Grove Road; Loop Road from the Extraterritorial Jurisdiction east of the right-of-way of Old Hollow Road east to the proposed Perry

Road Connection; and the Loop Road from the right-of-way of East Mountain Street north to Reedy Fork Creek.

(b) **Specific Purposes:** The purposes of the Zoning Overlay District requirements in the HCOD include:

(i) Enhancing the overall image of the major highway corridors by establishing minimum building and site plan design standards.

(ii) Encouraging highway development that compliments and expands on the unique character of the downtown and historic districts and prevents creation of generic commercial strips.

(iii) Establishing Kernersville as a unique, high quality community within the Triad by creating developments that provide visual interest consistent with community goals.

(iv) Enhancing the business economy through the creation of attractive commercial areas.

(v) Preserving and enhancing property values through creation of high quality developments.

(vi) Implementing the goals, policies, objectives and recommendations of the *Kernersville Development Plan*.

(vii) Promoting the overall health, safety and welfare of the citizens, residents, workers and business owners.

(c) **Building Standards:** The facades of any new building or any addition to a façade(s) of an existing building either of which is visible from any existing or planned public right-of-way shall comply with either:

(i) The building standards set forth in the *Central Kernersville Overlay District*, provided that the primary building material may be stucco and the building design may incorporate any or a combination of any of design standards set forth in the *Central Kernersville Overlay District*; or

(ii) The Building Design and Building Materials as set forth in subsection [A] and [B] herein.

[A] **Building Design.** The construction of any new building, or any addition to an existing building, not exempt, shall be restricted by use of the following:

1.) **Front Facade** No less than fifty percent (50%) of the horizontal length of any facade fronting on the primary abutting street shall have arcades, windows, entry areas, or awnings.

2.) **Walls.** Any wall visible from a existing or proposed public right-of-way, shall incorporate at a minimum, two architectural accent elements of doors, windows, columns, color changes, texture change, recesses

and/or material changes such as wood, brickwork, stucco, tile and/or canvas canopies. Fifty (50) linear feet of a wall shall be the maximum length without an architectural accent element.



Example of a stucco façade building

3.) **Windows.** Windows shall be recessed and shall include visually prominent sills, lintels, shutters, or other such forms of framing and trim.

4.) **Cornice Trim.** Flat roofs shall include cornice trim along the top of the walls.

[B] **Building Materials**. The construction of any new building, or any addition to an existing building, not exempt, shall be restricted by use of the following:

1.) **Brick Facades Visible from Existing or Proposed Public Right-of-Way.** The primary facade material visible from any existing or proposed public right-of-way shall consist of brick, but may contain facade accent elements of stucco, textured tinted concrete block, tile, native stone, columns, pre-cast trim, and/or canvas canopies. The primary facade material used in construction shall compose at a minimum seventy five percent (75%) of the non-glass wall surface. Quik Brik™ or similar product may be used as a substitute to brick.


Example of a vinyl façade building

2.) **Facade Not Visible from Existing or Proposed Public Right-of-Way.** Material used in the construction of a facade which is not visible from a existing or proposed public right-of-way may consist of one, or a combination of brick, native stone, wood, 5" minimum horizontal vinyl siding, decorative cast concrete, stucco, textured concrete block and/or tile. If not visible from right-of-way and adjacent residential property, the facade may be metal.



Example of a building meeting the HCOD Building Design & Material Standards

3.) **Colors.** All facade colors shall be of low reflectance, subtle, neutral, or earth tone colors. The use of high intensity colors, metallic colors, black or fluorescent colors, are prohibited. High intensity whites used for the façade shall be prohibited unless low reflecting, subtle, neutral or earth tone trim is used. Building trim and accent areas may feature brighter colors, including primary colors; however, neon tubing shall not be an acceptable feature for building trim or accent elements. Roof colors shall be low reflectance and non-metallic.

(d) **Site Plan Standards:**

(i) **Parking**

[A] Except in shared adjacent property owners parking lots, all

parking lots shall have a minimum five foot (5') side and rear landscaped area along all adjacent property and ten foot (10') landscape areas along any private drive.

[B] Unless prevented by topographical features, internal connections between existing or potential parking lots on adjacent properties shall be provided.

[C] Minimally, twenty-five percent (25%) of the off-street parking shall be placed on the side or to the rear of any building which is the subject of required parking.

(ii) Landscaped Streetyard

A required streetyard shall comply with one of the following:

[A] A minimum streetyard of twenty feet (20') for lots with a depth of two hundred feet (200') or less. Lots greater than two hundred feet (200') in depth shall provide one foot (1') of additional streetyard per ten feet (10') of depth over two hundred feet (200') with a maximum streetyard requirement of fifty feet (50'), or

[B] A minimum streetyard of twenty-two feet (22') coupled with a three-foot (3') berm including a two-foot (2') wide crown on the berm.

(iii) Deciduous Trees

Where the landscape ordinance requires the use of a deciduous tree in the streetyard the following shall be met:

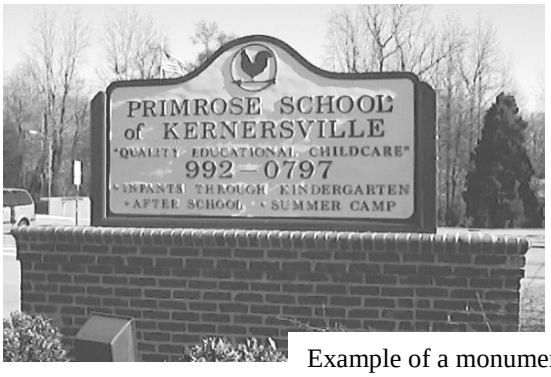
[A] South Main Street, south of the right-of-way of Salem Parkway/US 421: Lagerstroemia indica (White Crepe Myrtle).

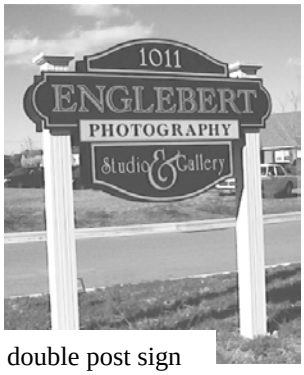
(iv) Signage

Shopping Centers and Business Centers shall be allowed twelve (12) square feet per tenant with a maximum height of twelve (12) and fifteen (15) feet along interstate highways and one hundred fifty (150) square feet of letter area with a minimum square footage of fifty (50) square feet allowed for the total letter area, and minimum of one hundred (100) square feet along interstate highways. Signage must incorporate the primary building material and design elements of the structures. If multi-tenant signage is used, no individual ground signs are permitted for individual businesses.

[A] Style. Freestanding signage shall be either:

1.) Monument style signs, eight feet (8') or less in height and fifty (50) square feet or less in area; or





Example of a monument and double post sign



Example of a knockout backlit sign

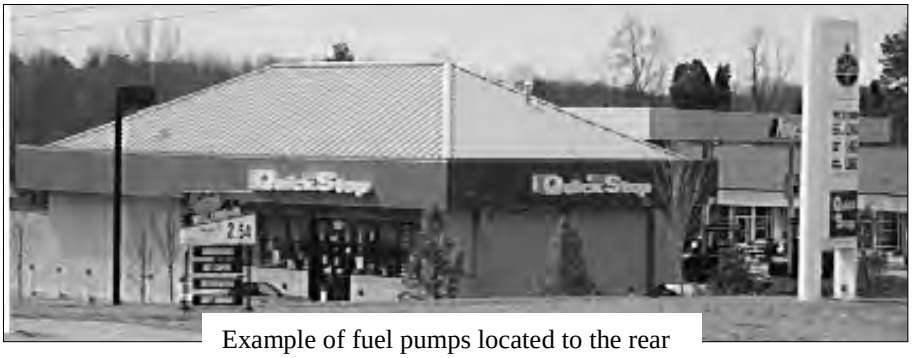
2.) Decorative double post signs, six feet (6') or less in height and thirty-two (32) square feet or less in area; or

3.) Decorative single post signs, six feet (6') or less in height and twelve (12) square feet or less in area.

[B] **Lighting.** Backlit freestanding signage is not permitted except in knockout backlit signs and reader board areas.

[C] **Measuring Height.** The height of any signage located on a required berm shall be measured from the base of the signage.

(v) **Fuel Pumps & Drive-Through.**
Fuel pumps and drive-through may be placed only either to the side and/or rear of a main building.



Example of fuel pumps located to the rear

(e) **<u>Prohibited Uses:</u>**
The following uses shall be prohibited:

Adult Entertainment; Animal Feeding Operation; Asphalt and Concrete Plant; Borrow Site; Bulk Storage of Petroleum Products; Correctional Institution; Fuel Dealer; Implement Sales and Services; Building Contractor, Heavy; Dirt Storage; Hazardous Waste Management Facility; Meat Packing Plant; Landfill, Construction & Demolition; Landfill, Land Clearing/Inert Debris; Landfill, Sanitary; Mining, Quarry, or Extractive; Motor Vehicle, Storage Yard; Motor

Vehicle Dismantling and Wrecking Yard; Outdoor Display Retail (less than two acres); Recycling Center; Recycling Plant; Services, Business B; Signs, Off-Premises; Storage Trailer; Storage and Salvage Yard; Transmission Tower; Wholesale Trade B (with outside storage).

(8) Neighborhood Scale Commercial Overlay District (NSCOD)

(a) **Location:**
The NSCOD shall include the following areas:

(i) Any zoning lot a portion of which lies within five hundred feet (500') of the following intersections' central point:

-West Mountain Street and Hopkins Road;

-Dobson Street (Kerner Road) and Old Valley School Road;

-Piney Grove Road and Linville Springs;

-NC 66 and Abbott's Creek Circle;

-Salisbury Street (Union Cross Road) and Old Salem Road; and

-Salisbury Street (Union Cross Road) and I-40.

(ii) Any non-single family residential zoning lot that is adjacent to a NSCOD zoning lot.

(iii) The area in the northeast corner of the West Mountain Street and Bodenhamer Street intersection east of the right-of-way of Norfolk Southern Railroad.

(b) **Specific Purposes:** The proposes of the Zoning Overlay District requirements in the NSCOD include:

(i) Enhancing the overall image of the residential areas and their neighborhood commercial centers by establishing minimum commercial building and site plan design standards.

(ii) Encouraging neighborhood scale commercial developments that complement the surrounding residential area and tie it into the unique character of the downtown and historic districts.

(iii) Establishing Kernersville as a unique, high quality community within the Triad by creating developments that provide visual interest consistent with community goals.

(iv) Enhancing the business economy through the creation of attractive commercial areas.

(v) Preserving and enhancing property values through creation of high quality developments.

(vi) Implementing the goals, policies, objectives and recommendations of the *Kernersville Development Plan.*

(vii) Promoting the overall health, safety and welfare of the citizens, residents, workers and business owners.

(c) **Building Standards:** The facades of any new building, or any addition to a façade(s) of an existing building either of which is visible from any existing or planned public right-of-way shall comply with either:

(i) The building standards set forth in the *Central Kernersville Overlay District*, provided that primary building material may be stucco and the building design may incorporate any or a combination of any of design standards set forth in the *Central Kernersville Overlay District*; or

(ii) The Building Design and Building Materials as set forth in subsection *[A]* and *[B]* herein.

[A] **Building Design.** The construction of any new building, or any addition to an existing building, not exempt, shall be restricted by use of the following:

1.) **Front Facade.** No less than fifty percent (50%) of the horizontal length of any facade fronting on the primary abutting street shall have arcades, windows, entry areas or awnings.



Example of a building meeting the NSCOD Building Material and Design Standards.

2.) **Walls.** Any wall visible from an existing or proposed public right-of-way, shall incorporate at a minimum, two architectural accent elements of doors, windows, columns, color changes, texture change, recesses and/or material changes such as wood, brickwork, stucco, tile and/or canvas canopies. Fifty (50) linear feet of a wall shall be the maximum length without an architectural accent element.

3.) **Windows.** Windows shall be recessed and shall include visually prominent sills, lintels, shutters, or other such forms of framing and trim.

4.) **Cornice Trim.** Flat roofs shall include cornice trim along the top of the walls.

[B] **Building Materials**. The construction of any new building, or any addition to an existing building, not exempt, shall be restricted by use of the following:

1.) **Brick Facades Visible from Existing or Proposed Public Right-of-Way.** The primary facade material visible from any existing or proposed public right-of-way shall consist of brick, but may contain facade accent elements of stucco, textured tinted concrete block, tile, native stone, columns, pre-cast trim, and/or canvas canopies. The primary facade material used in the construction shall compose at a minimum seventy-five percent (75%) of the non-glass wall surface. Quik-Brik™ or similar product may be used as a substitute to brick.

2.) **Facades Not Visible from Existing or Proposed Public Right-of-Way.** Material used in the construction of a facade which is not visible from a existing or proposed public right-of-way may consist of one, or a combination of brick, native stone, wood, 5" minimum horizontal vinyl siding, decorative cast concrete, stucco, textured concrete block and/or tile.

3.) **Colors.** All facade colors shall be of low reflectance, subtle, neutral, or earth tone colors. The use of high intensity colors, metallic colors, black or fluorescent colors, are prohibited. High intensity whites used for the façade shall be prohibited unless low reflecting, subtle, neutral or earth tone trim is used. Building trim and accent areas may feature brighter colors, including primary colors; however, neon tubing shall not be an acceptable feature for building trim or accent elements. Roof colors shall be low reflectance and non-metallic.

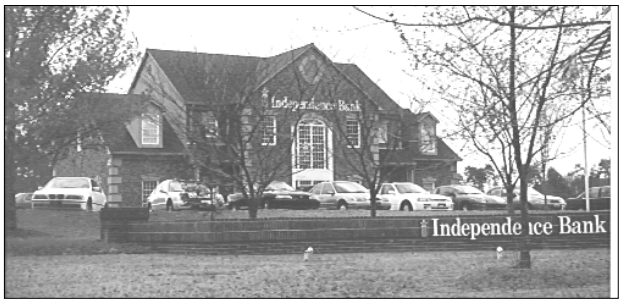
(d) **Site Plan Standards:**

(i) **Parking**

[A] Except in shared adjacent property owners parking lots, all parking lots shall have a minimum five foot (5') side and rear landscaped area along all adjacent property and ten foot (10') landscape areas along any private drive.

[B] Unless prevented by topographical features, internal connections between existing or potential parking lots on adjacent properties shall be provided.

[C] No more than fifty percent (50%) of the off-street parking area shall be located between the front facade of the principal building(s) and the primary abutting street unless a:



1.) three foot (3') brick or stucco wall, or picket or wrought iron fence (for Residential Style Building), is constructed along the border of the front parking; or

2.) berm is constructed meeting the requirements of section (ii) Landscaping [B] of this overlay district.

(ii) **Landscaped Streetyard**

A streetyard is required and shall comply with one of the following:

[A] A minimum streetyard of twenty feet (20') for lots with a depth of two hundred feet (200') or less. Lots greater than two hundred feet (200') in depth shall provide one foot (1') of additional streetyard per ten feet (10') of depth over two hundred feet (200') with a maximum streetyard requirement of fifty feet (50'), or

[B] A minimum streetyard of twenty-two feet (22') coupled with a three-foot (3') berm including a two-foot (2') wide crown on the berm.

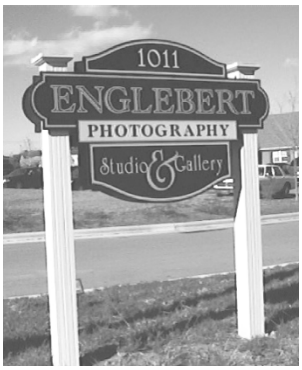
(iii) Signage

Shopping Centers shall be allowed twelve (12) square feet per tenant with a maximum height of twelve (12) feet and one hundred fifty (150) square feet of letter area with a minimum square footage of fifty (50) square feet is allowed for the total letter area. Signage must incorporate the primary building material and design elements of the structures.

[A] Style. Freestanding signage shall be either:

1.) Monument style signs, eight feet (8') or less in height and fifty (50) square feet or less in area; or





Example of a monument and double post sign.

2.) Decorative double post signs, six feet (6') or less in height and thirty-two (32) square feet or less in area; or

3.) Decorative single post signs, six feet (6') or less in height and twelve (12) square feet or less in area.

[B] Lighting. Backlit freestanding signage is not permitted except in knockout backlit signs and reader board areas.



Example of a knockout backlit sign.

[C] **Measuring Height.** Height of any signage located on a required berm shall be measured from the base of the signage.

[D] **Neon.** No neon signage shall be allowed.

(iv) **Pumps & Drive-Through**

Fuel pumps and drive-through may be placed only either to the side and/or rear of a main building.



Example of fuel pumps placed to the rear of a building.

(v) **Lighting**

Lighting shall luminate only the development. To achieve said lumination a 90-degree cutoff luminaire, which directs the lighting towards the ground underneath should be used, unless lighting is directed towards the building. At no time shall lighting illuminate adjacent residential property.

(e) **Permitted Uses**

The following are the only permitted uses within the NSCOD.

Convenience Store; Food or Drug Store; General Merchandise Store; Hardware Store; Restaurant, (without drive-through service); Restaurant, (with drive-through service); Retail Store, Specialty or Miscellaneous; Banking and Financial Services; Bed and Breakfast; Car Wash; Hotel or Motel (only within the NSCODs along I-40); Medical and Surgical Offices; Offices Miscellaneous; Professional Office; Services, Personal; Veterinary Service; Recreation Services, Indoor; Recreation Facility, Public; Child Day Care Center; Child Day Care, Large Home; Child Day Care, Small Home; Church or Religious Institutional Community; Church or Religious Institutional Neighborhood; Government Offices; Neighborhood Organization; Police or Fire Station; Post Office; School, Private; School, Public; Park and Shuttle Lot; Utilities.

(9) Industrial Corridor Overlay District (ICOD)

(a) **Location:**
The ICOD shall include any zoning lot, which is adjacent to the right-of-way of any of the following streets:

-NC 66 between the right of way of Industrial Park Drive to the right-of-way of I-40;

-East Mountain Street from the right-of-way of Old Greensboro Road east; and

-West Mountain Street north side, between Kerners Mill Creek to the right-of-way of Old Hollow Road, including the parcels within one hundred feet (100') of the railroad rights-of-way that is adjacent to West Mountain Street.

-Shields Road/Loop Road between Abbotts Creek and the right-of-way of Macy Grove Road.

-Loop Road from the right-of-way of Old Hollow Road east to the proposed Perry Road Connection.

-Loop Road from the right-of-way of East Mountain Street north to Reedy Fork Creek.

(b) **Specific Purposes:** The purposes of the Zoning Overlay District requirements in the ICOD include:

(i) Promoting industrial and office development that assists in the build-out of Kernersville as a quality community within the Triad.

(ii) Encouraging development and redevelopment, which preserves the community's industrial tax and job base.

(iii) Enhancing the visual image of the industrial corridors by the use of aesthetically pleasing building design, landscaping, and signage.

(iv) Promoting traffic safety by discouraging large scale commercial retail traffic from blending with industrial/ office traffic developments.

(v) Enhancing the business economy through the creation of attractive industrial and commercial areas.

(vi) Preserving and enhancing property values through creation of high quality developments.

(vii) Establishing Kernersville as a unique high quality community within the Triad by creating developments that provide visual interest consistent with community goals.

(viii) Implementing the goals, policies, objectives, and recommendations of the *Kernersville Development Plan*.

(ix) Promoting the overall health, safety, and welfare of the citizens, residents, workers and business owners.

(c) **Building Standards:** The facades of any new building, or any addition to a façade(s) of an existing building, either of which is visible from any existing or planned public right-of-way shall comply with either:

(i) The building standards set forth in the *Central Kernersville Overlay District*, provided that primary building material may be stucco and the building design may incorporate any or a combination of any of design standards set forth in the *Central Kernersville Overlay District*; or

(ii) The Building Design and Building Materials as set forth in subsection *[A]* and *[B]* herein.

[A] **Building Design.** The construction of any new building, or any addition to an existing building, not exempt, shall be restricted by use of the following:

1.) **Front Façade** No less than thirty percent (30%) or one hundred feet (100') of any industrial building, nor less than fifty percent (50%) for any commercial building, fronting on any existing or proposed right-of-way within the ICOD shall have arcades, windows, entry areas, or awnings. Any such façade shall be constructed of material as provided in section [B].

2.) **Walls.** Any side and/or rear wall visible from any public right-of-way, shall incorporate at a minimum, two architectural accent elements of doors, windows, columns, color changes, texture change, recesses and/or material changes such as wood, brickwork, stucco, tile and/or canvas canopies. Fifty (50) lineal feet of any such wall shall be the maximum length without an architectural accent element.

3.) **Windows.** Windows shall be recessed and shall include visually prominent sills, lintels, shutters, or other such forms of framing and trim.

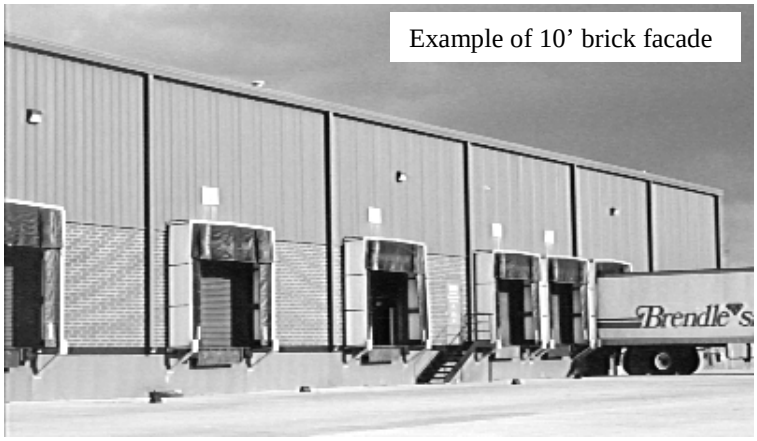
4.) **Cornice Trim.** Flat roofs shall include cornice trim along the top of the walls.

[B] **Building Materials**. The construction of any new building, or any addition to an existing building, not exempt, shall be restricted by use of the following:



Example of industrial building meeting the Industrial Corridor Overlay District

2.) **Facade Visible from Corridor** The lower ten feet (10') of façade, shall be constructed with one and/or a combination of brick, native stone, wood, decorative cast concrete, stucco, textured tinted concrete block and/or tile. Metal or vinyl may be used above the ten feet (10'). Quik Brik™ or similar product may be used as a substitute to brick.



Example of 10' brick facade

3.) **Facade Not Visible from Corridor** Vinyl siding, metal facade covering, or other synthetic veneer materials shall be allowed as construction material(s) when a façade is not fronting or visible from the corridor.

4.) **Colors.** All facade colors shall be of low reflectance, subtle, neutral, or earth tone colors. The use of high intensity colors, metallic colors, black or fluorescent colors, are prohibited. High intensity whites used for the façade shall be prohibited unless low reflecting, subtle, neutral or earth tone trim is used. Building trim and accent areas may feature brighter colors, including primary colors; however, neon tubing shall not be an acceptable feature for building trim or accent elements. Roof colors shall be low reflectance and non-metallic.

(d) **Site Plan Standards:**

(i) **Parking**

[A] Except in shared adjacent property owners' parking lots, all parking lots shall have a minimum five foot (5') side and rear landscaped area along all adjacent property and a ten foot (10') landscape area along any private drive.

[B] Unless prevented by topographical features, internal connections between existing or potential parking lots on adjacent properties shall be provided.

[C] Minimally, twenty-five percent (25%) of the off-street parking shall be placed on the side or to the rear of any building which

is the subject of required parking.

(ii) Landscaped Streetyard

The streetyard shall comply with one of the following:

[A] A minimum streetyard of twenty feet (20') for lots with a depth of two hundred feet (200') or less. Lots greater than two hundred feet (200') in depth shall provide one foot (1') of additional streetyard per ten feet (10') of depth over two hundred feet (200') with a maximum streetyard requirement of fifty feet (50'); or

[B] A minimum streetyard of twenty-two feet (22') coupled with a three-foot (3') berm including a two-foot (2') wide crown on the berm.

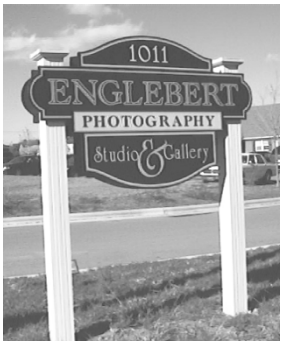
(iii) Signage

Shopping Centers and Business Centers shall be allowed twelve (12) square feet per tenant with a maximum height of twelve (12) and fifteen (15) feet along interstate highways and one hundred fifty (150) square feet of letter area with a minimum square footage of fifty (50) square feet allowed for the total letter area, and minimum of one hundred (100) square feet along interstate highways. Signage must incorporate the primary building material and design elements of the structures. If multi-tenant signage is used, no individual ground signs are permitted for individual businesses.

[A] Style. Freestanding signage shall be either:

1.) Monument style signs, eight feet (8') or less in height and fifty (50) square feet or less in area; or





Example of a monument and double post sign

2.) Decorative double post signs, six feet (6') or less in height and thirty two (32) square feet or less in area; or

3.) Decorative single post signs, six feet (6') or less in height and twelve (12) square feet or less in area.

[B] Lighting. Backlit freestanding signage is not permitted except in knockout backlit signs and reader board areas.



Example of a knockout backlit sign

[C] Measuring Height. Height of any signage located on a required berm shall be measured from the base of the signage.

(iv) Fuel Pumps & Drive-Through.
Fuel pumps and drive-through may be placed only either to the side and/or rear of a main building.



(e) Prohibited Uses:
The following uses shall be prohibited:

Adult Entertainment; Animal Feeding Operation; Asphalt and Concrete Plant; Borrow Site; Correctional Institution; Dirt Storage; Landfill, Construction & Demolition; Landfill, Land Clearing/Inert Debris; Mining, Quarry, or Extractive; Motor Vehicle, Storage Yard; Outdoor Display Retail (less than three acres); Signs, Off-Premises; Storage and Salvage Yard; Transmission Tower.

The following Retail and Wholesale Trade uses shall be limited within structures that are less than 7,000 square feet if the underlying zoning district permits the use:

ABC Store (Liquor); Building Material Supply; Food or Drug Store; General Merchandise Store; Hardware Store; Retail Store, Specialty or Miscellaneous.

2-2 *OFFICIAL ZONING MAPS*

2-2.1 *OFFICIAL ZONING MAPS*

(A) DESIGNATION AND DESCRIPTION OF *OFFICIAL ZONING MAPS*

There shall be maps known and designated as the *Official Zoning Maps* which shall show the boundaries of all zoning districts within the planning jurisdiction of the adopting jurisdiction. The *Official Zoning Maps* as dated upon adoption are made part of this Ordinance as fully as if set forth herein in detail.

(B) LOCATION OF *OFFICIAL ZONING MAPS*

The *Official Zoning Maps* shall be located in the office of the Town Clerk. True copies of the *Official Zoning Maps* are on file in the office of the Zoning Administrator.

(C) REVISION AND REPLACEMENT OF *OFFICIAL ZONING MAPS*

(1) **Community Development Staff Authorization**. The Community Development staff shall control access to the zoning information contained in the Forsyth County Land Records Information System and is authorized to revise the *Official Zoning Maps* when amended by the Elected Body. No unauthorized person may alter or modify the *Official Zoning Maps*.

(2) **Amended Map**. When an *Official Zoning Map* is amended by the Elected Body, the Community Development staff shall revise the appropriate data in the Forsyth County Land Records System and create a new *Official Zoning Map* reflecting the change.

(3) **Replacement Map**. In the event that an *Official Zoning Map* becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes or additions, the Community Development staff may create a new *Official Zoning Map*. The new *Official Zoning Map* may be revised to correct drafting or other errors or omissions in the prior *Official Zoning Map*, but no such corrections shall have the effect of amending the designation or boundaries of any zoning districts on the original *Official Zoning Maps* or any subsequent amendment thereof.

(D) AMENDMENTS TO *OFFICIAL ZONING MAPS*

(1) **Procedures**. The *Official Zoning Maps* may be amended under the same procedures which apply to amendments to the text of this Ordinance, as set forth in Section 6-2.

(2) **Updates**. The Community Development staff shall update amended *Official Zoning Maps* in a timely manner after amendments adopted by the Elected Body. Upon entering any such amendment on a map, the Community Development staff shall change the date of the map to indicate the map's latest revision.

(3) **Records**. The Community Development Department shall keep copies of superseded prints of the zoning map for historical reference.

(E) MAPS INCORPORATED BY REFERENCE

(1) The Unified Development Ordinance regulations reference or incorporate by reference watershed boundary maps, soil survey map prepared by the Natural Resources Conservation Service, the most recent version of the topographic map prepared by the United States Geologic Survey (USGS), or other maps officially adopted or promulgated by state and federal agencies into the *Official Zoning Maps*. For these maps, a regulation text or zoning map may reference a specific officially adopted map or may incorporate by reference the most recent officially adopted version of such maps. A copy of the currently

effective version of any incorporated map shall be maintained for public inspection in accordance with N.C.G.S. 160D-105.

2-2.2 ZONING DISTRICT BOUNDARIES

(A) LOCATION OF DISTRICT BOUNDARIES

Zoning district boundaries shall follow property lines identified in the City-County Geographic Information System unless otherwise defined by a field survey or computed description based on 1983 North American Datum which defines a closed polygon, or located along centerlines of streets, alleys, railroad rights-of-way, or extensions thereof.

(B) UNCERTAINTY CONCERNING DISTRICT BOUNDARIES

Where uncertainty exists concerning boundaries of districts as shown on the *Official Zoning Maps*, the following guidelines shall be used:

(1) **Boundary Line is Within a Street**. In cases where a boundary line is within a street, alley, or easement, the boundary line shall be deemed to be the centerline of such right-of-way;

(2) **Actual Location Varies from Map Illustration**. If the actual location of a street, alley, or easement varies from the location as shown on the *Official Zoning Maps*, then the actual location shall control.

(3) **Boundary Line Defined by Proximity to Right-of-Way**. In cases where a boundary line is shown as being located a specific distance from a street right-of-way line or other physical feature, such distance shall control.

(4) **Water Areas**. All water areas and the land beneath them are controlled by the applicable zoning district regulations within which they are located.

(C) LOT DIVIDED BY DISTRICT BOUNDARY LINE

Where a district boundary line divides a lot created by recorded deed, map, plat, or court proceeding, and existing as of the date establishing nonconformity in Section 5-2.1(A), such boundary shall be presumed to lie on the nearest property line to which it is parallel or most nearly parallel, provided that the district boundary line shown on the *Official Zoning Maps* is found by the Zoning Administrator to be not more than fifty (50) feet, at any point, from said property line. Where a district boundary line is shown on the *Official Zoning Maps* to be not within fifty (50) feet, at all points, of such property line, then such district boundary line shall be as shown on the *Official Zoning Maps*, and the exact location thereof shall be as determined by the Zoning Administrator through reference to the scale or to notation on the *Official Zoning Maps*.

2-3 APPLICATION OF DISTRICT REGULATIONS

2-3.1 MINIMUM STANDARDS

The regulations established by this Ordinance within each district shall be the minimum standards and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

2-3.2 COMPLIANCE

Land may be used and buildings may be erected, altered, enlarged or used only for one or more of the uses permitted in the applicable zone as indicated in Permitted Uses Table 2.6 subject to the dimensional and other requirements of this Ordinance.

2-3.3 SEPARATE COMPLIANCE

No part of a yard, lot area, off-street parking area, or loading area required in connection with any building or use for the purpose of complying with this Ordinance, shall be included as part of a yard, lot area, off-street parking area, or loading area similarly required for any other building or use, except as otherwise

provided in this Ordinance.

2-3.4 YARD AND LOT COMPLIANCE

No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth in Section 3-1, except as otherwise provided in this Ordinance.

2-3.5 CORNER LOTS

The determination of front, side and rear lot lines for corner lots shall be made by the Zoning Administrator. The Zoning Administrator shall consult with the property owner at the time of application for a building or zoning permit.

2-3.6 SUBDIVIDED ZONING LOTS WITH WRITTEN AGREEMENTS

When a zoning lot existing as of the effective date of this Ordinance is proposed to be subdivided into two or more zoning lots, the other requirements of the *Unified Development Ordinances* shall be applied to each of the subdivided lots, provided, however, that the residential density requirements of this Ordinance and the limits of floodway fringe encroachment provisions of Section C.2-3.2(A) may be applied, in whole or in part, to any one or more of the subdivided lots and not to the other lot(s) when such original zoning lot is subdivided under the following conditions:

(A) Floodplain

The original zoning lot encompasses property with designated floodplain area per Section C.2.

(B) Allocation of Development Rights Between Seller and Purchaser

The owner of the original zoning lot and the purchaser(s) of a subdivided part have in writing allocated development rights between or among themselves concerning the development of the original zoning lot whereby a right, or any portion thereof, to develop all, or any portion of, a subdivided part of the original zoning lot as permitted in this Ordinance is transferred to, or is retained by, the remaining portion of the original zoning lot. Development of each subdivided part pursuant to the terms of the writing shall meet or exceed the requirements of this Ordinance. The writing shall further provide that the allocation of development rights shall be appurtenant to and run with the land so benefited and have the effect of imposing a negative easement or restriction upon the servient land.

(C) Approval of Plat

The writing constituting the reallocation of development rights must include, or be represented by, a plat illustrating the reallocation. To be effective, the writing and plat shall be reviewed for compliance with this Ordinance by the Review Officer, and if the writing and plat complies with this Ordinance, the Review Officer shall stamp his approval upon its face, and the writing and plat must then be recorded at the Forsyth County Register of Deeds. A violation of these requirements shall be a violation of this Ordinance and unlawful.

2-4 PERMITTED USES

2-4.1 PERMITTED USES TABLE 2.6

Permitted Uses Table 2.6 displays the principal uses allowed in each zoning district and references use conditions. Permitted Uses Table 2.6 should be read in conjunction with the definitions of principal uses and other terms in Article II of the *Definitions Ordinance*. Land, buildings, and structures shall only be used in accordance with the districts shown on the *Official Zoning Maps*, and subject to all requirements and conditions specified in this Ordinance.

2-4.2 ESTABLISHED NONCONFORMING USES

Nonconforming uses as regulated in Section 5-2 shall be permitted.

2-4.3 NEW OR UNLISTED USES OF SIMILAR NATURE

When a use is not listed in the Permitted Uses Table 2.6, the Zoning Administrator shall classify the use with that use in the schedule most similar and enforce the requirements of the similar listed use.

2-4.5 APPLICATION OF PERMITTED USES TABLE 2.6

(A) ZONING PERMIT FROM THE ZONING ADMINISTRATOR

Uses identified in a particular district column with a *Z* require only issuance of a zoning permit by the Zoning Administrator and shall be allowed in such district with such conditions as referenced in the *Conditions* column, subject to all other applicable requirements of this Ordinance.

(B) SITE PLAN APPROVAL BY PLANNING BOARD

Uses identified in a particular district column with a *P* shall be permitted in such district upon approval by the Planning Board of a site plan meeting such conditions as referenced in the *Conditions* column, subject to all other applicable requirements of this Ordinance as identified in Section 2-4.6 below.

(C) SPECIAL USE PERMIT APPROVAL BY BOARD OF ADJUSTMENT

Uses identified in a particular district column with an *A* shall be permitted in such district upon approval of a special use permit by the Board of Adjustment with such conditions as referenced in the *Conditions* column, subject to all other applicable requirements of this Ordinance as identified in Section 2-4.6 below.

(D) SPECIAL USE PERMIT APPROVAL BY ELECTED BODY

Uses identified in a particular district column with an *E* shall be permitted in such district upon approval of a special use permit by the Elected Body with such conditions as referenced in the *Conditions* column, subject to all other applicable requirements of this Ordinance as identified in Section 2-4.6 below.

(E) *CONDITIONS* COLUMN

The number in the *Conditions* column references the subsection of Section 2-5 (i.e., condition 23 refers to Section 2-5.23).

2-4.6 OTHER DEVELOPMENT REQUIREMENTS OF THE *Zoning Ordinance*

(A) ADDITIONAL DEVELOPMENT REQUIREMENTS

In addition to the regulation of uses pursuant to this Section 2-4 and the use conditions of Section 2-5, the following additional development requirements of this Ordinance may apply to specific properties and situations.

(1)	Sections 2-1.2 through 2-1.5	Supplementary Regulations for Certain Zoning Districts
(2)	Section 2-1.6	Regulations for Overlay and Special Purpose Districts
(3)	Section 2-6	Accessory Uses
(4)	Section 2-7	Temporary Uses
(5)	Section 3-1	Dimensional Requirements
(6)	Section 3-2	Sign Regulations
(7)	Section 3-3	Off-Street Parking, Stacking, and Loading Areas
(8)	Section 3-4	Landscaping Standards
(9)	Section 3-5	Bufferyard Standards
(10)	Sections 3-6 through 3-11	Various Development Standards
(11)	Article IV	Historic Preservation
(12)	Article V	Nonconforming Situations

(B) SITE PLAN REVIEW CONDITIONS

For uses which require review by the Planning Board, the Board of Adjustment, and/or the Elected Body, or for conditional zoning district rezoning requests, additional conditions may be recommended or placed on the use pursuant to Sections 6-1.3, 6-1.4, 6-1.5, and 6-2.2.

2-5 USE CONDITIONS

2-5.1 ACCESS EASEMENT, PRIVATE OFF-SITE

(A) APPLICABILITY
No access easement or private street shall be established except within a zoning district permitting the use to be served, or as part of and within the general boundaries of an approved subdivision, planned residential development or multifamily development; without a special use permit issued in accordance with Article VI.

(B) CONDITIONAL ZONING DISTRICT
Notwithstanding the requirements of Section 2-5.1(A) above, a private access easement established pursuant to Article VI may serve more than one zoning lot or conditional zoning district zones.

(C) STANDARDS
Private access easements requiring the issuance of a special use permit in Section 2-5.1(A) above must be designed in conformity with the accepted criteria established for public streets of equivalent width, grade, curvature, intersection locations, and other safety features.

2-5.2 ADULT DAY CARE CENTER

(A) AS AN ACCESSORY USE
This use is permitted as an accessory use operated by a religious institution on the same zoning lot and also within buildings used for religious activities in all zoning districts.

(B) SPACE REQUIREMENTS
At least fifty (50) square feet of heated space per person enrolled, or sufficient space to meet State requirements, whichever is greater, shall be provided.

(C) HOURS OF OUTDOOR ACTIVITIES
Outdoor activities shall be limited to between 8:00 A.M. and 8:00 P.M.

(D) PASSENGER LOADING SPACE
At least one off-street passenger loading and unloading space separate from the parking area shall be provided for every twenty (20) persons enrolled, plus adequate turnaround.

(E) CERTIFICATION
Certification by the State is required.

2-5.3 ADULT DAY CARE HOME

(A) LOCATION
This use is permitted only in a private residence occupied by the operator or as an accessory use operated by a religious institution on the same zoning lot and within buildings also used for religious activities in all zoning districts.

(B) SPACE REQUIREMENTS
At least fifty (50) square feet of heated space per person enrolled or space sufficient to meet State standards, whichever is greater, shall be provided.

(C) HOURS OF OUTDOOR ACTIVITIES
Outdoor activities shall be limited to between 8:00 A.M. and 8:00 P.M.

(D) OPERATING HOURS
Operating hours shall be limited to between 6:00 A.M. and 8:00 P.M.

(E) PASSENGER LOADING SPACE

At least one off-street passenger loading and unloading space separate from the parking area, plus adequate turnaround area, shall be provided.

(F) CERTIFICATION

Certification by the State is required.

2-5.4 ADULT ESTABLISHMENT

(A) Location

No adult establishment shall be conducted within 100' of licensed premises, licensed pursuant to the alcoholic beverage control regulations of the State or within 1,000 feet of:

(1) A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;

(2) A public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;

(3) A boundary of a residential district as defined in the Uniform Development Code for the Town of Kernersville;

(4) A public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the city which is under the control, operation, or management of the city park and recreation authorities;

(5) The property line of a lot devoted to a residential use as defined in the Uniform Development Code for the Town of Kernersville;

(6) An entertainment business which is oriented primarily towards children or family entertainment; or

(7) Another adult establishment.

(B) Measurements

Measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed in subsection A. Presence of a city, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this Section.

2-5.5 AIRPORT, PRIVATE

(A) AS AN ACCESSORY USE

In the AG, YR, RS-40 and RS-30 Districts, a private airport is permitted as an accessory use. All dimensional and other requirements of this section must be observed.

(B) STANDARDS AND PERMITS

All federal and State standards must be met, and the respective approvals obtained.

(C) LANDING STRIP SETBACKS

The landing strip must be set back at least two hundred (200) feet from any adjacent property zoned AG, YR, RS or RM.

(D) DIMENSIONAL REQUIREMENTS

Hangars and other structures must observe the dimensional requirements for principal buildings in the zoning district.

(E) REPAIR AND MAINTENANCE FACILITIES

Repair and maintenance facilities are limited to those necessary for the aircraft using the private airport. All such facilities, except fuel storage and pumps, must be located within the hangar.

2-5.6 ANIMAL FEEDING OPERATION

(A) SIZE

The minimum site size for an animal feeding operation is three (3) acres.

(B) SETBACKS

All structures, buildings or enclosed areas used for housing of poultry, hogs, cattle, or other livestock, shall be a minimum of one hundred (100) feet from all property lines.

2-5.7 BED AND BREAKFAST

The following shall apply to all bed and breakfasts in the RS zones:

(A) PARKING TO THE REAR

All off-street parking shall be provided to the rear or to the side of the principal structure. The side parking area may be no closer to the street than the principal structure.

(B) BUFFER AROUND PARKING AREA

(1) **Rear Parking Areas**. All rear parking areas shall be buffered by a type I bufferyard, as defined in Section 3-5, from adjacent residentially zoned property.

(2) **Side Parking Areas**. Type I plantings will be provided in the required streetyard. A type II bufferyard, as defined in Section 3-5, shall be provided if side parking abuts residentially zoned property.

2-5.8 BOARDING OR ROOMING HOUSE

In RM Districts, the minimum lot area shall be determined based on the minimum lot area required for a two-unit dwelling in the district, as shown in Table 3.3.

2-5.9 BORROW SITES

(A) PROHIBITED IN RS ZONES

Except as permitted below in subdivisions, borrow sites shall not be permitted in RS Districts.

(B) SUBDIVISIONS

Borrow sites operated by a developer or builder in conjunction with active development of section(s) of a subdivision within five (5) years of final plat approval, including land grading, removal, or filling within the subdivision where the fill material is placed on sites within said section(s) of a subdivision, are exempt from the use conditions of this section and the Special Use Permit requirements specified in Permitted Uses 2.6 (Permitted Uses).

(C) EASEMENTS

No excavation shall take place within easements for underground transmission lines for oil, natural

gas, or other potentially hazardous material.

(D) FENCING

Any excavation to a depth greater than five (5) feet shall be fenced. However, no fencing shall be required on any property where such fencing would be impracticable, as determined by the Zoning Administrator.

(E) HOURS OF OPERATION

Except in cases of emergency involving safety on the site, borrow sites shall not be operated on Sunday and may not be operated earlier than 7:00 a.m. nor later than 6:00 p.m. on any other day.

(F) ACCESS

The borrow site shall have direct access onto a major or minor thoroughfare.

(G) GRADING PERMIT

A grading permit must be issued for any borrow site 10,000 square feet or more.

(H) OPERATIONAL STATEMENT

The petitioner will file an operational statement with the Permit & Enforcement Division which shall include the following:

(1) The approximate date to begin operation and its expected duration.

(2) Estimated type and volume of extraction.

(3) Description of method of operation, including the disposition of topsoil, overburden, and by-products.

(4) Description of equipment to be used in the extraction process.

(5) Any phasing of the operation and the relationship of the various phases.

(I) TEMPORARY OR PERMANENT DISCONTINUANCE OF OPERATIONS

Notice of intent to discontinue temporarily a borrow site shall be filed with the Zoning Administrator in advance of such temporary discontinuance. Notice of intent to discontinue permanently a borrow site shall be filed with the Zoning Administrator.

(J) MAINTENANCE

During any period that a borrow site is discontinued temporarily, the site, along with all structures, machinery, and fencing, shall be properly maintained in a safe and orderly condition.

(K) REUSE OR REHABILITATION OF SITE

Notice of permanent discontinuance of a borrow site shall include a plan for reuse or rehabilitation of the site. Except where redevelopment for another permitted use is in progress on the site of a discontinued borrow site, the last operator shall perform the following within one year, except that ground vegetation and revegetation of slopes shall comply with the deadlines contained in Section 7-3.6 of the Environmental Ordinance (Chapter C).

(1) Buildings and Equipment. All buildings and equipment shall be removed;

(2) Materials. All nonregulated waste piles, overburden, and other materials shall be graded so that the material assumes its natural angle of repose. These materials shall be planted with vegetation so as to prevent erosion;

(3) Water Collection and Drainage. Any excavation shall be so graded as to provide for

natural drainage; if the collection of water in an excavation is unavoidable, the area shall be fenced.

(L) OTHER REQUIREMENTS

The operator of any borrow site shall file with the Zoning Administrator, in addition to any exhibits required elsewhere in this Ordinance, evidence of ownership or control of property, plans for rehabilitation, and notices of intent, as required herein. The Zoning Administrator shall inspect the premises annually to determine that all specific conditions are being met. Violation of the requirements herein shall make the operator liable to the penalties set forth in this Ordinance.

2-5.10 CAR WASH

The following conditions shall apply to all car wash facilities:

(A) VACUUM FACILITIES

Vacuum facilities shall meet setbacks of the applicable zoning district.

(B) VEHICLE STACKING

The facility shall provide for off-street stacking space for five (5) times the number of vehicles which can be accommodated at one time in the facility.

(C) TRAFFIC FLOW

The facility shall be designed to allow adequate traffic flow for cars to enter and exit the facility safely. No portion of an exit or an entrance shall be less than fifty (50) feet from the right-of-way of an intersection.

(D) DRY DOWN AREA

(1) **Single Bay or Self-Service Facilities**. Single bay facilities with automated brushes and multiple bay self-service facilities shall provide space for the parking of one car per bay to be used as a dry down area.

(2) **Conveyors or Chain Drag Systems**. Facilities utilizing a conveyor or chain drag system for moving motor vehicles through the washing area shall provide adequate space at the building exit to allow for a dry down area of three (3) times the number of vehicles which can be accommodated at one time within the structure.

2-5.11 CEMETERY, LICENSED

(A) PROHIBITED DISTRICTS

Licensed cemeteries shall not be permitted as a principal or accessory use in RS Districts.

(B) REQUIREMENTS

Licensed cemeteries shall meet all licensing requirements of State law.

(C) SETBACKS

All buildings, grave plots, mausoleums or other structures shall be set back not less than fifty (50) feet from any exterior boundary property line which is located adjacent to the right-of-way of a public street or road. All grave and burial plots shall be set back not less than fifteen (15) feet from any other exterior property line, except if the adjoining property is a licensed or unlicensed cemetery, then there shall be a setback of not less than three (3) feet. All other structures, including mausoleums, shall be set back not less than thirty-five (35) feet from any other exterior property line.

(D) REQUIRED YARDS

All required yards shall be landscaped with a type I bufferyard and adequately maintained.

(E) ACCESS

Licensed cemeteries shall have direct access to a major or minor thoroughfare.

(F) SUBDIVISION

Licensed cemeteries shall meet the platting and other requirements of the *Subdivision Ordinance*.

2-5.12 CEMETERY, UNLICENSED

(A) PROHIBITED DISTRICTS

Except as otherwise permitted herein, unlicensed cemeteries shall not be permitted as a principal or accessory use in RS Districts.

(B) SETBACKS

All buildings, grave plots, mausoleums or other structures shall be set back not less than fifty (50) feet from any exterior boundary property line which is located adjacent to the right-of-way of a public street or road. All grave and burial plots shall be set back not less than fifteen (15) feet from any other exterior property line, except if the adjoining property is a licensed or unlicensed cemetery, then there shall be a setback of not less than three (3) feet. All other structures, including mausoleums, shall be set back not less than thirty-five (35) feet from any other exterior property line.

(C) REQUIRED YARDS

All required yards shall be landscaped with a type I bufferyard and adequately maintained.

(D) ACCESS

Municipal and animal cemeteries containing more than five (5) acres shall have direct access to a major or minor thoroughfare.

(E) SUBDIVISION

Unlicensed cemeteries shall meet the platting and other requirements of the *Subdivision Ordinance*. Unlicensed cemeteries existing at the time of adoption of this Ordinance which have not been platted shall be recorded prior to the issuance of any permit for the property, except cemeteries accessory to and located on the main campus of churches.

(F) ENTRANCE AND INTERNAL ROADS

The entrance to and access within the unlicensed cemetery shall be maintained by the property owner.

(G) RELIGIOUS INSTITUTIONS

Unlicensed cemeteries are permitted as an accessory use to religious institutions in all districts where religious institutions are permitted.

(H) PROHIBITIONS

Unlicensed cemeteries are not permitted as accessory uses to residential uses, or on lots less than one acre in size.

2-5.13 CHILD CARE (DROP-IN)

(A) AS A PRINCIPAL OR ACCESSORY USE

The use is permitted as a principal use in the zoning districts indicated in Permitted Uses 2.6 "Permitted Uses" of this Ordinance, and as an accessory use operated by a religious institution or school on the same zoning lot and within the same buildings also used for religious or educational activities.

(B) INDOOR SPACE

At least twenty-five (25) square feet of inside space shall be provided for each child (based on permitted capacity) if outdoor space is provided as indicated in (C) below. If less or no outdoor space is provided, at least thirty-five (35) square feet of inside space shall be provided for each child (based on permitted capacity).

(C) OUTDOOR SPACE
If outdoor play area is provided, it shall be enclosed by a minimum four (4) foot tall security fence. A minimum of one hundred (100) square feet for each child (based on permitted capacity) must be provided to reduce the indoor space requirements in (B) above.

(D) LICENSING
Licensing by the State is required.

2-5.14 CHILD CARE (SICK CHILDREN)

(A) AS PRINCIPAL OR ACCESSORY USE
The use is permitted as a principal use in the zoning districts indicated in Permitted Uses 2.6 "Permitted Uses" of this Ordinance, and as an accessory use for internal service (care provided by an employer to its employees)

(B) INDOOR SPACE
At least forty-five (45) square feet of inside space shall be provided for each child (based on permitted capacity).

(C) MEDICAL CARE
Sufficient medical and nursing coverage with due regard to communicable disease control shall be provided and approved by the State.

(D) LICENSING
Licensing by the State is required.

2-5.15 CHILD CARE INSTITUTION

(A) SITE SIZE
The following minimum site sizes shall apply:

- Five (5) acres for twenty-five (25) to seventy-five (75) children;
- Ten (10) acres for seventy-six (76) to one hundred twenty-five (125) children;
- Fifteen (15) acres for one hundred twenty-six (126) to one hundred seventy-five (175) children; and,
- Twenty (20) acres for one hundred seventy-six (176) or more children.

(B) SETBACK
No building, dumpster, or recreation area shall be less than one hundred (100) feet from any property line adjacent to property zoned residential.

(C) LICENSING
Licensing by the State is required.

(D) REGULATIONS
Facilities must conform to all State and local building, fire, and health codes which apply to such facilities.

2-5.16 CHILD DAY CARE CENTER

(A) AS AN ACCESSORY USE

A Child Day Care Center is permitted as an accessory use with a special use permit from the Board of Adjustment as follows:

(1) **Church or Religious Institutions**. In all zoning districts permitting churches or religious institutions when operated by a religious institution on the same zoning lot and within buildings also used for religious activities.

(2) **Public or Private Schools**. In all zoning districts permitting public or private schools when operated by the school on the same zoning lot and within buildings also used for school activities.

(3) **In CI and GI Districts**. In the CI and GI Districts when operated solely for the benefit of the employees of the principal use on the same zoning lot.

(B) CONDITIONS

Child Day Care Centers must meet the following conditions in all districts when operated as a principal or an accessory use:

(1) **Indoor Space**. At least twenty-five (25) square feet of inside space shall be provided for each child enrolled.

(2) **Outdoor Space**. Outdoor play area of one hundred (100) square feet for each child enrolled, with four thousand (4,000) square feet minimum, shall be provided, except that in the CB, CB-S, PB, and PB-S Districts the outdoor play area requirements shall be the same as that required by the North Carolina Day Care Licensing Bureau; such outdoor play area shall be enclosed by a minimum four (4) foot tall security fence. Outdoor activities are limited to the fenced area between 8:00 A.M. and 10:00 P.M.

(3) **Passenger Loading Space**. At least one off-street passenger loading/unloading space separate from parking shall be provided for each twenty (20) children enrolled, plus adequate turnaround area. The loading/unloading spaces and turnaround areas are required in all districts, including the CB and CI Districts.

(4) **Safety**. The review and approval of site plans by the staff and approving authorities should give special consideration to internal traffic circulation and safety of the children on the site.

(5) **Licensing**. Licensing by the State is required.

2-5.17 CHILD DAY CARE (LARGE HOME)

(A) AS A PRINCIPAL OR ACCESSORY USE

This use is permitted only in a private residence occupied by the licensed operator in RS and RM Districts, or as an accessory use operated by a religious institution on the same zoning lot and within buildings also used for religious activities in all zoning districts.

(B) INDOOR SPACE

At least twenty-five (25) square feet of heated inside space shall be provided for each child enrolled.

(C) OUTDOOR SPACE

Outdoor play area of one hundred (100) square feet for each child enrolled, with a two thousand (2,000) square foot minimum, shall be provided. Such outdoor play area shall be enclosed by a

minimum four (4) foot tall security fence. Outdoor activities shall be limited to the fenced area between 8:00 A.M. and 8:00 P.M.

(D) PASSENGER LOADING SPACE

At least one off-street passenger loading or unloading space separate from parking shall be provided, plus adequate turnaround area. The loading/unloading spaces and turnaround area are required in all districts, including the CB District.

(E) LICENSING

Licensing by the State is required.

2-5.18 CHILD DAY CARE (SMALL HOME)

(A) LOCATION

This use is permitted only in a private residence occupied by the licensed operator or as an accessory use operated by a religious institution on the same zoning lot and within buildings also used for religious activities in all zoning districts.

(B) INDOOR SPACE

At least twenty-five (25) square feet of inside space shall be provided for each child enrolled.

(C) OUTDOOR SPACE

Outdoor play area of one hundred (100) square feet for each child enrolled, with an eight hundred (800) square feet minimum, shall be provided; such outdoor play area shall be enclosed by a minimum four (4) foot tall security fence. Outdoor activities shall be limited to the fenced area between 8:00 A.M. and 8:00 P.M.

(D) REGISTRATION

Registration with the State is required.

2-5.19 CHURCH OR RELIGIOUS INSTITUTION, COMMUNITY SCALE

(A) ACCESS

The site shall have direct access to a major or minor thoroughfare or a collector street.

(B) IMPERVIOUS SURFACE COVER

In RS Districts, impervious surface cover for all church or religious institution property within the block of the principal building shall not exceed sixty percent (60%), however impervious surface cover in the RS and IP Districts may be increased to seventy-five percent (75%) with staff approval of a landscaping plan which demonstrates greater tree canopy coverage of parking area by doubling the planting ratio of Section 3-4.3(C)(4) and reducing by at least one-half the spacing requirements of Section 3-4.3(C)(5). In other districts, churches are subject to the impervious surface cover requirements of the underlying zone.

(C) BUFFERYARD

All buildings and parking areas on site shall be buffered by a type I bufferyard, as described in Section 3-5, from adjacent residentially zoned property.

(D) PARKING

Off-site parking may be used to meet up to fifty percent (50%) of on-site parking requirements upon recommendation of the City Department of Transportation regarding the safety of potential on-street parking. A special use permit from the Board of Adjustment is required.

2-5.20 CHURCH OR RELIGIOUS INSTITUTION, NEIGHBORHOOD SCALE

(A) IMPERVIOUS SURFACE COVER

In RS Districts, impervious surface cover for all church or religious institution property within the block of the principal building shall not exceed sixty percent (60%), however impervious surface cover in the RS and IP Districts may be increased to seventy-five percent (75%) with staff approval of a landscaping plan which demonstrates greater tree canopy coverage of parking areas by doubling the planting ratio of Section 3-4.3(C)(4) and reducing by at least one-half the spacing requirements of Section 3-4.3(C)(5). In other districts, churches are subject to the impervious surface cover requirements of the underlying zone.

(B) BUFFERING OF PARKING AREAS

All parking areas on site shall be buffered by a type I bufferyard, as described in Section 3-5, from adjacent residentially zoned property.

(C) PARKING

Off-site parking may be used to meet up to fifty percent (50%) of on-site parking requirements, upon recommendation of the City Department of Transportation regarding the safety of potential on-street parking. A special use permit from the Board of Adjustment is required.

2-5.21 CLUB OR LODGE

The following conditions apply in the IP District:

(A) MINIMUM SIZE

The minimum site size shall be one acre.

(B) ACCESS

The site shall have direct access to a collector street, or major or minor thoroughfare.

(C) SETBACKS

No structure or outdoor recreation area shall be located less than forty (40) feet from any property line adjacent to residentially zoned property.

(D) PUBLIC ADDRESS SYSTEMS

Public address systems shall not be permitted except within a building.

2-5.22 COMBINED USE

(A) DWELLING UNIT LOCATION

No dwelling unit(s) shall be located at ground level fronting the street.

(B) NO AND NB DISTRICTS

In the NO and NB Districts a maximum of two (2) residential dwelling units per building are permitted.

2-5.23 CONGREGATE CARE FACILITY

(A) CONDITIONS

The use conditions for Residential Building, Multifamily (Section 2-5.61) shall apply to Congregate Care Facilities.

(B) DENSITY

Density shall conform to the limitations of the applicable zoning district.

2-5.24 CORRECTIONAL INSTITUTION

In CB and CI Districts, additional setbacks may be required to preserve important view corridors and/or create open space, at the discretion of the Community Development Director.

2-5.25 DIRT STORAGE

(A) PROHIBITED IN RS ZONES

Dirt storage shall not be permitted in RS Districts.

(B) SUBDIVISIONS

Dirt storage areas operated by a developer or builder in conjunction with active development of section(s) of a subdivision within five (5) years of final plat approval, including land grading, removal, filling, or storage within the subdivision where the fill material is placed on sites within said section(s) of a subdivision, are exempt from the use conditions of this section and the Special Use Permit requirements specified in Permitted Uses 2.6 (Permitted Uses).

(C) ACCESS

Access to the dirt storage area shall be controlled with security fencing or other barrier to vehicular access.

(D) FENCING

Dirt storage sites which are residentially zoned and lie within 100 feet of an adjacent property shall be completely enclosed with security fencing of a minimum six (6) feet in height. Any existing natural or constructed barrier approved by the Zoning Administrator may be used in place of part of the fencing.

(E) BUFFERYARD AND LANDSCAPING

No bufferyard landscaping according to Section 3-5 is required if a permit for dirt storage is granted for less than six (6) months, and the site remains at least one hundred (100) feet off the property line and the intervening area is left undisturbed. Where a bufferyard is required, a dirt storage site is considered a high intensity use. Streetyard landscaping meeting the standards of Section 3-4 shall be installed on the outside of the security fencing along any adjacent public street right-of-way.

(F) PERMIT DURATION AND RENEWALS

The Board of Adjustment shall issue permit approvals for dirt storage sites which shall be valid for a maximum of three (3) years, after which time renewals may be granted for up to three (3) years at a time.

(G) REHABILITATION/REUSE PLAN

A rehabilitation/reuse plan shall accompany the permit or site plan application, and shall be implemented by the owner of the site within the deadlines for establishing ground cover and slope revegetation contained in Section 7-7.3(A) of the Environmental Ordinance (Chapter C).

(H) TEMPORARY DISCONTINUANCE

Notice of intent to discontinue temporarily a dirt storage site shall be filed with the Zoning Administrator in advance of such temporary discontinuance. Notice of intent to discontinue permanently a dirt storage operation shall be filed with the Zoning Administrator.

(I) MAINTENANCE

During any period that a dirt storage operation is temporarily discontinued, the site, along with all structures, machinery, and fencing, shall be properly maintained in a safe and orderly condition.

2-5.25.1 EVENT CENTER

(A) PROPERTY SEPARATION

No such establishment, building or parking shall be located adjacent to single family residentially zoned property, unless the Event Center is in a Conditional Zoning District.

(B) SCREENING

All outdoor equipment and activity areas shall be screened from view of any residence by means of a minimum six (6) foot high opaque fence, unless in a mixed use development.

(C) OPENINGS

If within three hundred (300) feet of a residential zoned area no entrances into the main event space shall be facing that residential area.

(D) LIGHTING

All areas related to the establishment shall be so lighted to direct such light toward the parking areas but shielded so no direct light shall affect any existing residences. The illumination shall comply with the Illuminating Engineering Society of North America Standard RP-20, "Enhanced Security Lighting" for parking lots. (A survey or site plan on CAD can be provided to Duke Power Company and they will generate a plan at no cost as long as the customer uses their lighting fixtures.) A lighting plan signed or sealed by the preparer with calculations/ft. candles shall be submitted along with a completed Zoning Permit Application.

(E) HOURS OF OPERATION

If within three hundred (300) feet of single family residential zoned property, no event with amplified music shall be held between the hours of 12:00 AM and 9:00 AM, and no outside event activities shall be conducted after 12:00 AM.

(F) NOISE

The Town of Kernersville Code of Ordinances: Chapter 10, Article III shall be the determining factor in regulating exterior sound emitting from an above listed establishment. Electronic amplified sound generated in conjunction with any event shall be located within the building.

2-5.26 FAMILY GROUP HOME A, FAMILY GROUP HOME B

(A) MANAGEMENT

If not State licensed, the Family Group Home A or B shall have written operating procedures or manuals, established goals and objectives for persons receiving therapy or treatment, a structured system of management with a Board of Directors, and on-premises management/supervisory personnel.

(B) MINIMUM LOT AREA

In RM Districts, the minimum lot area of a Family Group Home B shall be determined based on the minimum lot area required for a two unit dwelling in the district, as shown in Table 3.3.

(C) SPACING REQUIREMENT

A Family Group Home A or B may not be located within a distance of one-half mile from another Family Group Home A or B or a Family Group Home C. All measurements shall be made by drawing straight lines from the nearest point of the lot line where the proposed Family Group Home is to be located to the nearest point of the lot line of another Family Group Home.

2-5.27 FAMILY GROUP HOME C

(A) MANAGEMENT

If not State licensed, the Family Group Home C shall have written operating procedures or manuals, established goals and objectives for persons receiving treatment or therapy, a structured system of management with a Board of Directors, and on-premises management/supervisory personnel.

(B) MINIMUM LOT AREA

In RM-12, RM-18, and RM-U Districts, the minimum lot area shall be based on Table 3.3 with four (4) residents equal to one dwelling unit. In the IP District, the minimum lot area shall be calculated in the same manner based on the requirements of the RM-8 District.

(C) HEATED BUILDING AREA
One hundred (100) square feet of heated building shall be provided per resident.

(D) SPACING REQUIREMENT
A Family Group Home C may not be located within a distance of two thousand five hundred (2,500) feet from any other Family Group Home C. All measurements shall be made by drawing straight lines from the nearest point of the lot line where the proposed Family Group Home is to be located to the nearest point of the lot line of another Family Group Home.

(E) ADDITIONAL SPACING REQUIREMENT
A Family Group Home C may not be located within a distance of one-half mile from another Family Group Home A or B. All measurements shall be made by drawing straight lines from the nearest point of the lot line where the proposed Family Group Home is to be located to the nearest point of the lot line of another Family Group Home.

2-5.28 FISHING, FEE CHARGED
In the AG, RS-40, RS-30, RS-20, RS-15, and YR Districts, the following conditions shall apply:

(A) SETBACKS
No building or fishing area shall be located less than one hundred (100) feet from any property line.

(B) PARKING AREAS
Parking areas shall be located not less than one hundred (100) feet from the right-of-way of any public street or other property line.

2-5.29 FRATERNITY OR SORORITY
The following conditions apply in the RM Districts:

(A) MINIMUM SITE SIZE
The minimum site size shall be one-half acre.

(B) SETBACKS
No structure, or outdoor gathering or recreation area shall be located less than forty (40) feet from any property line adjacent to property zoned for residential use.

(C) PUBLIC ADDRESS SYSTEMS
Public address systems shall not be permitted, except within buildings.

2-5.30 GOLF COURSE

(A) SETBACKS
No building shall be nearer to any property line than one hundred (100) feet.

(B) HOURS OF OPERATION
In RS and RM Districts, hours of operation shall be limited to between the hours of 6:00 A.M. and 10:00 P.M.

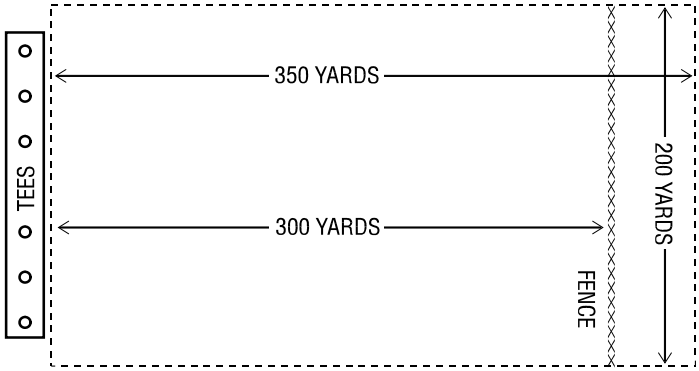
(C) LIGHTING
In RS and RM Districts, no lighting is permitted for nighttime outdoor operations, including accessory golf driving ranges.

(D) YR DISTRICT
In the YR District, best management practices for the protection of water quality shall be utilized in golf course design and operation.

2-5.31 GOLF DRIVING RANGE

(A) DIMENSIONS

The depth of a driving range along the driving axis shall be not less than three hundred fifty (350) yards measured from the location of the tees and the breadth not less than two hundred (200) yards at a distance of three hundred fifty (350) yards from the tees. The depth of the driving range may be reduced to three hundred (300) yards if a fence designed to stop rolling balls is installed at the far end of the driving axis.



(B) LIGHTING

Any lighting shall be oriented away from adjacent residential properties.

2-5.32 HABILITATION FACILITY A

(A) AS AN ACCESSORY USE

This use is permitted as an accessory use operated by a church or religious institution on the same zoning lot and within buildings also used for religious activities in all zoning districts.

(B) INSIDE SPACE

At least one hundred (100) square feet of heated space shall be provided for each person enrolled.

(C) OUTDOOR PLAY AREA

Outdoor play area of one hundred (100) square feet for each person enrolled, with a four thousand (4,000) square foot minimum shall be provided. Such outdoor play area shall be enclosed by a minimum five (5) foot high security fence if the facility provides services for children under the age of eighteen (18) years old. Fencing of said play area is optional if the facility does not provide services for children under the age of eighteen (18) years old. Outdoor activities shall be limited to the fenced area between 8:00 A.M. and 8:00 P.M.

(D) PASSENGER LOADING SPACE

At least one off-street passenger loading or unloading space separate from the parking area shall be provided, plus adequate turn around.

(E) LICENSING

Licensing by the State is required.

2-5.33 HABILITATION FACILITY B OR C

(A) PERMITTED AS AN ACCESSORY USE

This use is permitted as an accessory use operated by a church or religious institution on the same zoning lot and within buildings also used for religious activities in all zoning districts.

(B) INSIDE SPACE
At least one hundred (100) square feet of heated space shall be provided for each person enrolled.

(C) OUTDOOR PLAY AREA
Outdoor play area of one hundred (100) square feet for each person enrolled with a four thousand (4,000) square foot minimum shall be provided. Such outdoor play area shall be enclosed by a minimum five (5) foot high security fence if the facility provides services for children under the age of eighteen (18) years old. Fencing of said play area is optional if the facility does not provide services for children under the age of eighteen (18) years old.

(D) PASSENGER LOADING SPACE
At least one off-street passenger loading or unloading space separate from parking shall be provided for each twenty (20) persons enrolled, plus adequate turn around. The loading/ unloading spaces and turnarounds are required in all districts, including the CB District.

(E) LICENSING
Licensing by the State is required.

2-5.34 HAZARDOUS WASTE MANAGEMENT FACILITY
Approval of a special use permit by the Elected Body shall be subject to the following:

(A) USE CONDITIONS

(1) **Compliance with Applicable Laws**. The establishment and operation of any hazardous waste management facility must comply with all applicable federal and State laws.

(2) **Size**. The minimum site size shall be ten (10) acres.

(3) **Setbacks**. All facilities, including internal roads, shall be located at least two hundred (200) feet from any exterior property line and at least one thousand three hundred twenty (1,320) feet from any residential or institutional district.

(4) **Floodplains or Wetlands**. All storage and handling of hazardous waste shall occur at least five hundred (500) feet from a designated floodplain or wetland area.

(5) **Storage of Hazardous Waste**. Storage of hazardous waste shall be above ground and in a manner consistent with applicable State or federal regulations covering each specific stored waste.

(6) **Surface Water and Groundwater**. All surface water and groundwater on the property will be protected so as to minimize to the greatest possible extent, using the best technology available, the probability of contamination by hazardous waste.

(7) **Water Supply Watersheds**. No hazardous waste management facility shall be located within a public surface water supply watershed as designated by the North Carolina Department of Environment, and Natural Resources and the Public Health Department.

(8) **Public Sewer and Storm Water Systems**. All public 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 waste.

(9) **Fences**. A chain link security fence, minimum six (6) feet in height, shall enclose all facilities for the storage and handling of hazardous waste.

(10) **Landscaping**. Streetyard landscaping meeting the standards of Section 3-4 shall be

installed outside the required fencing along any adjacent public street right-of-way.

(11) **Access**. Vehicular access to the facility will be provided on a major or minor thoroughfare or on a road improved to necessary industrial capacity as determined by the Community Development Director or the North Carolina Department of Transportation for Forsyth County.

(12) **Governmental Certification**. 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 air quality, water quality, and wastewater discharge shall be required.

2-5.35 HELISTOP OR HELIPORT

(A) STANDARDS AND REQUIREMENTS

All heliports and helistops will meet the standards and requirements imposed by the Federal Aviation Administration and all other federal, State, or local agencies having jurisdiction.

(B) SITE SIZE

The minimum site size of helicopter terminal facilities shall be:

(1) **Helistops**. One hundred (100) feet in width by one hundred (100) feet in length for a rectangular area, or one hundred twenty (120) feet in diameter for a circular area.

(2) **Heliports**. Two hundred (200) feet in width by four hundred (400) feet in length for a rectangular area, or three hundred twenty-five (325) feet in diameter for a circular area.

(C) HOURS OF OPERATION

Nonemergency use of heliports and helistops between the hours of 10:00 P.M. and 6:00 A.M. is prohibited. Emergencies excepted are for public safety or medical purposes.

(D) SETBACKS

Landing pads for on-grade helistops and heliports shall be set back a minimum of one hundred (100) feet from any property line and four hundred (400) feet from any building used for residential purposes, public or private schools, hospitals, or public parks.

(E) LOCATION

Heliports shall be located a minimum one thousand (1,000) feet from other heliports or on-ground helistops and fifty (50) feet from the easements for high voltage transmission lines.

(F) ACCESS

An on-ground helistop or heliport shall be surrounded by a fence or other barrier which prohibits access except at a controlled access point. Adequate access for fire and other emergency vehicles shall be provided to on-ground sites.

(G) DESIGN STANDARDS

Federal Aviation Administration standards for design of helicopter landing pads, taxiways, parking positions, and pavement grades shall be met. The helistop or heliport landing area shall be constructed of a material free of dust and loose particles which may be blown about by the down blast of the helicopter rotor. Adequate drainage shall be provided for the site and approved by the local jurisdiction.

(H) LIGHTING

Lighting for helistops or heliports is to be provided according to Federal Aviation Administration requirements and is to be oriented as much as possible away from adjacent uses.

(I) APPROACH SURFACES

Approach surfaces and transitional surfaces for landings and take-offs must be sufficiently clear of obstructions to meet Federal Aviation Administration slope standards. If necessary, a curved approach may be used. The landing area shall be aligned to give maximum into-the-wind operation.

(J) LOCATION ON STRUCTURES

Heliports may not be located on structures. Helistops located on structures require certification of the structure's integrity by an engineer.

(K) SETBACK ADJUSTMENTS

All setback and distance requirements for elevated helistops may be reduced one foot for each one foot of the elevation above ground level.

(L) OPERATION AT AN AIRPORT

A heliport or helistop may be operated at an airport facility with the approval of the Federal Aviation Administration and airport administration.

2-5.36 LANDFILL, CONSTRUCTION AND DEMOLITION

(A) PROHIBITED DISTRICTS

Construction and demolition landfills shall not be permitted as a principal or accessory use in RS Districts.

(B) COMPLIANCE WITH STATE AND FEDERAL LAWS

The establishment and operation of any landfill must comply with all applicable federal and State laws.

(C) WATERSHEDS, FLOODPLAINS, AND WETLANDS

No landfill disposal areas shall be located in a designated water supply watershed, floodplain, or wetland area, or block a natural drainage way so that water is impounded.

(D) BUFFERYARD

A minimum one hundred (100) foot bufferyard area is required along all property lines and public rights-of-way. No landfill activities, including parking, access roads, buildings, or disposal shall occur in the bufferyard area. Roads for access to the site may cross the one hundred (100) foot area and monitoring wells may be located within the one hundred (100) foot area. All existing trees within the bufferyard area shall be preserved, except to allow for construction of necessary road crossings and monitoring wells.

(E) LANDSCAPE PLANTINGS

Landscape plantings meeting the standards of the type IV bufferyard, defined in Section 3-5 of this Ordinance, are required in the bufferyard area along all property lines and public rights-of-way regardless of the adjacent zoning. Existing plant material may be included in the computation of the required plantings with approval of the Zoning Administrator.

(F) FENCING

A chain link security fence, minimum six (6) feet in height, shall enclose the entire site. The fence may be placed inside the one hundred (100) foot bufferyard area with approval of the Zoning Administrator.

(G) ACCESS

Vehicular access to the landfill site shall be provided on a major or minor thoroughfare or on a road improved to necessary industrial capacity as determined by the Community Development Director or the North Carolina Department of Transportation for Forsyth County.

(H) RECLAMATION PLAN

Developer shall file in the office of the Register of Deeds, prior to issuance of a certificate of occupancy, a reclamation plan for the reuse of the site. Such plan shall indicate that the developer, or other entity approved by the Elected Body, shall remain the owner and be liable for the site forever or until the Elected Body approval is given to release this requirement.

2-5.37 LANDFILL, LAND CLEARING AND INERT DEBRIS

(A) STATE LAW

Land clearing and inert debris landfills (LCID) shall comply with State law.

(B) EXEMPTION

(1) Beneficial Fill

Land clearing and inert debris landfills which affect areas 10,000 square feet or less and in which the fill material consists only of inert debris strictly limited to concrete, brick, concrete block, uncontaminated soil, rock, gravel, and asphalt, shall be exempt from the use conditions of this section and either the Planning Board Review or Board of Adjustment Special Use Permit requirements specified in Permitted Uses 2.6 (Permitted Uses).

(2) Within Subdivisions

Land clearing and inert debris landfills operated by a developer or builder in conjunction with active development of section(s) of a subdivision within five (5) years of final plat approval, including land grading, removal or filling within the subdivision where the fill material is obtained from within the subdivision and is placed on sites within said section(s) of a subdivision, are exempt from the use conditions of this section and the Special Use Permit requirements specified in Permitted Uses 2.6 (Permitted Uses).

(C) ACCESS

Access to the land clearing and inert debris landfill area shall be controlled with security fencing or other barrier to vehicular access.

(D) FENCING

Land clearing and inert debris landfills which are residentially zoned and lie within a block in which at least fifty percent (50%) of the lots are developed, or where either of the adjacent lots are developed, shall be completely enclosed with security fencing of a minimum six (6) feet in height. Any existing natural or constructed barrier approved by the Zoning Administrator may be used in place of part of the fencing.

(E) BUFFERYARD AND LANDSCAPING

No bufferyard landscaping according to Section 3-5 is required if a permit for the land clearing and inert debris landfill is granted for less than six (6) months. Where a bufferyard is required, a land clearing and inert debris landfill is considered a high intensity use. Streetyard landscaping meeting the standards of Section 3-4 shall be installed on the outside of the security fencing along any adjacent public street right-of-way.

(F) PERMIT DURATION AND RENEWALS

Any land clearing and inert debris landfills which received approval from the State of North Carolina Department of Environment and Natural Resources and were established prior to December 31, 1994, and for which a valid State permit has been continuously maintained shall not be required to obtain a special use permit from the Board of Adjustment. All other land clearing and inert debris landfills must obtain a special use permit from the Board of Adjustment. Said permit shall be valid for a maximum of three (3) years, after which time renewals may be granted for up to three (3) years at a time.

(G) STATE PERMIT APPROVAL

No permits or site plans for land clearing and inert debris landfills shall be approved until all plans, including plans for rehabilitation of sites, have been reviewed and approved by the North Carolina Department of Environment and Natural Resources.

(H) REHABILITATION/REUSE PLAN

Developer shall file in the office of the Register of Deeds a record of use of the site for a landfill and a rehabilitation/reuse plan for the site, prior to the issuance of a zoning or grading permit. Said plan shall be implemented by the owner of the site within six (6) months of discontinuance of the land clearing and inert debris landfill operation or expiration of the permit. The owner or operator of the land clearing and inert debris landfill site shall post a closure bond with the North Carolina Department of Environment and Natural Resources for an amount equaling six thousand dollars ($6,000) per acre of the landfill area at the time of plan approval to insure rehabilitation of the site.

(I) TEMPORARY DISCONTINUANCE

Notice of intent to discontinue temporarily a land clearing and inert debris landfill shall be filed with the Zoning Administrator in advance of such temporary discontinuance. Notice of intent to discontinue permanently a land clearing and inert debris landfill operation shall be filed with the Zoning Administrator not less than three (3) months in advance.

(J) MAINTENANCE

During any period that a land clearing and inert debris landfill operation is temporarily discontinued, the site, along with all structures, machinery, and fencing shall be properly maintained in a safe and orderly condition.

(K) SCHEDULE FOR IMPROVEMENTS

All land clearing and inert debris landfills existing as of the effective date of this Ordinance shall comply with all requirements of this section within two (2) years of the effective date of this Ordinance.

(L) SITING CRITERIA

The siting criteria for land clearing and inert debris landfills, found in Solid Waste Management Rules, 15 A NCAC 138, Section .0564, shall be followed.

(M) ACCESSORY USES

The Zoning Board of Adjustment may issue a permit for the separation, processing, storage, or wholesale sale of materials received through lawful operation of the land clearing and inert debris (LCID) landfill on the site as an accessory use on the site of an LCID, provided such activities occur within the original boundaries of the State-approved LCID landfill and are conducted at least one hundred feet from any adjacent zoning lot zoned RS or RM.

(N) HOURS OF OPERATION

In RS and RM Districts, the hours of operation shall be limited to between the hours of 7:00 AM and 7:00 PM.

2-5.38 LANDFILL, SANITARY

Approval of a special use permit by the Elected Body shall be subject to the following conditions:

(A) PROHIBITED DISTRICTS

Landfills, sanitary, shall not be permitted as a principal or accessory use in RS Districts.

(B) COMPLIANCE WITH STATE AND FEDERAL LAWS

The establishment and operation of any landfill must comply with all applicable federal and State laws.

(C) WATERSHEDS, FLOODPLAINS, AND WETLANDS

No landfill disposal areas shall be located in a floodplain or wetland area, nor block a natural drainage way so that water is impounded. No new landfills shall be located in a designated water supply watershed. Expansion of legally existing landfills in water supply watersheds shall be permitted. The expansion is limited to contiguous land area and must be in accordance with North Carolina Solid Waste Rules and other provisions of this Ordinance.

(D) BUFFERYARD

A minimum one hundred (100) foot bufferyard area is required along all property lines and public rights-of-way. No landfill activities, including parking, access roads, buildings, or disposal shall occur in the bufferyard area. Roads for access to the site may cross the one hundred (100) foot area and monitoring wells may be located within the one hundred (100) foot area. All existing trees within the bufferyard area shall be preserved, except to allow for construction of necessary road crossings and monitoring wells.

(E) LANDSCAPE PLANTINGS

Landscape plantings meeting the standards of the type IV bufferyard, defined in Section 3-5 of this Ordinance, are required in the bufferyard area along all property lines and public rights-of-way regardless of the adjacent zoning. Existing plant material may be included in the computation of the required plantings with approval of the Zoning Administrator.

(F) FENCING

A chain link security fence, minimum six (6) feet in height, shall enclose the entire site. The fence may be placed inside the one hundred (100) foot bufferyard area with approval of the Zoning Administrator.

(G) ACCESS

Vehicular access to the landfill site shall be provided on a major or minor thoroughfare or on a road improved to necessary industrial capacity as determined by the Community Development Director or the North Carolina Department of Transportation for Forsyth County.

(H) RECLAMATION PLAN

Developer shall file in the office of the Register of Deeds, prior to issuance of a certificate of occupancy, a reclamation plan for the reuse of the site. Such plan shall indicate that the developer, or other entity approved by the Elected Body, shall remain the owner and be liable for the site forever or until the Elected Body approval is given to release this requirement.

2-5.39 LIBRARY, PUBLIC

The following conditions apply in the RS and RM Districts:

(A) ACCESS

The site shall have direct access to a major or minor thoroughfare.

(B) BUILDING SIZE

The building square footage shall not exceed ten thousand (10,000) square feet.

(C) SITE SIZE

The maximum site size shall be five (5) acres.

2-5.40 LIFE CARE COMMUNITY

Use conditions and approval requirements for a planned residential development shall apply to a Life Care Community.

2-5.41 LIMITED CAMPUS USES

(A) CONSISTENT WITH NEIGHBORHOOD
The use shall be conducted within an existing building or a building with a scale and massing consistent with the structures in the neighborhood in which the building is located.

(B) DIMENSIONAL REQUIREMENTS
Any structure shall comply with all dimensional requirements of the applicable district. If applicable, the older neighborhood provisions of Section 3-8 may apply.

(C) STUDENT HOUSING
In buildings used for student housing, a minimum of two hundred fifty (250) square feet of gross floor area shall be provided for each student resident.

(D) IMPERVIOUS SURFACE COVER
Impervious surface cover of the lot shall not exceed sixty percent (60%).

(E) PROXIMITY TO CAMPUS DISTRICT
The use must be conducted within a structure which is entirely within five hundred (500) feet of the C District.

(F) ACCESS
The limited campus use must be located on a major or minor thoroughfare unless the lot is adjacent to land zoned C (Campus District).

(G) BUFFERYARDS
A type I bufferyard shall be installed adjacent to residential zoning at the discretion of the Planning Board.

(H) OFF-STREET PARKING
All off-street parking shall be to the rear of the structure.

2-5.42 MANUFACTURED HOME, CLASS A
Each Class A manufactured home shall meet the following criteria in all districts in which it is permitted, except the MH District:

(A) ORIENTATION
The longest axis shall be oriented parallel or within a ten (10) degree deflection of being parallel to the lot frontage, unless other orientation is permitted by the Board of Adjustment following a public hearing.

(B) FOUNDATION
The manufactured home shall be set up in accordance with the standards established by the North Carolina Department of Insurance. In addition, a continuous, permanent, masonry foundation or masonry curtain wall constructed in accordance with the standards of the State Residential Building Code, unpierced except for required ventilation and access, shall be installed under the perimeter. No continuous, masonry foundation or masonry curtain wall shall be required if the Manufactured Home, Class A is installed as a detached accessory dwelling on the same lot with a principle dwelling in accordance with Section 2-6.4(C) of this Ordinance.

(C) ENTRANCES
Stairs, porches, entrance platforms, ramps, and other means of entrance and exit shall be installed or constructed in accordance with the standards set by the State Building Code, attached firmly to the primary structure. Stairs meeting the NC Building Code shall be used in conjunction with a porch or entrance platform with a minimum of twenty-four (24) square feet.

(D) OCCUPANCY

No manufactured home shall be used as a storage building. No manufactured home in a residential zoning district shall be permitted to remain unoccupied for more than sixty (60) days.

2-5.43 MANUFACTURED HOME, CLASS B OR CLASS C

(A) SET UP

Each Class B or Class C manufactured home shall be set up in accordance with the standards established by the North Carolina Department of Insurance.

(B) SKIRTING

Each Class B or Class C manufactured home shall have skirting installed in accordance with the following requirements:

(1) **Material**. Skirting shall be of noncombustible material or material that will not support combustion. Skirting material shall be durable and suitable for exterior exposures.

(2) **Wood Framing**. Any wood framing used to support the skirting shall be of approved moisture resistant treated wood.

(3) **Venting**. The skirting shall be vented in accordance with State requirements.

(4) **Installation**. Skirting manufactured specifically for this purpose shall be installed in accordance with the manufacturer's specifications.

(5) **Maintenance**. Skirting shall be properly maintained.

(C) PREVIOUSLY APPROVED CLASS B OR C MANUFACTURED HOME

Any Class B or C manufactured home permitted through the Board of Adjustment prior to the effective date of this Ordinance, but which is no longer permitted under Permitted Uses 2.6, Permitted Uses, may request a renewal of the permit from the Board of Adjustment according to Section 6-1.4(A).

(D) OCCUPANCY

No manufactured home shall be used as a storage building. No manufactured home in a residential zoning district shall be permitted to remain unoccupied for more than sixty (60) days.

2-5.44 MANUFACTURED HOME, CLASS D

(A) TEMPORARY USE

A Class D manufactured home is allowed as a temporary use in conformance with Section 2-7.2(A).

(B) EXISTING MANUFACTURED HOME

Class D manufactured homes lawfully existing at the time of adoption of this Ordinance may remain, but if removed, may only be replaced with a Class A, B or C manufactured home or other use permitted in that zoning district.

(C) OCCUPANCY

No manufactured home shall be used as a storage building. No manufactured home in a residential zoning district shall be permitted to remain unoccupied for more than sixty (60) days.

2-5.45 MANUFACTURED HOUSING DEVELOPMENT

(A) SITE SIZE AND DIMENSIONAL REQUIREMENTS

(1) **Minimum Size**. The minimum size of a zoning lot to be used as a manufactured housing

development shall be four (4) acres for initial development.

(2) **Minimum Width**. The minimum width of a zoning lot to be used as a new manufactured housing development shall be two hundred fifty (250) feet. The site width shall be measured at the manufactured home space closest to the front lot line of the development.

(3) **Lot Size**. Each manufactured home space shall have a minimum area of four thousand (4,000) square feet with a minimum width of forty (40) feet for singlewide homes and a minimum area of five thousand (5,000) square feet with a minimum width of fifty (50) feet for multisectional units.

(4) **Setbacks**. Each manufactured home space shall meet the following setback requirements.

(a) **Front Yard**. The minimum front yard shall be twenty (20) feet.

(b) **Rear Yard**. The minimum rear yard shall be ten (10) feet.

(c) **Side Yard**. The minimum side yard shall be five (5) feet, with a combined width of both side yards of fifteen (15) feet.

(B) MINIMUM NUMBER OF SPACES

A manufactured home development shall contain no fewer than ten (10) manufactured home spaces for initial development.

(C) DENSITY

The maximum density of a manufactured housing development shall not exceed five (5) spaces per gross acre; with the exception that the maximum density may be increased to five and one-half (5.5) manufactured home spaces per gross acre when at least twelve percent (12%) of the gross site area is in common recreation area.

(D) UTILITIES

Utilities will have to comply when required by the appropriate agency providing that service.

(1) **Location**. All utilities within a manufactured home development shall be located underground.

(2) **Water**. Connection to a public water system and installation of fire hydrants meeting the standards of the appropriate jurisdiction are required.

(3) **Sewer**. Connection to a public sewer system or installation of an approved package treatment plant is required.

(E) BUFFERYARDS

A type II bufferyard of a minimum width of thirty (30) feet shall be established along each exterior property line, except where adjacent to a private street or public right-of-way not internal to the development. Along external private streets or public rights-of-way, a type II bufferyard of a minimum of fifty (50) feet shall be established. Bufferyard compliance required upon expansion of an existing Mobile Home Park.

(F) ACCESS

(1) **External Access**. No manufactured home space shall have direct vehicular access to a public or private street outside the development.

(2) **Internal Access**. Each manufactured home space shall have direct vehicular access to an

internal private access easement and street.

(G) COMMON RECREATION AREA

A minimum of four thousand (4,000) square feet or one hundred (100) square feet per manufactured home, whichever is greater, of common recreation area shall be provided in accordance with the standards of Section 3-6.

(H) MANUFACTURED HOME SPACES

(1) **Construction**. Each manufactured home space shall be constructed in compliance with the North Carolina Manufactured Home Code.

(2) **Patio or Deck Area**. A patio or deck area, constructed of concrete, brick, flagstone, wood, or other hard surface material and being a minimum of one hundred forty-four (144) square feet in area, shall be constructed within each space.

(3) **Walkway**. A hard surface walkway, being a minimum of two (2) feet wide, leading from the major entrance of the manufactured home to its parking spaces or to the street shall be constructed.

(4) **Solid Waste**. Each space shall have a minimum of one solid waste container with a tight fitting cover and a capacity of not less than thirty-two (32) gallons, or dumpsters of adequate capacity may be substituted. If dumpsters are provided, each such container shall be located on a concrete slab and screened on three (3) sides by an opaque fence at least eight (8) feet in height.

(I) MANUFACTURED HOMES

(1) **Class D**. Class D manufactured homes shall not be permitted in new manufactured housing developments or expansions of existing manufactured housing developments. Existing Class D manufactured homes located in a manufactured housing development in operation at the time of adoption of this Ordinance are allowed to remain, but if removed, shall be replaced with a Class A, B, or C manufactured home.

(2) **Setup**. Each manufactured home shall meet the setup requirements of the North Carolina Manufactured Home Code.

(3) **Skirting**. Each manufactured home shall have skirting installed in accordance with the following requirements:

(a) Skirting shall be of noncombustible material or material that will not support combustion. Skirting material shall be durable and suitable for exterior exposures;

(b) Any wood framing used to support the skirting shall be of approved moisture resistant treated wood;

(c) The skirting shall be vented in accordance with State requirements;

(d) Skirting manufactured specifically for this purpose shall be installed in accordance with the manufacturer's specifications;

(e) Skirting shall be installed no later than sixty (60) days after the set up of the home; and,

(f) Skirting shall be properly maintained.

(4) Additions. Prefabricated structures built by a manufacturer of manufactured home extensions meeting United States Department of Housing and Urban Development standards and any other additions meeting the State Residential Building Code may be added to any manufactured home provided that setbacks within the space can be met and a building permit is obtained.

(5) Vacant Manufactured Homes. No storage of unoccupied and/or damaged manufactured homes is permitted.

(J) ACCESSORY STRUCTURES AND USES

Accessory structures and uses permitted in manufactured housing developments shall meet standards in Sections 2-6 and 3-1.2(F) and (G).

(K) SITE PLANS

(1) Site Plan Review by Planning Board. Prior to approval of a zoning permit by the Zoning Administrator for the construction of a new or expansion of an existing manufactured housing development, a site plan shall be reviewed by the Planning Board. Said site plan shall meet the site plan requirements found in Article VII.

(2) Conditions. In approving the site plans for manufactured housing developments, the Planning Board shall determine that adequate provision is made for the following:

(a) Vehicular traffic to and from the development, and traffic internal to the development, including adequate access for emergency vehicle and personnel, postal service, delivery service, and other public and private services and individuals who would require access to the premises.

(b) Pedestrian traffic to and from the proposed manufactured home sites, common facilities, and parking areas on the premises.

(c) Adequate types of common recreation areas, including any needed screening or landscaping.

(3) Final Development Plan. Prior to the issuance of a certificate of occupancy, a final development plan indicating each manufactured home space and prepared in conformance with the *Subdivision Ordinance* shall be approved by the Community Development staff and recorded in the office of the Register of Deeds. In addition, the corners of all manufactured home spaces shall be clearly marked on the ground with iron stakes.

(L) EXISTING MANUFACTURED HOUSING DEVELOPMENTS

(1) Schedule for Improvements. Manufactured housing developments lawfully existing at the time of the adoption of this Ordinance shall be required to meet the following standards of this section:

(a) Bufferyards. Section 2-5.45(E), with the following exceptions:

(i) No bufferyards shall be required where existing structures or manufactured homes interfere with installation of the bufferyard to the extent that there is less than a ten (10) foot area to plant a type II bufferyard; or,

(ii) No bufferyards shall be required where all existing structures or manufactured homes are more than one hundred (100) feet from any public right-of-way or any adjoining property line; or,

(iii) No bufferyards shall be required where existing utilities or septic fields interfere with installation of the bufferyard.

(b) Solid Waste. Section 2-5.45(H)(4), with the following exceptions regarding the screening of dumpsters:

(i) No screening shall be required if the dumpster is located at least two hundred (200) feet off any public right-of-way or is screened from view of any public right-of-way by existing structures or manufactured homes or natural topographic feature; and,

(ii) No screening shall be required if the dumpster is located at least fifty (50) feet from any adjoining property line or is screened from view of any adjoining property line by existing structures or manufactured homes or natural topographic feature.

(c) Skirting. Section 2-5.45(I)(3).

(d) Utilities. Section 2-5.45(D), with the following exceptions:

(i) No undergrounding of utilities shall be required;

(ii) No connection to public water and/or sewer shall be required if public water and/or sewer lines are located more than two hundred (200) feet from the manufactured housing development, or if there is no public health or safety problems with the existing water or sewer systems on the property as determined by the Forsyth County Department of Public Health.

(e) Streets. Streets shall have a minimum of four (4) inches of gravel and be well maintained.

(2) Expansion of Nonconforming Manufactured Housing Developments. No expansion of a nonconforming manufactured housing development shall be permitted unless all units in the development, both pre-existing and additional, have vertical skirting or a similar structural enclosure around the entire base of the unit between the outer walls and the ground or paved surface, and are anchored to the ground in accordance with the regulations set forth by the State of North Carolina for manufactured and modular housing units.

2-5.45.1 MANUFACTURING A AND B

(A) MANUFACTURING PROCESSES

(1) **Location of manufacturing operations**. Manufacturing operations, including storage of materials, processing, fabrication or assembly of products, and loading and unloading of new materials and finished products must occur completely within an enclosed building.

(B) STORAGE TANKS

(1) **Size of Storage Tanks**. External storage tanks and/or process equipment shall not exceed twenty five (25) percent of the building footprint of the building(s) on site.

(2) **Location and Screening of Storage Tanks**. External storage tanks physically connected to the principal building and/or process equipment shall be located to the sides or rear of the principal building, or so as not to be visible from public rights-of-way contiguous to the subject property. In situations where this is not practicable, such as multiple primary street frontages or other site limitations, screening shall be required. Screening shall be opaque architectural screening of masonry, stone, or the same material as that of the principal building, adequate to completely screen storage tanks and/or equipment; or a Type III Bufferyard shall be installed. Screening shall be installed around the base of storage tanks and/or process equipment to minimize visual impacts on adjacent public rights-of-way. No screening is required for storage tanks and/or process equipment located more than five hundred (500) feet from public rights-of-way. Storage tanks shall be painted colors which are consistent to those of the principal structure.

2-5.46 MEAT PACKING PLANT

(A) SETBACKS

No portion of a building or other enclosure to be used for retention of animals or processing of animal products shall be located less than three hundred (300) feet from property zoned RS, RM, IP or C.

(B) BUILDING DESIGN AND CONSTRUCTION

Building design and construction must comply with all applicable health regulations.

2-5.47 MINING, QUARRY, OR EXTRACTIVE INDUSTRY

(A) OPERATIONS AFFECTED BY REGULATIONS

Mining operations which affect more than one acre of land, including borrow sites which disturb more than one acre of land at any one time, shall meet the following regulations.

(B) DIMENSIONAL REQUIREMENTS

Dimensional requirements for mining operations are specified below. Buildings shall meet the setback and other dimensional requirements of the underlying zoning district.

Table 2.7
Dimensional Requirements for Mining Operations
Required Minimum Distance from any Public Right-of-Way
or from Property that is Adjacent to:

Mining Activity	General Industrial District	Any Zoning District except GI
Any extraction area, road, or pit.	50 feet	100 feet
Any crushing of rock, processing of stone, gravel, or other material.	100 feet	150 feet
Any blasting.	200 feet	250 feet

(C) EASEMENTS

No excavation shall take place within easements for underground transmission lines for oil, natural gas, or other potentially hazardous material.

(D) FENCING

Any excavation to a depth greater than five (5) feet shall be fenced. However, no fencing shall be required on any property where such fencing would be impracticable, as determined by the Zoning Administrator, by reason of the location of such property in a floodplain.

(E) HOURS OF OPERATION

Quarries and other mining sites, except in cases of emergency involving safety on the site, shall not be operated on Sunday and may not be operated earlier than 7:00 a.m. nor later than 6:00 p.m. on any other day.

(F) ACCESS

The site of the mining operation shall have direct access onto a major or minor thoroughfare. Any road which the mining operation accesses may be required to be improved to necessary industrial capacity as a condition of approval.

(G) SPILLAGE AND EFFLUENT

The loading of trucks shall be accomplished in such a way as to prevent spillage on roads. The effluent of extraction or processing going into streams must comply with requirements of State law.

(H) FLOODING

Whenever a mining operation would in the course of its operation create a flooding hazard, the operator, before commencing any such excavation, and at such other times during the excavation as may be necessary, shall erect such dikes, barriers, or other structures as will afford the same protection as if no excavation were made. No mining operation shall impede the flow of any watercourse.

(I) OPERATIONAL STATEMENT

The petitioner will file an operational statement with the Permit & Enforcement Division, which shall include the following:

(1) The approximate date to begin operation and its expected duration.

(2) Estimated type and volume of extraction.

(3) Description of method of operation, including the disposition of topsoil, overburden, and by-products.

(4) Description of equipment to be used in the extraction process.

(5) Any phasing of the operation and the relationship of the various phases.

(J) TEMPORARY OR PERMANENT DISCONTINUANCE OF OPERATIONS

Notice of intent to discontinue temporarily a mining operation shall be filed with the Zoning Administrator in advance of such temporary discontinuance. Notice of intent to discontinue permanently a mining operation shall be filed with the Zoning Administrator not less than three (3) months in advance.

(K) MAINTENANCE

During any period that a mining operation is discontinued temporarily, the site, along with all structures, machinery, and fencing, shall be properly maintained in a safe and orderly condition.

(L) REUSE OR REHABILITATION OF SITE

Notice of permanent discontinuance of mining operation shall include a plan for reuse or rehabilitation of the site. Except where redevelopment for another permitted use is in progress on the site of a discontinued mining operation, the last operator shall perform the following within one year:

(1) Buildings and Equipment. All buildings and equipment shall be removed;

(2) Materials. All nonregulated waste piles, overburden, and other materials shall be graded so that the material assumes its natural angle of repose. These materials shall be planted with vegetation so as to prevent erosion;

(3) Walls. Any quarry walls shall be cleared of loose materials;

(4) Water Collection and Drainage. Any excavation shall be so graded as to provide for natural drainage; if the collection of water in an excavation is unavoidable, the area shall be fenced.

(M) OTHER REQUIREMENTS

The operator of any mining operation shall file with the Zoning Administrator, in addition to any exhibits required elsewhere in this Ordinance, evidence of ownership or control of property, plans for rehabilitation, and notices of intent, as required herein. The Zoning Administrator shall inspect the premises annually to determine that all specific conditions are being met. Violation of the requirements herein shall make the operator liable to the penalties set forth in this Ordinance.

(N) SAND DREDGING OPERATIONS

In addition to complying with the applicable provisions of this section, sand dredging operations shall be conducted in a manner which does not result in the erosion of the banks of a stream. The use of drag lines or other devices which remove vegetation and sediment from the banks of a stream are specifically prohibited.

2-5.48 MOTOR VEHICLE DISMANTLING AND WRECKING YARD

(A) WITHIN THE GI DISTRICT

All motor vehicle dismantling operations located in the GI District shall comply with the following:

(1) Fencing.

(a) Location. An opaque fence or wall shall be erected along any property line which is adjacent to any street, road, or highway; and all business activity, including storage of vehicles or other materials, shall be conducted within the fence.

Fencing requirements shall be one of the following:

(i) **Within Fifty (50) Feet of Right-of-Way**. An eight (8) foot high opaque fence is required if located within fifty (50) feet of the right-of-way boundary; or,

(ii) **More than Fifty (50) Feet from Right-of-Way**. A six (6) foot high opaque fence is required if located more than one hundred (100) feet from the right-of-way boundary.

(b) **Conditions**. Such fencing shall meet the following conditions:

(i) **Construction**. The fence and screening shall be constructed of materials manufactured, sold and used exclusively as fencing materials with consistent height, materials, and color;

(ii) **Maintenance**. All fences shall be maintained in sound condition at all times;

(iii) **Advertising**. Fences shall not contain advertising or other lettering other than lettering or a sign which identifies the operation carried on within the enclosure.

(c) **Parking**. Customers of the business may park their personal vehicles outside the fence, but not within the right-of-way of the street, provided the vehicles of customers are not parked in such a manner as to impair the view of motorists using the street.

(d) **Bufferyards**. In addition to the bufferyard requirements of Section 3-5, a type I bufferyard shall be provided along side and rear lot lines adjacent to property zoned for commercial or industrial use.

(e) **Effective Date**. Automobile dismantling operations lawfully existing on the effective date of this Ordinance shall install fencing and buffering, as herein specified, within a period of three (3) years after the effective date of this Ordinance.

(2) **Open Burning**. Open burning is prohibited.

(3) **Abandoned Vehicles**. In the event that wrecked automobiles or other materials are abandoned or appear to be abandoned upon any property, the real property owner and/or occupant shall, upon notification, remove or cause the removal of such automobiles or other materials, or conduct the operation in full compliance with the requirements of this Ordinance, provided that such use is permitted.

(4) **Hours of Operation**. No dismantling, disassembling, salvaging, wrecking, or processing operation on the premises shall be carried on between the hours of 9:00 P.M. and 7:00 A.M.

(5) **Hazardous Materials**. Any gasoline, oil, or other materials spilled or collected on the site shall be contained and disposed of in accordance with State and federal laws.

(B) OUTSIDE THE GI DISTRICT

(1) Fencing

(a) **Location**. An opaque fence or wall shall be erected along any property line which is adjacent to any street, road, or highway; and all business activity, including storage of vehicles or other materials, shall be conducted within the fence. Fencing requirements shall be one of the following:

(i) **Within Fifty (50) Feet of Right-of-Way**. An eight (8) foot high opaque fence is required if located within fifty (50) feet of the right-of-way boundary; or,

(ii) **Within Fifty (50) to One Hundred (100) Feet from Right-of-Way**. A six (6) foot high opaque fence is required if located fifty (50) feet or more from the right-of-way boundary.

(iii) **More than One Hundred (100) Feet from Right-of-Way**. A five (5) foot high opaque fence is required if located more than one hundred (100) feet from the right-of-way boundary.

(b) **Conditions**. Such fencing shall meet the following conditions:

(i) **Construction.** The fence and screening shall be constructed of materials sold and used as fencing materials with consistent height, materials, and color;.

(ii) **Maintenance**. All fences shall be maintained in sound condition at all times; and,

(iii) **Advertising**. Fences shall not contain advertising or other lettering other than lettering or a sign which identifies the operation carried on within the enclosure.

(c) **Parking**. Customers of the business may park their personal vehicles outside the fence but not within the right-of-way of the street; provided the vehicles of customers are not parked in such a manner as to impair the view of motorists using the street.

(d) **Screening Requirements**. Screening requirements along side and rear property lines shall be one or both of the following:

(i) **Material Stored up to Property Line**. A six (6) foot high opaque fence may be installed along the side and rear property lines. Storage of motor vehicles or materials is permitted up to the fence line. Said fence shall have the same requirements as Section 2-5.49(A)(1) above; and/or

(ii) **Material Stored Ten (10) Feet off Property Line**. A type I bufferyard shall be installed along the side or rear property lines. Storage of motor vehicles or materials is permitted up to the bufferyard line which is ten (10) feet off the property line.

(e) **Nonconforming Use Status**. All operators of this use must certify to the Zoning Administrator 's satisfaction that the use is legally nonconforming as specified in Article V before an application may be accepted by the Planning Board for a site plan review.

(f) **Effective Date**. Any motor vehicle dismantling operation existing as a legal nonconforming use on the effective date of this Ordinance shall install fencing

and buffering, as herein specified, within a period of one year after the effective date of this Ordinance.

(2) **Open Burning**. Open burning is prohibited.

(3) **Abandoned Vehicles**. In the event that wrecked motor vehicles or other materials are abandoned or appear to be abandoned upon any property, the real property owner and/or occupant shall, upon notification, remove or cause the removal of such motor vehicles or other materials, or conduct the operation in full compliance with the requirements of this Ordinance, provided that such use is permitted.

(4) **Hours of Operation**. No dismantling, disassembling, salvaging, wrecking, or processing operation on the premises shall be carried on between the hours of 9:00 P.M. and 7:00 A.M.

(5) **Hazardous Materials**. Any gasoline, oil, or other materials spilled or collected on the site shall be contained and disposed of in accordance with State and federal laws.

2-5.49 MOTOR VEHICLE REPAIR AND MAINTENANCE, AND MOTOR VEHICLE BODY OR PAINT SHOP

(A) LB DISTRICT

Motor Vehicle Repair and Maintenance is permitted in the LB District only but limited to a maximum zoning lot size of one acre (Section 2-1.3(G)(3)(a)).

(B) COMPLIANCE WITH MOTOR VEHICLE STORAGE YARD REQUIREMENTS

A motor vehicle repair service or body or paint shop which has wrecked, partially dismantled, or inoperative vehicles located on-site shall store these vehicles in an enclosed building or in a separate motor vehicle storage yard which meets the requirements of this Ordinance for such yards.

2-5.50 MOTOR VEHICLE STORAGE YARD

(A) MAXIMUM SIZE

A motor vehicle storage yard created or expanded after the adoption date of this Ordinance shall have an enclosed storage area which shall not exceed the following area requirements for the zoning district in which the yard is located:

District	Maximum Size (square feet)
NB	3,000
NSB	3,000
GB	6,000
HB	11,000
CB	11,000
LI	20,000
GI	no maximum

Accessory motor vehicle storage yards in the LB and PB Districts shall have a maximum size of

three thousand (3,000) square feet.

(B) REPAIR WORK OR SALE OF VEHICLES

No repair work shall be done on motor vehicles while stored in the storage yard. No parts or other articles may be removed from the vehicles except for security purposes, nor shall any parts or articles be sold. The sale of whole vehicles shall be permitted only to satisfy a mechanics lien or by order of a law enforcement agency.

(C) RIGHT-OF-WAY SCREENING AND ACCESS

(1) Outdoor Storage Area Standards

A motor vehicle storage yard not screened from any public or private street by an intervening building shall meet Section 3-4.5 Outdoor Storage Area Standards, adjacent to all streets, whether or not such streets provide access to the site.

(2) Topographic Irregularities

Where topographic irregularities require a different location to meet the intent of this section, the location of the landscaping or fencing may be varied with approval of the Zoning Officer.

(3) Fencing

Fencing shall be set back a minimum ten (10) feet from the public right-of-way or private street easement.

(4) Access

The maximum number of access points to a motor vehicle storage yard shall be two (2).

(D) BUFFERYARD REQUIREMENTS - NEW OR EXPANDED STORAGE YARDS

(1) Bufferyard Standards

A motor vehicle storage yard or expansion of an existing storage yard created after the date of adoption of this Ordinance shall meet the requirements of Section 3-5, Bufferyard Standards. In addition, a type I bufferyard shall be provided adjacent to property designated as High Intensity Commercial (HIC) or Industrial (IND).

(2) Intervening Building

No bufferyard is required where the motor vehicle storage yard is screened from view of an adjacent zoning lot by an intervening building.

(3) Buffering Internal to the Zoning Lot

No bufferyard is required along an edge of the motor vehicle storage yard internal to the same zoning lot, unless such edge is clearly visible from a street or an adjacent zoning lot.

(E) BUFFERYARD REQUIREMENTS - EXISTING STORAGE YARDS

(1) Bufferyard Standards and Alternatives

Motor vehicle storage yards existing prior to the adoption date of this Ordinance shall select one of the following alternative buffer requirements:

(a) The bufferyard requirements of Section 3-5, in addition providing a type I bufferyard adjacent to property designated as High Intensity Commercial (HIC) or Industrial (IND).

(b) An opaque fence at least six (6) feet in height.

(c) A chain link fence at least six (6) feet in height with wood or vinyl slats of a uniform color.

(2) Intervening Building
No bufferyard is required where the motor vehicle storage area is screened from view of an adjacent zoning lot by an intervening building.

(3) Buffering Internal to the Zoning Lot
No bufferyard is required along an edge of the motor vehicle storage yard internal to the same zoning lot, unless such edge is clearly visible from a street or an adjacent zoning lot".

(F) VERTICAL STACKING
Vertical stacking of motor vehicles is prohibited.

(G) HAZARDOUS SUBSTANCE

(1) Containment
Any gasoline, oil, or other materials spilled or collected on site shall be contained and disposed of in accordance with State and federal laws.

(2) Storage of Vehicles Carrying Hazardous Substances
Tractor trailers, tankers and/or any vehicle carrying a hazardous material shall be stored only in motor vehicle storage yards located in the HB, LI, or GI Districts. A motor vehicle storage yard which stores a tanker which has contained a hazardous substance shall be enclosed by a minimum six (6) foot high fence which shall be locked during nonoperating hours. In addition, a spill containment structure certified by a registered professional engineer as being adequate for spill containment is required. No tanker shall be stored closer than two hundred (200) feet from any residential zoning district.

(H) SCHEDULE FOR IMPROVEMENTS
Such uses existing on the effective date of this Ordinance shall meet all requirements of this section except those requirements that they are specifically exempted from within eighteen (18) months of the effective date of this Ordinance.

2-5.51 NIGHTCLUB

(A) PROPERTY SEPARATION
No such establishment, building or parking shall be located within three hundred (300) feet of a church, elementary or secondary school, public park, indoor recreational facility, or single family residentially zoned property.

(B) FRONTAGE
The main entrance of the building shall be toward a street zoned predominantly for nonresidential uses.

(C) SCREENING
All outdoor equipment and activity areas shall be screened from view of any residence or public street by means of a minimum six (6) foot high opaque fence.

(D) LIGHTING
All areas related to the establishment shall be so lighted to direct such light toward the parking areas but shielded so no direct light shall affect any existing residences. The illumination shall comply with the Illuminating Engineering Society of North America Standard RP-20, "Enhanced Security Lighting" for parking lots. (A survey or site plan on CAD can be provided to Duke Power Company and they will generate a plan at no cost as long as the customer uses their lighting fixtures.) A

lighting plan signed or sealed by the preparer with calculations/ft. candles shall be submitted along with a completed Zoning Permit Application.

(E) NOISE
The Town of Kernersville Code of Ordinances: Chapter 10, Article III shall be the determining factor in regulating exterior sound emitting from an above listed establishment.

(F) LIMITED SIZE
Nightclubs shall be limited to 2500 sq. ft. in the Central Kernersville Overlay District (CKOD).

2-5.52 NURSING CARE INSTITUTION

(A) PROHIBITED DISTRICTS
Nursing Care Institutions shall not be permitted as a principal or accessory use in RS Districts.

(B) MINIMUM SITE SIZE
Minimum site size shall be: two (2) acres in the AG and RS-40 Districts; one acre in RS-20 and RS-30 Districts. In RM-8, RM-12, RM-18, and RM-U, the minimum site size shall be based on Table 3.3 with three (3) beds equal to one dwelling unit. In the IP District, the minimum site size shall be calculated in the same manner based on the requirements of the RM-8 District.

(C) ACCESS
In the AG, RS, and IP Districts, the site shall have direct access to a major or minor thoroughfare.

(D) PERMITTED DENSITY IN RS DISTRICTS
In the RS Districts, the maximum density shall be eighteen (18) beds per acre.

(E) CALCULATION OF DENSITY IN RM DISTRICTS
In the RM Districts, density shall be calculated with three (3) beds equaling one dwelling unit.

2-5.53 OUTDOOR DISPLAY RETAIL

(A) LB DISTRICT
In the LB District, outdoor display retail is limited to a maximum zoning lot size of one acre (Section 2-1.3(G)(3)(a)).

(B) MOTOR VEHICLE STORAGE YARDS
Any outdoor area meeting the definition of a motor vehicle storage yard shall comply with the requirements of Section 2-5.51.

2-5.54 PARK AND SHUTTLE LOT

(A) IN RESIDENTIAL DISTRICTS
Where any newly constructed park and shuttle lot abuts residentially zoned land or a residential use, said parking shall be set back a minimum of fifteen (15) feet. All parking shall comply with the design standards and requirements in Section 3-3.3.

(B) IN BUSINESS, OFFICE AND INDUSTRIAL DISTRICTS
Park and shuttle lots in business and industrial zoning districts shall comply with the design standards and requirements in Section 3-3.5(C).

2-5.55 PARKING, OFF-SITE, FOR MULTIFAMILY OR INSTITUTIONAL USES IN RS AND RM DISTRICTS

Off-site parking in RS or RM District for multifamily or institutional uses not permitted in the applicable zoning district must meet the requirements of Section 3-3.4(A).

2-5.55.1 PET DAYCARE SERVICES

(A) Operations

1. Office hours of operation are limited to 6:00 am to 10:00 pm with daylight only hours for outdoor recreation areas.

2. Applicant shall provide an approved copy of his/her "License to Operate" from the Department of Agriculture as part of the Zoning Permit Application.

3. For training purposes only, as long as the animals are supervised at a 1:2 ratio (1 individual per every two dogs maximum), the outdoor recreation conditions do not apply.

4. The area for overnight boarding shall not exceed fifteen percent (15%) of the building's square footage.

5. Any facilities operating overnight boarding shall be required to operate and maintain a fire alarm system that is monitored by an outside source.

(B) Location and Setbacks

Pet daycare services shall be fully enclosed and may be permitted in attached buildings; however, except for masonry buildings, any end unit in an attached building or any freestanding building containing such a use must be set back at least twenty (20) feet from any side lot line and forty (40) feet from any rear lot line. Any end unit of an attached building or any freestanding building containing such a use abutting a residential district shall be set back not less than forty (40) feet from any residential boundary. Any outdoor recreation areas shall be set back not less than one hundred eighty (180) feet from any residential property line. If an outdoor recreation area is not provided, than all outside use of the property for the animals must be supervised and the animals must be on leashes.

(C) Outdoor Recreation Area

Outdoor recreation area is defined as a large fenced area where the animals are free to roam collectively for exercise and socialization. Any outside use of the property for the animals or pets must be supervised. Any outdoor recreation area shall have an opaque masonry wall or wood/vinyl fencing materials and shall provide full containment for the animals or pets. The fence structure shall be deep enough and secured to the ground to prevent escape and high enough to prevent animals or pets from jumping or climbing over. Chain link fencing materials are prohibited on all exterior fencing visible from the street.

(D) Building Construction

The building property shall be of masonry construction or insulated walls and allow for an on-site play area.

2-5.56 PLANNED RESIDENTIAL DEVELOPMENT

(A) PURPOSE

The purpose of the planned residential development is to encourage the development of living environments which meet the needs of the people who live in them by providing certain development privileges in exchange for preplanning and design considerations and to allow developments that are similar in character and/or enhancement to the surrounding area. The planned residential development provides flexibility in utilizing new development concepts and in introducing variety into neighborhoods by encouraging mixed uses, private roads, variable lot size, and environmentally sensitive design which promotes the conservation of open space.

(B) MINIMUM SIZE

A planned residential development shall be located on a site containing at least five (5) contiguous acres, except where single family residential is the only use in the planned residential development.

(C) LAND OWNERSHIP

At the time of application for a planned residential development, all land, structures and other real property shall be in single or joint ownership of whatever form, or the petitioner shall have the right to acquire ownership under a valid option, and this information shall be included in the submission of an application for a planned residential development.

(D) PERMITTED PRINCIPAL USES

(1) **Uses in Applicable Zoning Districts**. Land may be used and buildings erected, altered, enlarged, or used to include all uses permitted within the applicable zoning district. In addition, in the RSQ and RS-7 Districts, up to twenty-five percent (25%) of the total number of units may be multifamily residential units with approval of a special use permit from the Elected Body.

(2) **Additional Uses**. Nonresidential uses permitted in the NO and NB Districts shall be permitted in a planned residential development containing at least one hundred (100) dwelling units and located in a residential zoning district other than the YR or AG Districts.

(E) RELATIONSHIP TO OTHER APPLICABLE REGULATIONS

A planned residential development shall be subject to all applicable standards, procedures, and regulations of these Ordinances and the zoning district in which it is located unless otherwise set forth in this section.

(F) MAXIMUM DENSITY

Maximum residential density shall be in accordance with the zoning district in which the planned residential development lies, unless the incentives for density bonuses as set forth in Section 2-5.56(G) below apply.

(G) INCENTIVES FOR DENSITY BONUS

(1) **Protection of Steep Slopes**. If the developer of a planned residential development proposes to permanently prohibit development on portions of the site with average slopes of twenty percent (20%) or greater, the density bonus provision of Section 2-5.56(G)(2) below may be utilized.

(2) **Density Bonus**. The permitted density of the planned residential development shall be computed by including in the land area of the site an assumed additional area equal to fifty percent (50%) of the permanently restricted land identified in Section 2-5.56(G)(1) above.

(3) **Limitation of Density Bonus**. The density with the bonus density provision shall not increase by more than twenty-five percent (25%) the maximum density otherwise computed in Section 2-5.56(F) above without reference to this Section 2-5.56(G).

(4) **Applicability of Density Bonus Provisions**. The computation allowed by this section shall be used solely for purposes of computing permitted density, and shall not apply to the development standards of Section 2-5.56(H) below.

(H) DEVELOPMENT STANDARDS

A planned residential development shall meet the following standards:

(1) **Bufferyard.**

(a) **Width and Location of Bufferyard and Streetyard**. A minimum thirty (30) foot wide type II bufferyard shall be provided around the entire perimeter of the zoning lot, except at such locations where residential lots within the planned residential development:

(i) equal or are less in density than the density of the adjacent residential lot; or,

(ii) meet or exceed the minimum lot requirements of a single family residential zoning district adjacent to and outside the planned residential development.

A streetyard tree shall be placed either within twenty (20) feet of the right-of-way or easement, or within the right-of-way of a Public Services approved utility corridor plan. The minimum planting intervals shall be one tree per lot or fifty foot on center whichever is less.

(b) **Access Drives**. No loading space, parking space, or access drive to a parking space shall be permitted within the required bufferyard, with the following exceptions:

(i) An access drive to off-street parking serving a single family detached dwelling, whether inside or outside of a carport or garage attached to or detached from such dwelling. Such access drives shall not constitute off-street parking as required in Section 3-3.

(ii) Drives not longer than fifty (50) feet which provide access to the planned residential development.

(2) **Required Parking**

(a) **Off-Street Parking**. Off-street parking shall be provided in compliance with Section 3-3, except that the parking requirements may be met through group parking located on commonly owned land.

(b) **Special Accommodations**. Special accommodations for recreational vehicles, including boats, may be provided in group parking areas. Such special parking areas shall be designated and screened from adjacent residential uses.

(3) **Private Streets**. Private streets are permitted according to the following requirements:

(a) **Width**. Access easements for roads must be a minimum of thirty (30) feet in width.

(b) **Utilities Easements**. Utilities easements at a minimum width of seven and one-half (7.5) feet must be provided on each side of the road.

(c) **Road Construction Materials Standards**. Town of Kernersville road construction materials standards must be met.

(4) **Pedestrian Access**. Pedestrian and other modes of nonvehicular movement shall be provided and separated from vehicular traffic, and shall provide a safe connection between major uses on the site.

(5) **Impervious Surface Cover**. Buildings and improvements on single family lots in a

planned residential development which have at least five thousand (5,000) square feet shall not be calculated as impervious surface cover in RM Districts.

(6) **Nonresidential Uses**. Nonresidential uses as permitted by Section 2-5.56(D)(2) shall meet the following requirements:

(a) **Orientation**. A nonresidential use in a planned residential development shall be designed and located to serve primarily the residents of the planned residential development. Such use shall be located on and shall face an internal street of the development, and shall not access directly on a street outside the planned residential development.

(b) **Amount**. No more than twenty-five (25) square feet of gross floor area per dwelling unit, up to a maximum of twenty thousand (20,000) square feet, shall be permitted for nonresidential uses in the planned residential development.

(c) **Size of Nonresidential Structures**. Structures containing only nonresidential uses shall be limited to a gross floor area no greater than fifteen hundred (1,500) square feet each.

(7) **Lot Dimensional Requirements and Spacing of Structures**. The lot and setback dimensional requirements of the zoning district for individual lots within the planned residential development are waived Front yard setbacks for townhouse and multifamily structures shall be no closer than ten (10) feet from the nearest right-of-way line of a public street or private access easement. Minimum distances between townhouse and multifamily structures shall be those set forth in Section 3-1.2(K). Minimum distances between single family, duplex, and twin home structures shall be as follows:

(a) **Front facing front**. The minimum distance between the front wall of structures oriented so as to face each other shall be not less than thirty (30) feet from one another, provided neither shall be closer than ten (10) feet from the nearest right-of-way line of a public street or private access easement.

(b) **Rear facing rear**. Dwellings oriented back to back shall be subject to the following provisions:

(i) The minimum distance between rear walls of the dwellings shall be no less than thirty (30) feet.

(ii) Carports or garages shall be permitted in the intervening space between dwellings oriented back to back provided:

[A] Carports or garages shall be no more than one story and of a total dimension not greater than twenty-four (24) feet by twenty-four (24) feet, whether attached or detached from the dwelling.

[B] The rear walls of two carports or garages oriented back to back shall not be closer than six (6) feet.

[C] The rear wall of the carport or garage of one dwelling shall be no less than thirty (30) feet from the rear wall of another dwelling to which it is oriented back to back. For the purpose of this provision, the rear wall of the carport or garage shall be that wall opposite the front wall of the dwelling it serves,

whether or not it shall be the entrance wall of such carport or garage.

(c) **Front facing side**. The minimum distance between the front wall of the structure and the side wall of another structure shall not be less than fourteen (14) feet.

(d) **Side facing side**. The minimum distance between side walls of structures shall not be less than fourteen (14) feet.

(e) **Rear facing side**. The minimum distance between the rear of a structure and the side of another structure shall not be less than ten (10) feet.

(f) **Rear facing front**. The minimum distance between the front wall of one structure and the rear wall of another structure shall be not less than thirty (30) feet, provided neither shall be closer than ten (10) feet from the nearest right-of-way line of a public street or private access easement.

(8) **Common Recreation Areas**. Common recreation areas shall be required in accordance with Section 3-6 for a planned residential development containing forty (40) units or greater. Life Care Developments and other housing occupied by persons who are at least fifty-five (55) years of age or disabled are exempt from this requirement.

(9) **Common Open Space**:

(a) **Area**. Common open space shall not be less than the following percentages of the land area of the planned residential development, excluding dedicated public rights-of-way or private access easements.

UNDERLYING ZONING DISTRICT	OPEN SPACE
YR	50%
AG	35%
RS-40	25%
RS-30	25%
RS-20	15%
RS-15	10%
RS-12	10%
RS-9	10%
RS-7	10%
RSQ	10%
RM	10%
IP	10%
MU-C	10%

(b) **Minimum Average Open Space Quotient**. The minimum average open space quotient shall be determined by dividing the square footage of open space used to satisfy the requirement in Section 2-5.56(H)(10)(a) above, by one quarter (0.25)

of the lineal footage of its periphery. The minimum average quotient throughout the development shall not be less than one hundred (100) feet.

(c) **Location**. The open space area required in Section 2-5.56(H)(10)(a) above and which is held by a non-profit homeowners association shall adjoin the planned residential development for at least fifty (50) percent of the periphery of such required open space.

(10) Development Standards

(a) **Building Design.** Applicant shall submit at the time of submittal the following design details:

- Building Design
  - Facade Materials
  - Window/Door Materials
  - Roof Materials
  - Architectural Features
- Lighting
- Walkways
- Parking and Driveways Building Setbacks
- Building Orientation (location of primary entrance)
- Building-to-Land Ratio
- Garage Location
- Accessory Building Size/Placement on Lot (includes gazebos, sheds, and other outbuildings)
- Minimum/Maximum Lot Widths
- Minimum/Maximum Lot Size.
- Building Width
- Building Height
- Roof Shape
- Deck Size/Location
- Type of entrance ways and porches
- Screening and Landscaping
- Signage
- Street entrance

(b) **Findings.** Findings shall be made to determine if the proposed design is similar in character and/or enhancement to the surrounding area.

(I) **RESPONSIBILITY FOR COMMON OPEN SPACE AND AMENITIES**. Land not to be held in private ownership shall be owned by a nonprofit corporation in which all owners of property within the development have automatic membership rights and assessment obligations for the maintenance of these areas. These automatic membership rights and assessment obligations shall be covered by covenants running with the land and other contractual provisions as to insure the proper maintenance of all commonly owned areas, and shall include provision for liens against the individual properties and legally enforceable personal obligations on the part of the individual property owners in the development. Such covenants shall be recorded in the office of the Register of Deeds and such contractual rights and obligations shall be established prior to the issuance of a building permit.

(J) **PLATTING REQUIREMENTS**. All planned residential developments shall meet the

requirements of the *Subdivision Ordinance*. In addition, prior to a permit being issued for the construction of any building, there shall have been recorded in the office of the Register of Deeds, a plat of the property or section thereof, showing: easement and right-of-way widths, street widths, the actual or approximate location of single family lots, commonly owned tracts, and lots and buildings to be occupied by other uses.

(K) Conditional Zoning District. PRD's are only allowed in a Conditional Zoning District.

2-5.57 POLICE OR FIRE STATION

The site shall have direct access to a major or minor thoroughfare.

2-5.58 RECREATION SERVICES, INDOOR OR RECREATION SERVICES, OUTDOOR

(A) Prohibited Recreation Services, Indoor:

(1) PROHIBITED RECREATION SERVICES, INDOOR USES IN THE LI DISTRICT

Bowling Centers, Coin-Operated Amusement Devices, and Amusement and Recreation.

(B) The following conditions shall be met in the IP District:

(1) OPERATION BY A PUBLIC OR NOT-FOR-PROFIT ORGANIZATION

The recreation services facility must be operated by a public or not-for-profit organization.

(2) MINIMUM SITE SIZE

The minimum site size shall be two (2) acres.

(3) ACCESS

The site shall have direct access to a collector street, a minor thoroughfare, or a major thoroughfare.

(4) SETBACKS

No structure, parking area, or outdoor recreation area shall be located less than forty (40) feet from any property line adjacent to residentially zoned property.

(5) PUBLIC ADDRESS SYSTEM

Public address systems shall not be permitted except within a building.

2-5.59 RECREATIONAL VEHICLE PARK

(A) PROHIBITED DISTRICTS

Recreational Vehicle Parks shall not be permitted as a principal or accessory use in RS Districts.

(B) GENERAL USE CONDITIONS

(1) Bufferyards. In addition to the bufferyard requirements of Section 3-5, a type I bufferyard is required adjacent to public rights-of-way.

(2) Setbacks. All recreational vehicle spaces shall be located a minimum of one hundred (100) feet from all adjacent property lines and public rights-of-way.

(3) Access. Recreational vehicle parks shall have direct access to a major or minor thoroughfare. Recreational vehicle spaces shall only have direct access to an internal private street which accesses a public street. No recreational vehicle space shall have direct vehicular access to a public street.

(4) **Floodplains**. No recreational vehicle sites shall be located in the floodplain.

(5) **Landscaping**. Each recreational vehicle space shall have a planting area containing at least one deciduous or evergreen tree with a minimum height of eight (8) feet and a diameter of two (2) inches measured six (6) feet above ground level at the time of installation. Each planting area shall be a minimum of one hundred fifty (150) feet with a minimum radius of seven (7) feet. The use of existing trees when possible to meet these landscaping requirements is encouraged.

(6) **Sanitary Facilities, Sewage and Garbage Disposal**. Adequate sanitary facilities, sewage and garbage disposal shall be provided and shall conform with all applicable codes.

(7) **Length of Stay**. No recreational vehicle shall be used as a permanent place of residence. Occupancy extending beyond three (3) months in any twelve (12) month period shall be presumed to be permanent occupancy and is prohibited in a recreational vehicle park.

(8) **Accessory Uses**. Management offices, recreational facilities, toilets, showers, dumping stations, coin-operated laundry facilities, and other uses and structures incidental to the operation of a recreational vehicle park are permitted as accessory uses to the park. In addition, other uses may be permitted as accessory uses in the district where such uses are not allowed as principal uses, subject to the following restrictions:

(a) **Size**. Such establishments and the parking areas related to their operations shall not occupy more than five percent (5%) of the gross area of the park.

(b) **Clientele**. Such establishments shall be restricted in their use to the occupants of the park.

(c) **Visibility**. Such establishments shall present no visible evidence from any street outside the park of a commercial nature which would attract customers other than occupants of the park.

(d) **Access**. Such establishments shall not be directly accessible from any public street, but shall be accessible only from a street within the park.

(9) **Manufactured Homes**. No manufactured home may be parked or stored in a recreational vehicle park, except that one manufactured home may be located within the park for the exclusive use as the principal dwelling unit for the park manager or operator.

(C) RECREATIONAL VEHICLE PARKS IN HB DISTRICT

(1) **Purpose**. To provide short term recreational vehicle and tent camping in areas serviced by major highways.

(2) **Application**. In addition to the general use conditions for recreational vehicle parks, the following conditions shall apply to recreational vehicle parks in the HB District.

(a) **Park Size**. The minimum contiguous area of any recreational vehicle park shall be three (3) acres.

(b) **Density**. The maximum density of any recreational park shall be fifteen (15) recreational vehicle spaces per acre.

(c) **Site Area**. The minimum area devoted to each recreational vehicle space shall be one thousand five hundred (1,500) square feet.

(D) RECREATIONAL VEHICLE PARKS IN AG, RS-40, RS-30, AND YR DISTRICTS

(1) Purpose. To permit short term recreational vehicle and tent camping on relatively large amounts of land without the necessity or desirability of being immediately adjacent to main highways or built-up areas, while preserving an open character and promoting outdoor recreational activities.

(2) Application. In additional to the general use conditions for recreational vehicle parks, the following conditions shall apply to recreational vehicle parks in AG, RS-30, RS-40 and YR Districts.

(a) Site Plan Required. A site plan which meets the site plan requirements of Article VII shall be submitted as part of each application for a special use permit.

(b) Park Size. The minimum contiguous area of any recreational vehicle park shall be ten (10) acres.

(c) Density. The maximum density of any recreational park shall be ten (10) recreational vehicle spaces per acre.

(d) Site Area. The minimum area devoted to each recreational vehicle space shall be two thousand five hundred (2,500) square feet.

2-5.60 RESIDENTIAL BUILDING, DUPLEX, TWIN HOME, MULTIFAMILY, OR TOWNHOUSE

(A) SITE PLAN REVIEW BY THE PLANNING BOARD

The Planning Board shall review all multifamily residential building developments with the following exceptions:

(1) Six (6) Units or Less. Developments which contain six (6) units or less.

(B) STANDARDS

Standards for a multifamily development include the following:

(1) Traffic Requirements. In approving the site plan for a multifamily development, the Planning Board shall determine that the streets, driveways, parking areas, and other public and private drives shown on the plan are so located that:

(a) Effect on Public Street System. They do not block, impede, or interfere with the orderly development of the public street system.

(b) Standards and Dedication. Those streets on the plan which are likely to be used by the public as through or connector streets, or which for the orderly development of the area should be made public streets, are designed to the standards of public streets and are dedicated or offered for dedication as such on a recorded plat.

(c) Access. Adequate provision is made for vehicular traffic to and from the premises and for vehicular traffic and pedestrian traffic to and from the proposed buildings, structures, and parking areas on the premises, including firefighting and police equipment and personnel, ambulance service, garbage collection service, postal service, delivery service, and other public and private services and individuals who would require access to the premises.

(2) Common Recreation Area. Common recreation areas and facilities, such as areas for small children or other recreational areas, shall be provided for multifamily developments

containing forty (40) units or more, based on the standards of Section 3-6. Multifamily developments which are located in the CB District or which provide elderly housing are exempt from this requirement.

(3) **Other Development Standards**. All multifamily developments shall meet the following standards.

(a) **Air and Light**. The project provides adequate air and light to the development and surrounding properties.

(b) **Architectural Features**. Through the use of a variety of fenestration patterns, building facade offsets, roof line treatments, and other architectural features, the perceived bulk, scale, and length and width of the building is compatible with surrounding buildings.

(c) **Affected Area**. The project will not be injurious to property or improvements in the affected area.

(d) **Adopted Plans**. The project is in accordance with all development criteria established by the Elected Bodies' adopted plans and policies, such as the *Kernersville Development Plan* and development guides.

(4) **Developments on Smaller Lots**. Developments of residential multifamily buildings subject to the minimum lot size requirements of Table 3.3 shall meet the following requirements:

(a) **Impervious Surface Cover**. For new construction on vacant lots, impervious surface cover is limited to a maximum of sixty percent (60%). Impervious surface cover is otherwise limited to seventy percent (70%).

(b) **Building Height**. No building shall exceed a height of forty (40) feet.

(c) **Bufferyard**. Bufferyard requirements of Section 3-5 must be met for multifamily developments containing more than four (4) units.

(d) **Off-Street Parking**.

(i) **Number of Spaces**. Off-street parking for multifamily uses shall meet the standards for Efficiency Units, if applicable, or Urban Residential Building in Table 3.8.

(ii) **Parking in Rear**. All off-street parking shall be provided to the rear of the principal building(s) unless the Planning Board determines that, due to lot size, shape or topographic features, some or all parking cannot be placed to the rear.

(iii) **Reduction in Bufferyard**. A side or rear bufferyard which may be reduced to allow a driveway to the rear of the property which accesses the off-street parking if the provisions of Section 3-5.4(C) are met.

(iv) **Landscaped Separation from Building**. A minimum three and one-half (3.5) foot wide landscaped area shall be provided between any parking area and building wall providing access into the unit(s).

(e) **Vehicular Use Landscaping Requirements**. Vehicular use landscaping

requirements of Section 3-4 must be met for multifamily developments containing more than four (4) units or nonresidential uses.

(f) **Roofs**. Pitched roofs are required on all buildings.

(5) **Building Spacing Requirements**. All multifamily residential buildings shall meet the building spacing requirements of Section 3-1.2(K).

(C) LO DISTRICT

Multifamily development is permitted in the LO District at a maximum density of twelve (12) units per acre.

(D) RM-5 District

Three-, Four- and five-unit buildings are the only type of multifamily or townhouse residential buildings permitted in the RM-5 Zoning District. Please refer to Section 2-1.2(K)(2).

(E) Dimensional Requirements for Townhouses

Townhouses developed in the RSQ or RM-5 Districts shall adhere to the dimensional requirements of the applicable zoning district. Townhouses in other zoning districts shall adhere to the maximum height, maximum impervious coverage, minimum street side yard setback, and minimum zoning lot width requirements of the applicable zoning district.

2-5.61 RESIDENTIAL BUILDINGS, URBAN

(A) Distance from Property Line

(1) **CB, GB and PB Districts**. In the CG, GB, and PB Districts, no building shall be nearer to a public street right-of-way than ten (10) feet.

(2) **RM and RSQ Districts.** In all RM and the RSQ Districts at densities less than twenty (20) units per acre, no building shall be nearer a property line which abuts another parcel than ten (10) feet unless fifteen (15) feet is required for bufferyard screening.

(B) Bufferyards

(1) **Type I Bufferyard**. A type I bufferyard, as described in Section 3-5, shall be installed along side and rear property lines adjacent to property zoned for residential or institutional and public uses.

(2) **Type III Bufferyard**. A type III bufferyard, as described in Section 3-5, shall be installed along side and rear property lines adjacent to property zoned for industrial, or transportation and utilities uses.

(3) **Landscape Area**. A minimum of a five (5) foot wide landscape area, meeting the streetyard planting requirements as described in Section 3-4, shall be installed along side and rear property lines adjacent to property zoned for commercial uses.

(C) Streetyard

A streetyard meeting the requirements of Section 3-4 shall be installed within the front ard along the public street right-of-way

(D) Access

An urban residential building development shall have direct access to a public street.

(E) Land Ownership

All land not deeded to individuals shall be held in common ownership.

(F) Common area and Facilities

Where the developer proposes to create commonly held land and/or facilities, a copy of drafted bylaws shall be provided, including but not limited to: designation of common areas and facilities; assessment of common expenses; ratio of undivided interest in common areas; prohibition of partition of common areas; intended use of said areas; access for repairs and improvements; provision for damages or injunctive relief for the collection of fees and dues related to common area expenses liens for unpaid common area expenses; and any other and all other bylaws desired to insure the maintenance of common areas and facilities. The bylaws shall be recorded with the plat.

(G) Platting Requirements

Prior to the issuance of a zoning permit for an urban residential building, a plat showing exterior property lines, private drives, common areas and location of individual units shall be recorded in the office of the Register of Deeds.

2-5.62 RIDING STABLE, INCLUDING VETERINARIAN SERVICES FOR EQUINE SPECIES AND CATTLE

(A) PROHIBITED DISTRICTS

Riding Stables shall not be permitted as a principal or accessory use in RS Districts.

(B) SIZE

Any riding stable shall occupy a zoning lot containing not less than five (5) acres.

(C) SETBACKS

Such riding stables, including any structures housing permitted veterinary services for equine species or cattle, shall be set back not less than one hundred fifty (150) feet from any adjoining zoning lot and one hundred (100) feet from any street right-of-way.

2-5.63 SCHOOL, PRIVATE

(A) MINIMUM SITE AREA

The minimum site area for each type of private school shall be not less than the following square footage per pupil:

(1) **Elementary School**. Elementary School, grades kindergarten through five (5): four hundred (400) square feet;

(2) **Secondary School**.

(a) **Middle School**. Middle School, grades six (6) through eight (8): six hundred (600) square feet; or,

(b) **High School**. High School, grades nine (9) through twelve (12): eight hundred (800) square feet.

(3) **Combination of Grades and School Types**. When a private school provides a combination of above grades and schools, the minimum site area is calculated by prorating the number of pupils for each grade.

(B) MOBILE UNITS

Any new schools approved or constructed after the date of the adoption of this Ordinance shall identify any areas on which mobile units are to be placed. Installation of mobile units shall comply with the temporary use provisions of Section 2-7.

(C) OTHER REQUIREMENTS IN THE CB DISTRICT

(1) Interior Floor Space. The minimum interior floor space for each school shall not be less than one hundred (100) square feet per pupil.

(2) Play Area. The minimum outdoor or indoor play area shall be five thousand (5,000) square feet.

(3) Off-Street Loading. There shall be a minimum of one off-street loading or unloading space per fifty (50) pupils enrolled, appropriately located to the entrance(s) to the school building.

(D) EXEMPTIONS

Exempted from Planning Board review are the following improvements or buildings on school campuses, provided the Zoning Administrator consult with the Community Development Director prior to the issuance of any permits for these improvements or buildings:

(1) Recreation Improvements. Concession stands, playground equipment, or bleachers with a seating capacity for less than one thousand (1,000) spectators;

(2) Accessory Buildings. Maintenance, storage, or accessory buildings of less than four thousand (4,000) square feet (building footprint);

(3) Modification to Parking Lots. Modifications to existing parking lots and driveways (NOTE: Any changes to driveways must receive driveway permits from either the City of Winston-Salem or the North Carolina Department of Transportation, whichever is applicable);

(4) New Parking. New parking or pavement areas of less than twenty thousand (20,000) square feet; or,

(5) Utilities. Installation of new utilities or maintenance of existing utilities (NOTE: Any utility relocations or installations must be approved by the Utilities Commission).

(E) LANDSCAPE PLAN.

A landscape plan prepared per the requirements of Section 3-4.8 shall be prepared and installed for any new school or improvements to schools approved or constructed after the date of adoption of this ordinance.

(F) CHARTER SCHOOLS

Charter schools are permitted in all zoning districts in which private schools are permitted.

2-5.64 SCHOOL, PUBLIC

The following conditions apply to public schools in all zoning districts where permitted:

(A) SCHOOL STADIUMS

(1) Stadiums. A school stadium may be located on the same zoning lot as any public secondary school.

(2) Stadium and Playground Area Setbacks. School stadiums, including the parking areas, or other playground areas, shall be set back not less than fifty (50) feet from the property lines of any adjacent residentially zoned property.

(3) Bufferyards. A fence option bufferyard of type II, as specified in Section 3-5, shall be

provided along the side and rear property lines between any school stadium and any property zoned for residential use.

(B) MOBILE UNITS

Any new schools approved or constructed after the date of the adoption of this Ordinance shall identify any areas on which mobile units are to be placed. Installation of mobile units shall comply with the temporary use provisions of Section 2-7.

(C) OTHER REQUIREMENTS IN CITY/TOWN CENTERS AND THE CB DISTRICT

(1) **Interior Floor Space**. The minimum interior floor space for each school shall not be less than one hundred (100) square feet per pupil.

(2) **Play Area**. The minimum outdoor or indoor play area shall be five thousand (5,000) square feet.

(3) **Off-Street Loading**. There shall be a minimum of one (1) off-street loading or unloading space per fifty (50) pupils enrolled, appropriately located to the entrance(s) to the school building.

(4) **State Approval**. The facility plan must be approved by the North Carolina Department of Public Instruction, Division of School Planning and/or the North Carolina Department of Insurance.

(D) EXEMPTIONS

Exempted from Planning Board review are the following improvements or buildings on Winston-Salem/Forsyth County School campuses, provided the Zoning Administrator consult with the Community Development Director prior to the issuance of any permits for these improvements or buildings:

(1) **Recreation Improvements**. Concession stands, playground equipment, or bleachers with a seating capacity for less than one thousand (1,000) spectators;

(2) **Accessory Buildings**. Maintenance, storage, or accessory buildings of less than four thousand (4,000) square feet (building footprint);

(3) **Modification to Parking Lots**. Modifications to existing parking lots and driveways (NOTE: Any changes to driveways must receive driveway permits from either the Town of Kernersville, Engineering Division or the North Carolina Department of Transportation, whichever is applicable);

(4) **New Parking**. New parking or pavement areas of less than twenty thousand (20,000) square feet;

(5) **Utilities**. Installation of new utilities or maintenance of existing utilities (NOTE: Any utility relocations or installations must be approved by the Utilities Commission).

(E) LANDSCAPE PLAN

A landscape plan prepared per the requirements of Section 3-4.8 shall be prepared and installed for any new school or improvements to schools approved or constructed after the date of adoption of this Ordinance. Schools currently under construction at the time of adoption of this Ordinance may elect to provide landscaping in compliance with Section 3-4.8 and Section 3-5.2(D).

2-5.65 SHOPPING CENTER

Uses permitted in Shopping Centers shall be all those uses permitted in the applicable zoning district.

2-5.66 SIGNS, OFF-PREMISES

All signs must comply with the provisions of Section 3-2.

2-5.67 STORAGE AND SALVAGE YARD

(A) FENCING

(1) Location. An opaque fence or wall shall be erected on any property line which is adjacent to any street, road, or highway; and all business activity, including storage of articles, shall be conducted within said fence. Fencing requirements shall be one of the following:

(a) Within Fifty (50) Feet of Right-of-way. An eight (8) foot high opaque fence is required if located within fifty (50) feet of the right-of-way boundary; or,

(b) Beyond Fifty (50) Feet of Right-of-way. A six (6) foot high opaque fence is required if located fifty (50) feet or more from the right-of-way boundary.

(2) Conditions. Such fencing shall meet the following conditions:

(a) Construction. The fence and screening shall be constructed of materials manufactured, sold and used as fencing materials with consistent height, materials, and color;

(b) Maintenance. All fences shall be maintained in sound condition at all times; and,

(c) Advertising. Fences shall not contain advertising or other lettering or signs other than lettering which identifies the operation carried on within the enclosure.

(B) BUFFERYARDS

(1) Industrial Zoning Type. A storage and salvage yard is considered an industrial zoning type for purposes of bufferyard requirements of Section 3-5 of this Ordinance.

(2) Type of Bufferyard Required. In addition to the requirements of Section 3-5, a type I bufferyard shall be provided along side and rear lot lines adjacent to property zoned for commercial or industrial use.

(C) EFFECTIVE DATE

Such uses existing on the effective date of this Ordinance shall meet all requirements of this section within one year of the effective date of this Ordinance.

2-5.67.1 STORAGE SERVICES, RETAIL

***Storage Services, Retail* located in the PB Zoning District shall comply with the following:**

(A) ADDITIONAL DEVELOPMENT REQUIREMENTS

1. **Conditional Zoning District.** *Storage Services, Retail* is only allowed in a Conditional Zoning District.

2. **Access.** The storage service access shall be from interior halls.

3. **Climate Controlled**. Storage units shall be climate controlled.

4. **Additional Uses.** The use *Storage Services, Retail* shall be located in a building with a mix of uses.

5. **Signage.** No signage shall be allowed for the storage facility.

6. **Parking.** No additional parking shall be required. It is intended for the storage facilities to be utilized by the tenants within the development or designed community.

2-5.68 SWIMMING POOL, PRIVATE

Private swimming pools are permitted as accessory or principal uses in all residential districts, provided they meet the following requirements:

(A) REAR YARD SETBACKS

Pools located in the rear yard of the property shall be no less than ten (10) feet from the rear property line but must meet principal building setbacks for the side yard.

(B) FRONT AND SIDE YARD SETBACKS

Pools located to the front and side of the principal building shall meet the front and side yard requirements of the residential district in which they are located.

(C) BUILDING PERMITS

Prior to construction, all pools shall be reviewed and receive building permits by the Zoning Administrator.

(D) FENCING

Pools shall be completely enclosed by a fence, above average grade level, at least four (4) feet in height. However, swimming pools on lots of five (5) acres or more in the AG, YR, RS-40 and RS-30 Districts may, in lieu of the fencing requirement, be set back at least two hundred (200) feet from the front lot line and one hundred (100) feet from the rear lot line. For purposes of this section, the exterior walls of a house or building may be incorporated as a portion of such fence to create a fully enclosed area around the pool. All fence openings or points of entry into the pool shall be equipped with gates. Gates shall be equipped with self-closing and self-latching devices for keeping the gate or door securely closed at all times. The fence and gate shall be void of any holes or openings larger than five (5) inches or ten (10) centimeters in one dimension.

(E) CONSTRUCTION FENCING

A construction fence shall be erected prior to such time as water is placed within the pool and remain until such time as a permanent fence is installed.

(F) BUSINESS

No private swimming pool shall be operated as a business.

2-5.69 THEATER, DRIVE-IN

(A) STACKING AREA

Off-street stacking area for motor vehicles shall be provided, in the amount of five percent (5%) of the motor vehicle capacity of the theater.

(B) EXIT POINTS

One or more exits, at locations other than the point of entry, shall be provided.

(C) STREETYARD

A streetyard as described in Section 3-4 shall be installed in the area between the street property line and the setback line. However, a roadway may be constructed across such area.

(D) BUFFERYARD

A type I bufferyard shall be provided adjacent to commercially zoned property.

(E) FENCING

A solid fence or wall not less than eight (8) feet in height shall be erected to entirely enclose the theater except at driveways. Said fence shall be installed along street frontage on the setback line required for principal structures. Said wall or fence shall be installed along other property lines to allow planting area for the required bufferyard. Said fence shall be painted, and no such fence shall contain advertising other than lettering which identifies the operation carried on within the enclosure.

(F) SCREEN ORIENTATION

The theater screen shall be so oriented as not to attract the attention of motorists on streets.

(G) SOUND

Any mechanically produced sound shall be delivered to each motor vehicle by an individual speaker.

2-5.70 TRANSMISSION TOWER

(A) APPLICABILITY

Transmission towers which are principal or accessory uses shall meet the following requirements.

(B) FENCING

Security fencing at least six (6) feet in height shall be installed around the tower and any ground equipment or buildings.

(C) SETBACK

Except for Industrial Zoning Districts, the tower shall be set back from any adjacent zoning lot minimally two hundred (200) feet or one and one quarter (1.25) times the greatest height of the tower (*including any attachments and /or any structure upon which the tower may be situated*) whichever is greater. Buildings located at the base of the tower shall meet the setback requirements for principal structures of the zoning district.

An Industrial Zoning District requires a 200 foot or one and one quarter (1.25) times the greatest height of the tower (*including any attachments and/or any structure upon which the tower may be situated*) whichever is the greater setback when adjacent to a Residential Zoning District and Mixed Use Conditional Zoning District. The tower and buildings located at the base of the tower shall meet the setback requirements for principal structures of the zoning district.

(D) SIGNAGE

No business signs, billboards, or other advertising shall be installed on the tower.

(E) BUFFERYARD, SITE PLAN, LIGHTING, AND COLOR

(1) Bufferyard

Type IV bufferyard as described in Section 3-5 shall be installed around the perimeter of all improvements/ construction on the site, including the tower, any ground buildings or equipment, and security fencing, so as to provide spatial separation and create a visual block from adjacent properties and streets.

(2) Site Plans.

Any submitted site plan shall be drafted by a licensed structural engineer specializing in the field of self-supporting towers, and shall indicate the fall radius for the tower and any appurtenant structure(s).

(3) Lighting.

Illumination of any tower facility is limited to the minimum specified by governing federal agency. Strobe lights shall only be used if required by the governing federal agency. Any

additional lighting shall be directed toward the structure and away from any residential or public area. A licensed structural engineer specializing in the field of self-supporting towers shall submit the FAA lighting requirements with the initial application and site plan.

(4) Color

Unless a federal agency requires a specific color, transmission towers shall be a flat gray color. Petitioner shall submit federal agency color requirements at the time of initial application.

(F) CONTROL OF LAND

All land necessary for improvements, including the transmission tower, building, fencing and landscaping, shall be in ownership of or under lease by the tower operator.

(G) EXEMPTIONS

(1) Attached or Incorporated in a Structure

Transmission towers located on nonresidential structures or incorporated into other structures, which structures are devoted to a use not related to the transmission tower, are exempt from the security fencing, setback, bufferyard, and control of land requirements of this section. All ground equipment or buildings shall be placed underground or screened from view.

(2) Utilities Rights-of-Way

Transmission towers located within electrical utility company right-of-way are exempt from the setback and bufferyard requirements of this section.

(H) CO-LOCATION

(1) Other Structures

Wireless transmission attachments are required to co-locate onto an existing wireless support structure, utility structure, or roof top.

A special use permit is required to construct any new tower structure or substantial modification of any existing tower. A substantial modification will include:

- A 10% increase in tower height or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet or whichever is greater;
- The installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter;
- A proposed antenna would involve adding an appurtenance that would protrude from the body of the tower more than twenty feet, and more than the width of the tower structure at the level of the appurtenance, whichever is greater; or
- The proposed modification would involve excavation outside the current tower site, defined as the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site.

The Community Development Director may approve modifications to the layout of any structure at the base of the tower, provided a substantial modification as defined above is not proposed. All new tower approvals shall require a special use permit granted by the Board of Adjustment.

(2) Other Users

All transmission towers installed after the effective date of this Ordinance shall be structurally and mechanically capable of accommodating the antenna or array of antennae of more than one user/transmitter, unless the tower is incapable of supporting more than one user/transmitter due to the design of the tower which is incorporated into another structure in compliance with Section 2-5.72(H). Monopoles shall accommodate a minimum of two total users, lattice or other types of towers shall accommodate a minimum of three total users. These users shall be in addition to the local jurisdiction which may place devices per subsection (K) below. Certification as to the tower's structural and mechanical capability to accommodate collocation shall be provided by a professional engineer or other qualified professional.

(3) Access

Access to available technically feasible space on any towers shall not be denied to any competitive users or service provider.

(4) Non-conforming Uses

Requirements for co-location on transmission towers which are nonconforming are contained in Section 5-2.3(E) of this ordinance.

(I) TERMINATION OF USE

A tower that is no longer used for communication purposes must be removed within 120 days of the date it is taken out of service.

(J) EASEMENT FOR PUBLIC FACILITIES

At the request of the local jurisdiction, an easement shall be granted to the jurisdiction to place cameras, monitors, two-way radio equipment, or other desired telecommunications devices; however, such devices may be restricted so as not to affect the functioning of the antenna or array of antennae of the tower operator or service provider.

(K) PLACEMENT ON LARGE PUBLIC STRUCTURES

Notwithstanding the provisions of Permitted Uses 2.6, Permitted Uses, transmission towers located on large, non-habitable public or utilities structures, including but not limited to water towers and trestles of major electrical distribution lines, are permitted in RS zones under the following conditions:

(1) **Zoning Permit**. A zoning permit from the Zoning Administrator is required.

(2) **Compliance with Use Conditions**. Use conditions regarding signage must be complied with.

(L) STATE PLANE COORDINATES

All site plans submitted in conjunction with requests for transmission towers shall include the location of the proposed tower by State Plan Coordinates and above ground level and sea level elevations, based on 1983 North America datum. All towers operated by the applicant in Forsyth County and within one quarter (1/4) mile of its borders shall also be similarly located and submitted with the site plan.

(M) COLOR, FINISH, LIGHTING

Unless otherwise required by the Federal Aviation Administration (FAA), the finish of the transmission tower shall be non-shiny or glossy; any painted color shall be muted or neutral; and no lights or strobe lights shall be placed on the tower. If lights are required by the FAA, the least obtrusive lighting option available under FAA guidelines shall be installed; white strobe lights are discouraged from use.

2-5.71 UTILITIES

(A) SETBACKS

Any structure erected or use instituted shall be set back not less than forty (40) feet from property lines of any adjacent residentially zoned property.

(B) RESIDENTIAL DISTRICTS

The following conditions apply in residential districts:

(1) Health or Safety Hazards. All uses which may produce health or safety hazards shall be enclosed by a fence a minimum of six (6) feet in height.

(2) Bufferyard. All uses which, in the opinion of the Zoning Administrator, may be potential nuisances by creating glare, dirt, noise or other adverse impacts shall be screened, except for driveways, with a type I bufferyard as specified in Section 3-5.

(3) Exemptions.

(a) General. Exempt from the provisions of this section are lines for the transportation, transmission, and distribution of the various utilities. This category includes but is not limited to electricity, telegraph, and telephone services and their supporting structures, other than buildings; the lines related to sewerage, water, oil, steam and gas; and rail trackage.

(b) Fencing and Screening. Exempt from the above fencing and screening requirements are reservoirs, water treatment plants, and wastewater treatment plants.

2-5.72 VETERINARY SERVICES

The following conditions apply to veterinary services in the NB, LB, GB, HB, NSB, LI and GI Districts:

(A) LOCATION AND SETBACKS

Veterinary services may be permitted in attached buildings; however, any end unit in an attached building or any freestanding building containing such a use must be set back at least twenty (20) feet from any side lot line and forty (40) feet from any rear lot line. Any end unit of an attached building or any freestanding building containing such a use abutting a residential district shall be set back not less than forty (40) feet from any residential boundary.

(B) ENCLOSURE OF FACILITIES

The veterinary services use shall be fully enclosed. There shall be no outside use of the property for the animals or pets.

(C) AIR EXCHANGE

For any accessory kennel which provides a mechanical heating and air conditioning or ventilation system, such system shall be designed to handle an air exchange of twelve (12) exchanges of air per hour or one exchange of air every five (5) minutes inside the boarding area. The heating and air conditioning system shall be designed by a qualified heating and air conditioning contractor.

(D) OPENINGS

Windows or sunroofs will be permitted in the enclosed building, however, such openings in the building shall be of at least double pane construction standards or similar sound absorbing qualities and shall be designed so that there is no safety problem to the animals or pets, nor that any animals or pets will be allowed to escape the inside of the building. All windows or building openings shall remain closed except in the case of a power failure or other extreme emergency.

(E) CONSTRUCTION

The building shall be of masonry construction or any other materials which will permit the washing of animal wastes from the interior. Building materials which are porous or permeable which could absorb or permit the escape of animal urine or other wastes are not permitted. To provide sound insulation from animals inside, building shall be constructed with at least a six (6) inch masonry block wall plastered on both sides or any other construction with comparable sound insulating characteristics.

(F) SEWERAGE

All solid and liquid wastes shall be disposed of daily into an adequate septic tank or public sewerage system approved under the requirements of Section 3-10 of this Ordinance.

(G) CLEANLINESS

All stalls, cages, and animal exercise areas shall be cleaned daily.

(H) VETERINARY SERVICES, LARGE ANIMAL

A large animal veterinary service is allowed only in the GI District with a Planning Board Review.

2-6 ACCESSORY USES

2-6.1 GENERAL REQUIREMENTS

(A) ACCESSORY USES PERMITTED

A use accessory to a principal use is permitted if, in the opinion of the Zoning Administrator, the accessory use is customarily incidental to the principal use.

(B) SAME ZONING LOT

An accessory use must be located on the same zoning lot as the principal use to which it is accessory, except for off-site parking or other use provided for by this Ordinance.

(C) SUBORDINATE TO THE PRINCIPAL USE

An accessory use must be clearly subordinate in area, extent of activity, or purpose to the principal use to which it is accessory.

(D) COMPLIANCE WITH ORDINANCE REQUIREMENTS

An accessory use must comply with all applicable dimensional and other requirements of this Ordinance.

2-6.2 USES ACCESSORY TO CERTAIN PRINCIPAL USES

Uses not otherwise permitted in the zoning district are permitted as accessory to the following principal uses as indicated. This section does not limit the Zoning Administrator in permitting other accessory uses under Section 2-6.1(A).

Table 2.8
Uses Accessory to Certain Principal Uses

Principal Use	Uses Accessory to the Principal Use
1. Residential Building, Multifamily	Management office for the premises, gate houses, self-service laundries, club house and recreation facilities, and storage facilities for use by residents of the multifamily complex.
2. Manufactured Housing Development	Management offices for the premises, gate houses, self-service laundries, club house and recreation facilities, and storage facilities for use by residents of the manufactured housing development.
3. Manufacturing A; Manufacturing B; Manufacturing C	Administrative offices; gate houses; a guard or caretaker dwelling; meeting halls, dining areas, clinics, libraries, adult and child day care centers, and recreation facilities operated solely for employees; and, contract and financial postal facilities. The total area of all such uses shall not exceed twenty-five percent (25%) of the total gross floor area of the zoning lot.
4. Offices - Government - Medical or Dental - Miscellaneous - Professional	Services and retail sales such as barber and beauty shops, valet shops, dining facilities, self-service canteens, news and tobacco sales stands, clinics, libraries, adult and child day care centers, and similar services which are designed and operated primarily to serve occupants of the office building in which they are located. The total area of all such uses shall not exceed five percent (5%) of the total floor area of the office building in which they are located. These accessory uses shall not have any exterior display window, advertisement or means of access for patrons except from an interior area of the office building.
5. Recreational Vehicle Park	Management offices, recreational facilities, toilets, showers, dumping stations, coin-operated laundry facilities, and other uses and structures designed for visitors to the park.
6. Schools, Public Secondary	School stadiums.
7. Industrial Uses in LI and GI	Retail uses, including but not limited to show rooms and employees services. The total area of all such retail uses shall not exceed twenty-five percent (25%) of the principal industrial building. All such retail use shall be conducted within the principal industrial building.
8. Restaurant	Manufacture and preparation of food, a portion of which is sold and consumed on site at the restaurant. The manufacturing must take place in the same building as the restaurant, and the total area of such manufacturing uses shall not exceed 60% of the floor area.
9. Manufacturing B (preparation of food)	Restaurant (without drive-through service), if otherwise not permitted as a principal use, where food purchased and consumed is prepared on site. The restaurant must be located in the same building as the manufacturing (food preparation), and the total area of the restaurant shall not exceed 40% of the floor area.
10. Major Subdivision (Residential) approved under Section 4 of the Subdivision Regulations/Ordinance	Riding Stable, incorporated in the initial design and Preliminary Approval of the Major Subdivision

2-6.3 ACCESSORY USES SUBJECT TO OTHER REQUIREMENTS

(A) REQUIREMENTS OF OTHER SECTIONS

The following uses are permitted as accessory to other principal uses, subject to other requirements of other sections, as indicated.

Table 2.9
Accessory Uses Subject to Other Requirements

Accessory Use	Other Requirements
1. Adult Day Care Center	Section 2-5.2
2. Airport, Private	Section 2-5.5
3. Cemetery, Licensed	Section 2-5.11
4. Cemetery, Unlicensed	Section 2-5.12
5. Child	
- Care (Drop-In)	Section 2-5.13
- Care (Sick Children)	Section 2-5.14
- Day Care Center	Section 2-5.16
- Day Care (Large Home)	Section 2-5.17
- Day Care (Small Home)	Section 2-5.18
6. Combined Use	Section 2-5.22
7. Habilitation Facility	
- A	Section 2-5.32
- B,C	Section 2-5.33
8. Motor Vehicle Storage Yard	Section 2-5.51
9. Signs	Section 3-2
10. Swimming Pool, Private	Section 2-5.70
11. Riding Stable	Section 2-5.63

(B) MEDICAL OR DENTAL LABORATORY

Medical or dental laboratories are permitted in the LO, LB and GO Districts as an accessory use only, provided the following conditions are met:

(1) **Location**. The laboratory is located in a building which is used predominantly for the offices of physicians, surgeons, dentists, and practitioners in similar professions;

(2) **Clientele**. The laboratory serves only the medical practitioners located in the same building;

(3) **Area**. The area devoted to the laboratory does not exceed twenty-five percent (25%) of the gross floor area of the building.

(C) MOTOR VEHICLE STORAGE YARDS

Motor vehicle storage yards are permitted in the NB and NSB Districts as an accessory use only, subject to the provisions of Section 2-1.3(E)(3) and Section 2-1.3(H)(3), respectively.

(D) BANKING AND FINANCIAL SERVICES

(1) C District. Banking and financial services, including automatic teller machines (ATM's), are permitted in the C District as an accessory use only.

(2) NB District. ATM's are permitted in the NB District as an accessory use if not constructed as a drive-through facility.

(3) Shopping Centers. ATM's located in parking areas of shopping centers or on internally oriented out lots are not required to provide stacking spaces otherwise required in Section 3-3.3(F).

(E) TRANSMISSION TOWERS

Transmission towers which are accessory uses shall meet the requirements of Section 2-5.72.

2-6.4 USES WHICH MAY ONLY BE ACCESSORY TO PRINCIPAL USES

The following uses may only exist or be developed as accessory uses to a principal use, as provided below.

(A) ABOVE GROUND STORAGE TANKS

(1) Setbacks. Above ground storage tanks shall meet all building setback requirements of the zoning district in which they are located, except storage tanks with a storage capacity of five hundred (500) gallons or less located in residential zoning districts.

(2) Development Standards. Above ground storage tanks which are accessory to industries or businesses and which are located within one hundred (100) feet of any public right-of-way and not screened by a building from the street or not located within ten (10) feet of a principal building, shall meet the following standards.

(a) Screening.

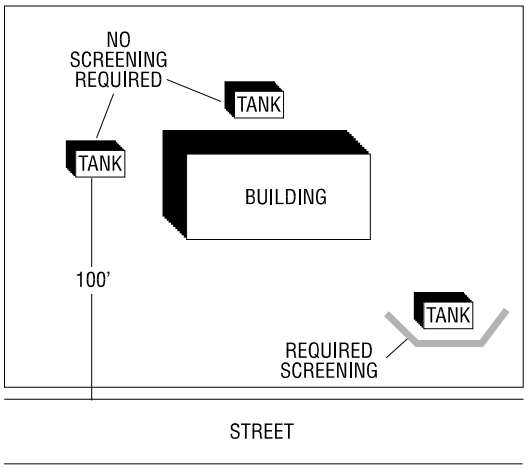
(i) The tank shall be partially or totally screened from view from the public right-of-way.

(ii) Said screening may consist of landscaping, planted earthen berms, natural topographic features, or a combination thereof. Landscaping shall consist of any shrubs identified in the streetyard and interior shrubs suggested plant materials plant list in Section 3-4.9(D). Said shrubs shall be spaced no more than eighteen (18) inches, edge to edge. No more than thirty percent (30%) of shrubs shall be deciduous.

(iii) Said screening shall be planted a minimum height of five (5) feet from the tank and be installed along the entire length of the tank if installed horizontally or along the base of the tank if installed vertically.

(iv) Said screening shall be maintained as long as the tank is present.

(v) For tanks storing flammable, combustible, hazardous or toxic materials, screening shall not interfere with Fire Department operations, and N.F.P.A. 704 I.D. placards shall be installed as required by the Fire Official.



(3) **Signage**. No signs or advertising shall be permitted on the tank or screening, except identification signs or labels as required by State law.

(4) **Hazardous Material**. Above ground storage tanks containing flammable, combustible, hazardous or toxic materials are not permitted in RS and RM Districts.

(5) **Tanks with Capacity of Greater than One Thousand (1,000) Gallons**. Tanks with individual storage capacity greater than one thousand (1,000) gallons are permitted only in the industrial and the Campus Districts.

(6) **Storage in Residential Districts**. The storage of more than twenty-five (25) gallons of motor vehicles fuel, Class 1, as an accessory use on any zoning lot in a residential district shall not be permitted, except on a bona fide farm.

(B) DWELLING, ACCESSORY (ATTACHED)

(1) **Occupancy Requirements**. A zoning permit for an attached accessory dwelling shall be conditioned upon the property owner signing a statement verifying that one of the occupancy requirements is being met. The zoning permit shall automatically terminate when the occupancy requirement is no longer met.

(a) **At Least Fifty-Five (55) or Handicapped**. The principal or accessory dwelling unit shall be occupied by a person at least fifty-five (55) years of age or handicapped; or,

(b) **Relation**. The principal dwelling unit or the attached accessory unit shall be occupied by the following categories of persons:

(i) **Relative**. Any relative under the civil law of the first, second, or third degree of consanguinity to the head of the household owning and occupying the principal dwelling on the lot, or to the spouse (whether living or deceased) of the head of the household;

(ii) **Adopted Person**. A son or daughter by legal adoption, or the adoptive parents of the head of the household or such person's spouse, whether spouse is living or deceased;

(iii) **Other Dependent**. A dependent of the head of the household or of such person's spouse as defined by the North Carolina Department of

Revenue; or,

(iv) **Servant**. A servant employed on the premises and the servant's family, but only if such servant receives more than one-half of his/her annual gross income in return for services rendered on the premises.

(2) **Structure**. The principal building shall not be altered in any way so as to appear from a public street to be multiple family housing.

(a) **Prohibited Alterations**. Prohibited alterations include, but are not limited to: multiple entranceways, multiple mailboxes, or multiple nameplates.

(b) **Access**. Wherever feasible and consistent with the State Residential Building Code, access to the accessory dwelling unit shall be by means of existing doors.

(c) **Stairways**. No new stairways to upper floors are permitted on any side of a building which faces a public street.

(d) **Utilities**. Electric and/or gas utilities shall be supplied to both units through a single meter.

(3) **Size of Unit**. An attached accessory dwelling unit shall occupy no more than twenty-five percent (25%) of the heated floor area of the principal building, but in no case shall be greater than seven hundred fifty (750) square feet. The sum of all accessory uses, including home occupations, in a principal residential building shall not exceed twenty-five percent (25%) of the total floor area of the building.

(4) **Parking**. Parking for the attached accessory dwelling shall be served by the same driveway as the principal dwelling.

(5) **Number of Accessory Dwellings**. No more than one accessory dwelling, whether attached or detached, shall be located on a lot.

(C) DWELLING, ACCESSORY (DETACHED)

(1) **Occupancy Requirements**. A special use permit for the detached accessory dwelling must be approved by the Board of Adjustment in accordance with the requirements of Section 6-1. In addition, the applicant must submit a statement verifying that the occupancy requirements of this section are being met. The permit shall automatically terminate with the termination of occupancy by such persons. The principal dwelling unit or the detached accessory unit shall be occupied by the following categories of persons.

(a) **Relative**. Any relative under the civil law of the first, second, or third degree of consanguinity to the head of the household owning or occupying the principal dwelling on the lot, or to the spouse (whether living or deceased) of the head of the household;

(b) **Adopted Person**. A son or daughter by legal adoption, or the adoptive parents of the head of the household or such person's spouse, whether spouse is living or deceased;

(c) **Other Dependent**. A dependent of the head of the household or of such person's spouse as defined by the North Carolina Department of Revenue; or,

(d) **Servant**. A servant employed on the premises and the servant's family, but only

if such servant receives more than one-half of his/her annual gross income in return for services rendered on the premises.

(2) Dimensional Requirements. Any detached accessory dwelling shall comply with all dimensional requirements applicable to accessory structures in Section 3-1.2(F) and (G).

(3) Building Requirements. Any detached accessory dwelling shall comply with all building, plumbing, electrical, and other applicable codes, other than a manufactured housing unit.

(4) Manufactured Home. A Class A or B manufactured home may be used as a detached accessory dwelling in all districts where a conventional detached accessory dwelling is permitted, and a Class C manufactured home may be used as a detached accessory dwelling in the YR, AG, RS-40 and RS-30 Districts. A Class C manufactured home may be used as a detached accessory dwelling in those zoning districts where permitted as a principal use per Permitted Uses 2.6.

(5) Number of Accessory Dwellings. No more than one accessory dwelling, whether attached or detached, shall be permitted on the same lot.

(D) HOME OCCUPATION

(1) Purpose. The intent of this section is to permit certain home occupations under reasonable safeguards, but not to encourage their development or expansion in violation of the regulations governing the residential districts. This section sets forth the special conditions home occupations must meet to insure compatibility with existing residential uses.

(2) Permits. The Zoning Administrator, in the issuance of a zoning permit for a home occupation, shall determine that all prescribed conditions are met. Such permit shall be revoked upon a finding that any home occupation established under this Ordinance fails at any time to meet the requirements prescribed herein.

(a) Zoning Permits. Zoning permits may be issued by the Zoning Administrator for the following service occupations:

(i) The office or studio of an accountant, planner, architect, surveyor, artist, attorney, author, ceramist, clergyman, engineer, interior designer, landscape architect, musician, photographer, dentist, physician or other licensed medical practitioner, teacher of not more than three (3) pupils on the premises at any time, or practitioners in similar fields of service.

(ii) Other services such as dressmaking, home handicrafts, tailoring, millinery, nameplate making, home cooking, baking or preserving, and telephone or mail services.

(iii) Lodging, or boarding and lodging, of not more than three (3) resident guests.

(3) Conditions. The following conditions apply to home occupations.

(a) Incidental and Secondary Use. A home occupation shall be a clearly incidental and secondary use to the principal use as a residence by the person conducting the occupation.

(b) Number. Only one home occupation shall be permitted per principal dwelling unit. The home occupation may be operated only in the principal dwelling unit

or in an accessory building, as permitted herein.

(c) **Impact**. A home occupation shall not increase significantly traffic, noise, electrical interference, glare, dust, smoke, or odors.

(d) **Exterior**. No exterior evidence of the presence of a home occupation shall be permitted except as hereinafter provided, nor shall the exterior character of the dwelling unit be changed.

(e) **Parking**. Off street parking shall be provided in compliance with Section 3-3.2 of this Ordinance. Any parking area in addition to which is provided on the site at the time of application for the home occupation which is required to meet the standards of Section 3-3.2 shall be located to the rear or side of the principal dwelling unit. in accordance with the parking requirements set forth in Section 3-3.

(f) **Displays**. There shall be no salesroom or display window.

(g) **Signs**. No sign announcing the presence of a home occupation shall be permitted other than one non-illuminated occupancy sign not more than one hundred forty-four (144) square inches in area.

(h) **Employees**. Only members of the family residing in the principal dwelling unit and not more than one other employee may be employed in the operation of a home occupation.

(i) **Floor Area**. The floor area of the principal dwelling unit used for the home occupation shall not exceed twenty-five percent (25%) of the gross floor area of the dwelling unit, except where lodging is provided for resident guests.

(j) **Boarding and/or Lodging**. Boarding and/or lodging of not more than three (3) resident guests shall be permitted only within the principal dwelling unit.

(k) **Outdoor Storage**. Home occupations shall be conducted entirely within the principal dwelling unit. No outside storage is permitted for home occupations in urban areas.

(E) **POSTAL FACILITY, CONTRACT AND FINANCE**
Contract and finance postal facilities are allowed as an accessory use to any principal use in multifamily residential (RM), business, office, institutional or industrial districts.

(F) **TEMPORARY HEALTH CARE STRUCTURE.** A Temporary Health Care Structure, as defined by NCGS Sec.160D-915, shall be allowed as an accessory use to a single-family detached dwelling within a residential zoning district. Such structure shall comply with the use standards found in NCGS Sec. 160D-915.

Temporary Health Care Structures shall be permitted as an accessory use in any single-family residential district if it is placed on a lot owned or occupied by a qualified care-giver and the accessory structure is occupied only by the impaired person. No special use permit required.

i. The Temporary Health Care Structure shall comply with all setbacks and any maximum floor area ratio limits that apply to the primary residential structure. The structure shall be required to connect to any water, sewer, and electric utilities serving the property. Only one accessory temporary family care structure is allowed per lot. Other zoning requirements that are applicable to all other accessory structures in that zoning district shall

also be applied. No signage regarding the presence of the structure is allowed. The structure must be removed within 60 days after care-giving on the site ceases.

ii. A building permit shall be obtained prior to installation. A fee of $100 shall be charged. Evidence of compliance shall be required as part of the permitting, including an annual renewal of the doctor's certification of impairment. The Town may make periodic inspections at times convenient to the caregiver to assure on-going compliance. Enforcement action, including permit revocation, is authorized if any of these requirements are violated.

iii. Unlike the statutory protection for family care homes in **G.S. 168-23**, this statute does not exempt temporary family health care structures from private deed restrictions or covenants. Thus any applicable non-governmental restrictions may still be enforced by the neighbors.

iv. The structure is exempted from health and sanitation regulations regarding establishments providing food and lodging. It is also not required to comply with the social service licensing and regulatory provisions related to adult care homes.

v. The structure is to be treated as real property for zoning and building code purposes, but it is treated as personal property for tax purposes.

2-6.5 OTHER ACCESSORY USES

(A) FALLOUT SHELTER

Structures designed to provide protection against nuclear fallout are permitted as principal or accessory uses in any district and are not subject to setback, yard or lot coverage restrictions, provided such structures extend not more than four (4) feet above grade.

(B) SALE OF AGRICULTURAL PRODUCTS GROWN ON THE PREMISES

The sale of agricultural products grown on the premises is a permitted accessory use.

(C) FARM TENANT HOUSING

Housing for farmworkers on bona fide farms is a permitted accessory use.

(D) RECYCLING COLLECTION POINT

(E) SOCIAL SERVICES ON CHURCH CAMPUSES

Homeless shelters, soup kitchens, and other social services conducted by a church or religious institution on its primary campus as permitted accessory uses.

(F) DWELLING IN NONRESIDENTIAL DISTRICTS

In zoning districts not otherwise permitting residential buildings, a watchman or caretaker may occupy a house or other quarters on the same premises where he or she is employed.

2-7 TEMPORARY USES

2-7.1 PURPOSE

The intent of this section is to permit the temporary uses customarily accompanying the erection of permitted structures, or the establishment of permitted uses, or the accomplishment of permitted operations, as necessary to such work not substantially injurious to the public health, safety, or welfare. It is also the intent to permit customary uses of open land and of existing buildings and surrounding land which are temporary in nature.

2-7.2 TEMPORARY USES PERMITTED

If requirements of this Ordinance, the Public Health Department, and other applicable laws are met, customary temporary uses shall be permitted, including but not limited to the following:

(A) CONSTRUCTION

Temporary structures or manufactured homes used for construction offices and storage areas on construction sites, for which the duration of such permits is limited to the actual time required for construction, plus the thirty (30) day period following the issuance of a certificate of occupancy.

(B) GRADING

Temporary structures or sites of grading operations, for which the duration of such permits is limited to the actual time required for grading operations, plus the thirty (30) day period following the issuance of a certificate of occupancy.

(C) PROPRIETARY OR GOVERNMENTAL OPERATIONS

Temporary structures, manufactured homes, or storage areas of public agencies in the conduct of proprietary or governmental operations. The location of temporary classrooms on public school campuses must be approved within three (3) months by the Planning Board.

(D) USE OF OPEN LAND

The use of open land for meetings, circuses or carnivals, or the sale of Christmas trees, baked goods or collected clothing and the like, if no structure is erected or placed other than tents or recreational vehicles, for which the duration of such permits is limited to no longer than forty-five (45) consecutive days.

(E) TURKEY SHOOT

The use of open land for a turkey shoot in the AG, RS-40, LI, and GI Districts outside the corporate limits of Kernersville, subject to the following restrictions:

(1) **Size**. A turkey shoot shall be on a site of not less than three (3) acres;

(2) **Distance to Adjacent Property**. The site shall be so designed that the distance to any adjacent property measured from the firing point or points in the direction of fire shall be not less than two hundred (200) yards; or an earthen backstop not less than twenty (20) feet in height shall be provided beyond the target line but within two hundred (200) feet thereof;

(3) **Targets and Firing Points**. Neither targets nor firing points shall be located closer than twenty (20) feet to a side property line;

(4) **Firearms**. Shotguns only shall be fired;

(5) **Hours of Operation**. The use of firearms shall be prohibited between the hours of 9:30 P.M. and 7:00 A.M.; and,

(6) **Duration of Permit**. The duration of the permit shall not exceed sixty (60) consecutive days.

(F) NONPROFIT ORGANIZATIONS

The use of a residence or other building and surrounding land by any nonprofit charitable, religious, or educational organization for the purpose of exhibiting and purveying, indoors or outdoors, art or craft products, jewelry, clothing, foods, beverages, horticultural specimens, home furnishings and

decorations, and similar or related items, and for presenting musical, film, or theatrical programs, indoors, for which the duration of such permits is limited to no longer than thirty (30) consecutive days.

(G) HELICOPTER SITES

Temporary helicopter landing and takeoff in conjunction with a special event, such as an athletic contest, a holiday celebration, parade or similar activity. All permits issued for a temporary helicopter landing facility shall be approved by the Police Department or Sheriff's Department and the Fire Official to ensure safety of operation. The duration of any zoning permit issued by the Zoning Administrator for such temporary uses shall not exceed ten (10) consecutive days as specified in the permit. A temporary use permit is not required if landing or takeoff is necessary for law enforcement or other public safety purposes, or for aircraft or medical emergencies.

(H) MANUFACTURED HOMES DURING CONSTRUCTION

A manufactured home in the AG, YR and all RS Districts, occupied as a residence during construction of a single family home on the same zoning lot. Such temporary use permit shall be issued for a period not to exceed six (6) months, and may be extended for an additional six (6) months at the discretion of the Zoning Administrator if the applicant can demonstrate substantial progress toward completion of construction.

(I) INERT DEBRIS FILL

Fill of material on sites where the fill material consists only of inert debris strictly limited to concrete, brick, concrete block, uncontaminated soil, rock, gravel, and asphalt. Said permits may be issued for up to ninety (90) days and may not be renewed for at least one year after the previous permit has expired.

(J) REMOVAL AND DEPOSITION OF SOILS

The removal of inert debris strictly limited to concrete, brick, concrete block, uncontaminated soil, rock, gravel, and asphalt from one site and the deposition of said inert debris at one other site, provided:

(1) **Frequency**. The sites so used for removal and deposition shall be permitted in tandem and only once.

(2) **Site Size**. The area of disturbance of the zoning lot from which the inert debris is taken shall be no greater than five acres.

(3) **Hours of Operation**. Except in cases of emergency involving safety, the sites shall not be operated no Sunday and may not be operated earlier than 7:00 a.m. nor later than 6:00 p.m. on any other day.

(4) **Duration**. Notwithstanding the provisions of Section 2-7.3(A) below, the temporary use permit shall only run concurrently with the related grading permit issued for operation of the two sites.

(K) CHILD CARE (TEMPORARY CARE)

A temporary child care arrangement established as an accessory use to and on the same zoning lot of any institutional or public use which provides either drop-in care or a seasonal or other part-time basis. Such temporary arrangements must be approved by the State. A permit for each activity shall not exceed ninety (90) days, and may not be renewed within the same calendar year.

2-7.3 PERMIT

(A) ISSUANCE

Any temporary use shall be established only after issuance of a zoning permit by the Zoning Administrator for such use. Duration of the temporary use shall be specified on such permit. Such permit may be renewed not more than twice, and such renewals may not exceed the period of time approved in the original permit. Unless otherwise specified, no single permit or single renewal shall be issued for a temporary use to exceed one year.

CHAPTER B - *ZONING ORDINANCE*
ARTICLE III - OTHER DEVELOPMENT STANDARDS

3-1 DIMENSIONAL REQUIREMENTS

3-1.1 GENERAL REQUIREMENTS

(A) APPLICABILITY

In all zoning districts, every use of a building, structure, or piece of land hereafter erected, modified, enlarged, or increased in capacity shall comply with the dimensional requirements as set forth in this section.

(B) NONCONFORMING SITUATIONS AND VARIANCES

There shall be no variations from the dimensional requirements of this section except in nonconforming situations (Article V) or where the Board of Adjustment may waive the dimensional requirements (Section 6-1.4(B)).

(C) DIMENSIONAL REQUIREMENTS

The dimensional requirements which specify minimum lot area, minimum lot width, minimum setbacks, maximum impervious surface cover, maximum height, and minimum contiguous area, where applicable, are set forth in Table 3.1, Table 3.2, Table 3.3, and Table 3.4. Dimensional and other requirements of zoning districts are set forth in Section 2-1 of this Ordinance.

(D) SUBDIVIDED ZONING LOTS WITH WRITTEN AGREEMENTS

When a zoning lot existing as of the effective date of this Ordinance is proposed to be subdivided into two or more zoning lots, the other requirements of the *Unified Development Ordinances* shall be applied to each of the subdivided lots, provided, however, that the residential density requirements and the limits of floodway fringe encroachment provisions of Section C.2-3.2(A) may be applied, in whole or in part, to any one or more of the subdivided lots and not to the other lot(s) when such original zoning lot is subdivided under the following conditions:

(1) **Floodplain.** The original zoning lot encompasses property with designated floodplain area per Section C.2.

(2) **Allocation of Development Rights Between Seller and Purchaser.** The owner of the original zoning lot and the purchaser(s) of a subdivided part have in writing allocated development rights between or among themselves concerning the development of the original zoning lot whereby a right, or any portion thereof, to develop all, or any portion of, a subdivided part of the original zoning lot as permitted in this Ordinance is transferred to, or is retained by, the remaining portion of the original zoning lot. Development of each subdivided part pursuant to the terms of the writing shall meet or exceed the requirements of this Ordinance. The writing shall further provide that the allocation of development rights shall be appurtenant to and run with the land so benefitted and have the effect of imposing a negative easement or restriction upon the servient land.

(3) **Approval of Plat.** The writing constituting the reallocation of development rights must include, or be represented by, a plat illustrating the reallocation. To be effective, the writing and plat shall be reviewed for compliance with this Ordinance by the Review Officer, and if the writing and plat complies with this Ordinance, the Review Officer shall stamp his approval upon its face, and the writing and plat must then be recorded at the Forsyth County Register of Deeds. A violation of these requirements shall be a violation of this Ordinance and unlawful.

Table 3.1
Residential Districts General Dimensional Requirements [1,2,3]

Zoning District	Minimum Zoning Lot		Minimum Setbacks[6,9]					Maximum Impervious Surface Cover (%)	Maximum Height (ft)
					Side				
	Area (sf)	Width (ft)	Front (ft)	Rear (ft)	One Side[4] (ft)	Combined (ft)	Street (ft)		
YR	130,680	300	45	50	20	50	30	--	40
AG[7]	40,000	150	45	50	20	50	30	--	40
RS-40	40,000	100	35	40	10	25	20	--	40
RS-30	30,000	100	35	35	7	20	20	--	40
RS-20	20,000	95	30	30	7	20	20	--	40
RS-15	15,000	85	25	25	7	20	20	--	40
RS-12	12,000	75	20	25	7	20	20	--	40
RS-9	9,000	65	20	25	7	20	20	--	40
RS-7	7,000	50	15	20	5	15	20	--	40
RSQ[5]	5,000/ 11,000	40/60	15	15	5/10	15/20	15	--	40
RM-5[8]	8,000	70	25	25	7	20	20	65	40
RM-8	8,000	70	25	25	7	20	20	70	40
RM-12	7,000	70	25	25	15	30	20	75	45
RM-18	5,000	70	25	25	15	30	20	80	60
RM-U	5,000	70	10	10	10	10	10	85	--
MH	10,000	70	30	20	10	25	20	--	40

1. These dimensional requirements are subject to additional provisions in Section 3-1.2 (Supplementary Dimensional Requirements); Section 2-5 (Use Conditions); Section 3-4 (Landscaping Standards); Section 3-5 (Bufferyard Standards); and Section 3-8 (Supplementary Standards for Older Neighborhoods).
2. Larger lot width, depth, or area may be required by the Public Health Department for the installation of septic systems.
3. Additional dimensional requirements for residential uses in other districts are listed in Tables 3.3 and 3.4.
4. No setback is required for twinhomes; all other uses must be set back a minimum of five (5) feet.
5. Ranges of requirements for RSQ are listed; dimensional requirements are based on use in the district. Please refer to Section 2-1.2(I)(2).
6. Building setbacks shall be measured from either the existing right-of-way, or the proposed right-of-way established by the adopted *Transportation Plan*, whichever is most restrictive.
7. Nonconforming lots in the AG Districts meeting the provisions of Section 5-3.2 of this Ordinance must meet the minimum setback requirements of the RS-20 zoning district.
8. Ranges of requirements for RM-5 are listed; dimensional requirements are based on use in the district. Please refer to Section 2-1.2(J)(2).
9. Three story structures in RM-8 must be setback a minimum of fifty (50) feet from adjacent properties zoned for single family residential development.

Table 3.2
Nonresidential Districts General Dimensional Requirements [1,2]

Zoning District	Minimum Zoning Lot[4]		Minimum Contiguous Site Area (ac)	Minimum Setbacks[8,9]				Maximum Impervious Surface Cover (%)	Maximum Height[3] (ft)
				Front (ft)	Rear (ft)	Side			
	Area (sf)	Width (ft)				Interior Side (ft)	Street (ft)		
NO	6,000	65	--	20	25	7	20	60	40
LO	10,000	100	--	20	20	5	20	75	40
CPO	--	250	10	60	40	40	40	80	60/unlimited
GO	10,000	75	--	20	--	--	20	80[5]	60/unlimited
NB	6,000	65	--	10	25	7	20	60	40
PB	--	--	--	--	--	--[6]	--	--	60
LB	10,000	100	--	20	5	0.5/12[6]	20	75	40
NSB	--	250	4	40	40	40	20	75	40
HB	20,000	100	--	40	20	0.5/12[6]	20	85	60
GB	10,000	75	--	20	--	--	20	--	60/unlimited
CB	--	--	--	--	--	--	--	--	--
LI	10,000	100	--	20	20	0.5/12[6]	20	90	70/unlimited
CPI	--	150	30	40	20	20	20	70	70
GI	43,560	150	5	40	20	0.5/12[6]	20	--	70/unlimited
CI	--	--	--	--	--	--	--	--	--
BI	43,560	150	200	20	0.5/12[6]	0.5/12[6]	20	--	70/unlimited
IP	10,000	65	--	25	10	5	20	60	60
C	20,000	100	20	20	20	20	20	70[7]	40/75 or 60/unlimited
MU-C	5,000	30	30	10	--	--	10	--	60/unlimited
TND-C	1,000	18/16[9]	5	4	--	--	4	--	60/unlimited

1. These dimensional requirements are subject to additional provisions in Section 3-1.2 (Supplementary Dimensional Requirements); Section 2-5 (Use Conditions); Section 2-1 (Zoning Districts); Section 3-4 (Landscaping Standards); Section 3-5 (Bufferyard Standards); and Section 3-8 (Supplementary Standards for Older Neighborhoods).
2. Larger lot width, depth, or area may be required by the Public Health Department for the installation of septic systems.
3. Certain districts have an option for height (e.g., 60/unlimited). The first number indicates the maximum height allowed at the minimum setback required adjacent to property zoned RS, RM (except RM-U), YR, AG, or H unless the RS district contains a habitable residential single family unit located within 150' of a LI property line, then the maximum height shall be 40' for the adjacent LI zoning lot. Height of the structure above forty (40) feet may be increased by one foot for each foot of additional setback above the minimum required, if adjacent to property zoned RS, RM (except RM-U), YR, AG, or H, but in no case shall the structure be higher than fifty (50) feet. Heights may be increased according to the provisions of Section 3-1.2(D) and (E). Height limits for the C District vary (see Section 2-1.5(B)(2)).

4. Minimum area and width requirements may be reduced for the CPO, NSB, and CPI Districts under the respective subsections of Section 2-1.
5. The eighty percent (80%) limit applies only in Suburban Neighborhoods, per Section 2-1.3(D).
6. Side yards are not required, however any side yard provided adjacent to an interior lot line shall be not less than twelve (12) feet in width. A space less than six (6) inches in width between an interior lot line and a building wall shall not be regarded as a side yard.
7. Building setbacks shall be measured from either the existing street right-of-way, or the proposed right-of-way established by the adopted *Transportation Plan*, whichever is most restrictive.
8. Whenever a lot in a nonresidential district other than the NB or NO Districts shares a common boundary line with a lot in a residential district (except RM-U), YR, AG, or H District with no intervening street or highway, the lot in the nonresidential district shall have a required setback along the shared boundary line of not less than forty (40) feet or shall have the required setback for the nonresidential district, whichever is greater, unless the development conforms to the Land Use Plan and is a Conditional Zoning District then a minimum setback of the Bufferyard (3-5 Bufferyard Standards) shall be considered for a setback.
9. Minimum zoning lot width for rear loading townhouse developments containing a variety of lot widths may be reduced to sixteen (16) feet.

Table 3.3
Minimum Lot Sizes (Square Feet) for Permitted Single Family, Two-Family, and Multifamily Residential Buildings on Small Lots in RM Districts

Number of Units	Zoning District[1]				
	RM-5	RM-8	RM-12	RM-18	RM-U
1	8,000	8,000	7,000	5,000	5,000
2	10,000	10,000	10,000	9,000	7,000
3			15,000	12,000	9,000
4			18,500	14,500	11,000
5			22,000	17,000	12,500
6			24,000	19,500	14,000
7				22,000	15,500
8				23,500	17,000
9				25,000	18,500
10				26,000	20,000
11					21,500
12					22,000

1. Permitted densities for other multifamily developments not shown in this table are calculated based upon the suffix number of the RM District (e.g., RM-5, RM-12).

Table 3.4
Other Dimensional Requirements

Zoning District	Minimum Zoning Lot		Minimum Setbacks					Maximum Impervious Surface Cover (%)	Maximum Height (ft)
					Side				
	Area (sf)	Width (ft)	Front (ft)	Rear (ft)	One Side (ft)	Combined (ft)	Street (ft)		
Single Family Residences in NO, NB, PB, MU-C, and TND-C Districts									
NO, NB	6,000	50	20	10	5	15	20	70	40
PB	--	--	--	--	--	--	--	--	--
MU-C	5,000	40	15	15	5	15	15	--	40
TND-C	2,700	30	10	5	3	10	10	--	40
Duplexes in MU-C, NO, and TND-C Districts									
MU-C	7,500	40	15	15	5	15	15	--	40
NO	--	--	20	20	10	25	20	--	--
TND-C	2,400	40	10	5	0	8	10	--	40
Twin Homes in MU-C, NO, and TND-C Districts									
MU-C	5,000	40	15	15	0	15	15	--	40
NO	--	--	20	20	10	25	20	--	--
TND-C	1,100	18	10	5	0	8	10	--	40
Townhouse Developments in TND-C Districts									
TND-C	1,100	16[1]	4	--	0	0	4	--	60
Multifamily Developments in GB, CB, PB, MU-C, NO, LO, and TND-C Districts									
GB	20,000	100	20	--	--	--	20	85	60
CB	--	--	--	--	--	--	--	--	--
PB	--	--	--	--	--	--	--	--	60/150
MU-C	30,000	70	25	25	15	30	20	80	60
NO, LO	--	--	20	20	10	25	20	--	--
TND-C	7,200	72	0	5	0	0	4	--	60

1. Minimum zoning lot width for rear loading townhouse developments containing a variety of lot widths may be reduced to sixteen (16) feet.

3-1.2 SUPPLEMENTARY DIMENSIONAL REQUIREMENTS

The following supplementary dimensional regulations shall apply to all buildings and structures not subject to the general dimensional requirements of Section 3-1.1.

(A) STRUCTURES PERMITTED ABOVE HEIGHT LIMITS

The height limitations of Section 3-1.1 shall not apply to the following structures.

(1) Buildings used in support of agricultural operations;

(2) Chimneys, unoccupiable steeples, spires, flagpoles, cupolas, roof venting pipes, and freestanding rooftop mechanical equipment (including unenclosed screening);

(3) Transmission towers;

(4) Water towers, observation towers, silos, and power transmission towers;

(5) Mixing plants, and screening or loading towers for sand or rock; and,

(6) Derricks and conveyors.

(B) STRUCTURES WHICH MAY ENCROACH INTO REQUIRED YARDS

The following structures may encroach into required yards as follows:

(1) Open Porches and above Grade Decks in front and rear yards. An open porch or unenclosed above grade deck at or below the main living level of a single family dwelling may project into a required front or rear yard not more than ten (10) feet, provided that such projection does not reduce the remaining open portion of the yard to a depth of less than fifteen (15) feet, or within a TND-C provided that such projection does not encroach within a public right-of-way or easement.

(2) Bay Window. A bay window may project into any required front or rear yard not more than three (3) feet.

(3) Architectural Features. Architectural features, such as sills, belt courses, and cornices, may project into any required yard not more than one foot.

(4) Roof, Eave, Chimney, or Awning. A roof, eave, chimney, or awning may project into any required yard not more than three (3) feet.

(5) Canopy. Canopies, either attached or detached, used in conjunction with non-residential uses in business, office, or industrial districts, may project into a required front yard, provided that such projection does not reduce the remaining open portion of such yard to a depth of less than ten (10) feet; or may project into a required interior side or rear yard provided that such projection does not reduce the remaining open portion of such yard to a depth of less than one (1) foot when adjacent to a non-residential zoning district; or within a TND-C provided that such projection does not encroach within a public right-of-way or easement.

(6) Open Stairs. Open stairs to a second story of a residence may project into any required side or rear yard but shall not encroach into the required front yard.

(7) Satellite Dishes. Satellite dishes greater than one (1) meter in diameter for residential use and two (2) meters in diameter for commercial/industrial use shall meet the requirements of accessory structures in required yards in Section 3-1.2(F).

(C) IMPROVEMENTS PERMITTED IN REQUIRED YARDS

The following improvements are permitted in required yards provided there is no interference with any recorded sight easement.

(1) Landscape Features. Landscape features, including, but not limited to, ornamental pools, planting boxes, sculpture, birdbaths, open terraces, walkways, handicapped ramps, walls, or fences; and,

(2) **Other Improvements**. Other constructed improvements specifically exempted in the definition of *Structure*, including, but not limited to, gate houses or bus shelters, mailboxes, pump houses or wells, shelter for pets, playhouses, outdoor fireplaces, flagpoles, underground fallout shelters not extending more than four (4) feet above grade, and wharves unless otherwise regulated under Section 3-11.2. Air conditioning compressors are exempted, subject to the provisions of Section 3-11.2.

(D) SETBACKS FOR TALLER STRUCTURES IN GO, CPO, GB, GI AND MU-C DISTRICTS

(1) **Purpose**. The purpose of setback standards for taller structures in these districts is to give flexibility to nonresidential development while preventing structures significantly taller than single family dwellings from being constructed in close proximity to such homes; thereby maintaining the privacy and outdoor enjoyment typically provided in single family districts and neighborhoods.

(2) **Setback and Measurement**. The height of any building may be increased above the normal maximum by one foot for each foot of additional setback beyond the minimum setback required if adjacent to property zoned RS, RM (except RM-U), or H. If adjacent to other zoning districts, there is no height limit. Please refer to appropriate subsections in Section 2-1.

(3) **Exceptions**. Buildings above the normal height maximums are not allowed in the following situations:

(a) Where the proposed development is for single family detached, duplex, or twin home uses; or,

(b) Where the proposed development involves redevelopment or change of use of an existing site and does not increase the height or reduce the setback of the existing primary structure closest to the single family use or district.

(E) SETBACKS FOR TALLER STRUCTURES IN THE C DISTRICT

(1) **Purpose**. The purpose of special setbacks for taller structures in the C District is to give flexibility in designing and developing structures for these districts while at the same time protecting residential development adjacent to the C District from the impacts on privacy and outdoor enjoyment that structures built above the standard height limits might have.

(2) **Exception From Height Limits**. Existing buildings or buildings under construction on or before April 15, 1991 shall be exempt from the height requirement.

(3) **Setback and Measurement**. No new building, or an addition to an existing building which is exempt from the height requirement, shall exceed the normal maximum height of sixty (60) feet allowed in the C District unless the building is set back at least forty (40) feet from any property zoned RS, RM (except RM-U), or H. For each foot of setback from property zoned RS, RM (except RM-U), or H beyond forty (40) feet, the maximum permitted height of a building may be increased by one foot. If the building is set back at least one hundred twenty (120) feet from all property zoned RS, RM (except RM-U), or H, or is adjacent to other zoning districts, there is no height limit. Please refer to Section 2-1.5(B).

(F) ACCESSORY STRUCTURES PERMITTED IN REQUIRED YARDS

(1) **Interior Lots**. An accessory structure seventeen (17) feet or less in height and structurally detached from the principal structure on the zoning lot may be erected on any interior lot in either the required side or rear yards, if no part of said structure is less than seventy-five (75) feet from the front lot line nor less than three (3) feet from a side or rear lot line.

(2) **Corner Lot**. An accessory structure less than seventeen (17) feet in height and structurally detached from the principal structure on the zoning lot may be erected on a corner lot, provided that:

(a) Said structure shall be erected in the required side yard not abutting the street, and no part of said structure is less than seventy-five (75) feet from the front line nor less than three (3) feet from a side or rear lot line; or,

(b) Said structure shall be erected in the required rear yard and shall not project beyond, or nearer to, the street than the front setback line of the district, as extended, of the adjacent lot whose front yard abuts the corner lot in question.

(3) **Height.** For purposes of this section, the height shall be measured from the average grade of the midpoint of the front wall to the ridge of the roof of the accessory building.

(G) SIZE LIMITS FOR ACCESSORY STRUCTURES

(1) **Maximum Area**. Accessory structure may not exceed five percent (5%) of the actual size of the zoning lot or the minimum permitted lot size of the zoning district, whichever is greater. If the accessory structure is larger than the square footage of primary residential structure a Special Use Permit from the Board of Adjustment is required. However, an accessory structure up to five hundred seventy-six (576) square feet in area shall be permitted in all districts.

(2) **Board of Adjustment**. Requests for structures containing greater area than prescribed in (a) above may be considered under the special use permit process through the Board of Adjustment.

(3) **Required Yard**. Accessory structures may not occupy more than twenty-five percent (25%) of the area of the required yard.

(H) ACCESSORY STRUCTURES PROHIBITED IN REQUIRED YARDS

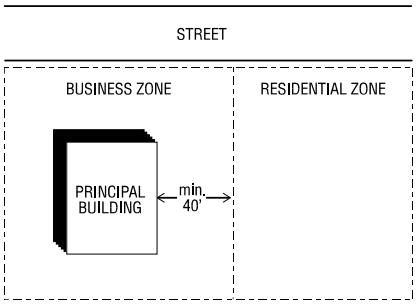
An accessory structure any part of which is within three (3) feet of the principal building or which is more than seventeen (17) feet in height shall comply with all the zoning regulations applicable to the principal building.

(I) SPECIAL YARD REQUIREMENTS FOR OLDER NEIGHBORHOODS

Alternative dimensional requirements are available for neighborhoods which were originally platted or developed prior to February 3, 1970 and where at least fifty percent (50%) of the other lots on the block in question are developed. See Section 3-8.

(J) SPECIAL YARD REQUIREMENTS WHERE NONRESIDENTIAL DISTRICTS ADJOIN RESIDENTIAL DISTRICTS

Where a lot in a nonresidential district other than the NB, PB, LB, or NO Districts shares a common boundary line with a lot in a residential district (except RM-U), YR, AG, or H District with no intervening street or highway, the lot in the nonresidential district shall have a required setback along the shared boundary line of not less than forty (40) feet or shall have the required setback for the nonresidential district, whichever is greater, unless the development conforms to the Land Use Plan and is a Conditional Zoning District then a minimum setback of the Bufferyard (3-5 Bufferyard Standards) shall be considered for a setback.



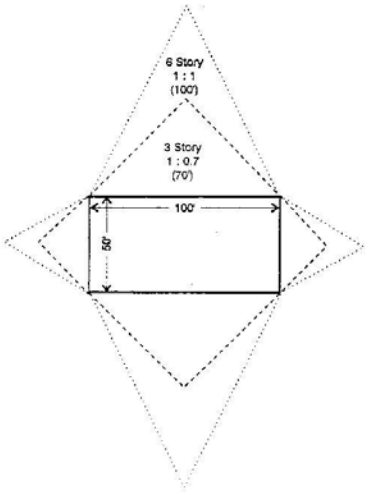
(K) BUILDING SPACING REQUIREMENTS FOR MULTIFAMILY RESIDENTIAL BUILDINGS

If a zoning lot is developed for multifamily or townhouse residential buildings, the following method shall be used to determine the minimum spacing of buildings. The spacing of buildings shall be shown on a site plan prepared according to the provisions of Article VII.

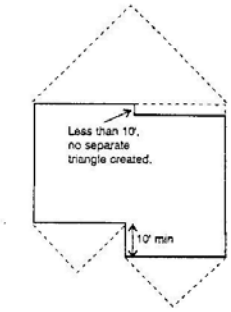
Building Spacing Requirements -
Multifamily Residential Buildings and Planned Residential Developments with Multifamily and Townhouse Residential Buildings - Section 3-1.2 (K)

Spacing Buildings using Triangles

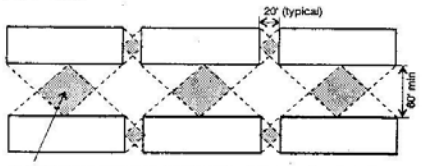
HOW TO CALCULATE TRIANGLES:
An imaginary isosceles triangle defined by connecting the extreme ends of the wall or portion of the wall as the base of the triangle, and calculating the altitude by multiplying the base by a factor related to height as provided in Table 3.5.



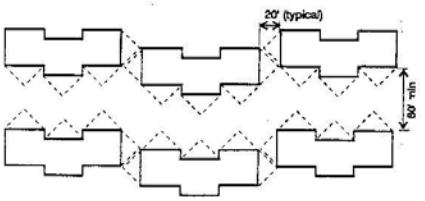
Any wall must be offset by another wall at least ten (10) feet in length to be considered as a separate wall.



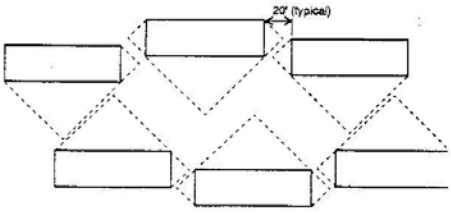
Examples:



UNACCEPTABLE: No portion of the prescribed imaginary triangle shall overlap any other within the same multifamily development.



ACCEPTABLE: Modified building architecture with minimum 10' offsets.



ACCEPTABLE: Modified building location.

(1) **Calculation of Triangle**. For yards exclusive of those on the project perimeter, each wall of every dwelling shall have a minimum yard space in the shape of an imaginary isosceles triangle. The base of said triangle shall be a line connecting the extreme ends of the wall of the building and whose altitude shall be the length of the base line multiplied by a factor related to the height of the dwelling as provided in Table 3.5 and illustrated in the accompanying figure. There shall be a minimum distance of fifteen (15) feet between any walls of one-story buildings and twenty (20) feet between two-story buildings. Any wall over ten (10) feet long shall be treated as a separate wall.

TABLE 3.5
Altitude Factors Used to Determine Building Height

Number of Stories	Factors to multiply base of triangle to obtain altitude
1	0.5
2	0.6
3	0.7
4	0.8
5	0.9
6	1.0
Each additional story shall increase factor one-tenth (0.1)	

(2) **Overlapping Triangles Prohibited**. The yard spaces thus established by the isosceles triangles shall not overlap the yard space for any other wall of the same or any other dwelling.

(3) **Other Spacing Requirements**.
The spacing between buildings with attached units and automobile parking, private streets, and drives shall be provided as required in Section 2-5.57(H)(8).

(4) **Alternative Compliance**. A developer may propose spacing for buildings that varies from the strict application of the provisions of the section in order to accommodate the unique character of the site or to utilize innovative design. Application for alternative compliance shall include a site plan following the requirements of Article VII and any additional architectural plans, elevations, or perspective drawings to illustrate the proposed building design and/or placement alternative. Alternative compliance shall be approved by the Planning Board only upon a finding that the building architecture and site plan fulfills the following criteria as well or better than would strict conformance with the requirements of this Ordinance:

(a) The project provides adequate air and light to the development and surrounding properties.

(b) Through the use of a variety of fenestration patterns, building facade offsets, roof line treatments, and other architectural features, the perceived bulk, scale, and length and width of the building is congruous with surrounding buildings.

(c) The development provides for orderly and easy movement of traffic and pedestrians.

(d) The project will not be injurious to property or improvements in the affected area.

(e) The project is in accordance with all development criteria established by the Elected Bodies' adopted plans and policies including the *Kernersville Development Plan*, area plans, and development guides.

(L) DOUBLE FRONTAGE LOTS

Double frontage lots shall provide a front yard abutting each fronting street, in the depth as required in the applicable district.

(M) DOUBLE COUNTING OF YARD, LOT AREA, LOADING AREA OR PARKING AREA

No space which has been counted as part of a yard, lot area, parking area or loading area required under this Ordinance for one building or use shall be counted to satisfy or comply with a yard, lot area, loading area or parking area requirements for any other building or use, except where shared parking is permitted in Section 3-3.5(B). The minimum required yards, lot area, parking area or loading area for any building or use existing or under construction at the time of the passage of this Ordinance shall not be encroached upon or counted to satisfy such requirements for any other building or use, except as permitted in Section 3-3.5(B).

(N) WIDTH OF PRIVATE ACCESS EASEMENTS AND PRIVATE STREETS An access easement, or private street, connecting a public street or highway to principal uses which depend upon such easement for access, shall be not less than thirty (30) feet in width for two-way access and shall be recorded in the office of the Register of Deeds. Any use abutting such easement shall be located on a zoning lot and shall comply with all dimensional requirements of the applicable district. No zoning permit shall be issued for a principal use not abutting upon a public street or a private street which complies with this provision. This width requirement does not apply to any driveway located on a zoning lot or to any alley.

(O) UTILITY EASEMENTS

No part of any building shall be constructed within the boundaries of a utility easement unless specifically granted and authorized by the grantor of such easement in a written and properly recorded easement.

(P) MINIMUM LOT SIZE

(1) **RS and RM Zoning Districts**. In all RS and RM zoning districts, the minimum area of a zoning lot to be used for a single family dwelling where public or community water supply and sewage disposal systems are not available for connection shall be as determined by the Public Health Department, but in no case shall the area of such lot be less than the greater of twenty thousand (20,000) square feet or the minimum lot size required in the zoning district.

(2) **MH Zoning District**. In the MH zoning district, the minimum area of a zoning lot to be used for a manufactured home park where public or community water supply and sewage disposal systems are not available for connection shall be as determined by the Public Health Department, but in no case shall the area of such lot be less than four (4) acres. The minimum area of a zoning lot to be used for a single family dwelling where public or community water supply and sewage disposal facilities are not available and used shall be determined by the Public Health Department, but in no case shall the area of such lot be less than twenty thousand (20,000) square feet.

(Q) FLAG LOTS

(1) **Driveway Access**. Twenty-five (25) feet of the width of the "pole" or driveway access to the flag lot may not be used in the calculation of the lot area of the flag lot;

(2) **Lot Area and Yard Calculation**. The pole may not be used for either lot area or yard calculation of any other lot; and,

(3) **Multiple Flag Lots**. If more than one flag lot is proposed to the rear of another lot or stacked off the street, a special use permit from the Board of Adjustment is required.

(4) **Minimum Lot Size**. No residential flag lot shall be created from a lot consisting of less than three (3) acres unless approval if granted through a special use permit from the Board of Adjustment or Subdivision Approval.

(5) **Setback**. The front building setback of a flag lot shall be located at either the minimum required frontage width or minimum building setback, whichever is greater.

(R) LOT AREA IN RIGHT-OF-WAY

No land area of the lot which lies within the public street right-of-way may be used for the purposes of lot area or any other lot dimensional requirements. If a portion of the lot is dedicated as public right-of-way as a condition of site plan approval, that area may be used for lot area and dimensional requirements but not for building setback requirements.

3-2 SIGN REGULATIONS
NOTE: SEE OVERLAY ZONING DISTRICTS FOR OTHER SIGN STANDARDS THAT MAY APPLY.

3-2.1 SIGN REGULATIONS - CURRENT

(A) GENERAL REQUIREMENTS

(1) **Applicability**. Signs, in the districts where they are permitted, shall hereafter be erected or placed only in compliance with the provisions of this section, provided that any sign permitted by this Ordinance, regardless of location on- or off-premises, orientation, sign structure, or subject matter, may display noncommercial messages.

(2) **Zoning Permit Required**. A zoning permit shall be secured from the Zoning Administrator prior to the construction, reconstruction, erection, enlargement, relocation, or structural alteration.

(3) **Prohibited Signs**. The following signs or use of signs is prohibited.

(a) **Flashing Lights**. Signs displaying intermittent or flashing lights similar to those used in governmental traffic signals or used by police, fire, ambulance, or other emergency vehicles.

(b) **Use of Warning Words or Symbology**. Signs using the words *stop*, *danger*, or any other word, phrase, symbol, or character similar to terms used in a public safety warning or traffic signs.

(c) **Temporary, Nonpermanent Signs**. Temporary, nonpermanent signs, including over-head streamers and banner or paper product signs placed on vehicles or trailers, are not permitted in any zoning district, unless otherwise specified in these regulations.

(d) **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 purposes of these regulations, vehicular signs shall not include business logos, identification or advertising on vehicles primarily used for other business purposes.

(e) **Moving and Flashing Signs** (excludes electronic time, temperature, and message signs). Moving and flashing signs, excluding electronic time, temperature, and message signs, are not permitted in any zoning district. This includes pennants, streamers, banners, spinners, propellers, discs, any other moving objects, strings of lights outlining sales areas, architectural features, or property lines; beacons, spots, searchlights, or reflectors visible from adjacent property or rights-of-way. Except that during the Christmas season the display of Christmas decorations, including necessary lighting, shall be permitted.

(f) **Portable Signs**. Portable signs are not permitted in any zoning district.

(g) **Roof Signs.**

(h) **Signs or Lights Emitting or Reflecting a Glaring Light Capable of Impairing Drivers Vision.**

(4) **Illumination**. Illuminated signs shall be so shielded as not to cast direct light onto any residential district.

(5) **Materials & Design.** Permanent signs shall be made of wood, brick, metal, stone, or other rigid

substantial opaque materials. Vinyl cloth materials are prohibited such as banners being framed into a permanent sign. Letters on permanent signs shall use typescripts.

(6) Old Signs and Structure. Signage that was used to advertise a business that is no longer in operation or events that have passed shall be removed within thirty (30) days. In addition non-conforming sign structures that no longer contain a sign shall be removed within one hundred and eighty (180) days.

(B) PERMITTED SIGNS

(1) Signs Permitted

(a) Entrance and Exit Signs.
One entrance and one exit sign containing a maximum of six (6) square feet each and a maximum height of three (3) feet shall be permitted per driveway. Entrance and exit signs shall contain no commercial content other than a symbol, name or logo of the establishment it serves.

(b) Emergency, Safety, Warning, or Traffic Signs. Emergency, safety, warning, or traffic signs installed by or at the direction of a governmental authority or with its approval shall be permitted without size limitations.

(c) Local, State, and National Flags. Local, state, and national flags shall have no size limitations.

(d) Real Estate Signs. In all RS and RM Districts, a real estate sign is limited to six (6) square feet. In all other districts, real estate signs shall not exceed eighteen (18) square feet. Lead-in (directional) signs are allowed from Friday noon to Monday noon and shall be limited to the closest access road(s) intersection to a major thoroughfare(s) and lead-ins from the intersection and subsequent intersections to the home(s).

(e) Political Signs. Shall follow regulations as adopted by G.S. 136-32

(i) Compliant Political Signs Permitted. During the period beginning on the 30th day before the beginning date of "one-stop" early voting under G.S. 163-227.2 and ending on the 10th day after the primary or election day, persons may place political signs in the right-of-way as provided in this section. Signs must be placed in compliance with subsection (c) of this section and must be removed. Any sign remaining 30 days after the applicable campaign period is deemed abandoned and may be removed and disposed of without penalty.

(ii) Definition. For purposes of this section, "political sign" means any sign that advocates for political action. The term does not include a commercial sign.

(iii) Sign Placement. The permittee must obtain the permission of any property owner of a residence, business, or religious institution fronting the right-of-way where a sign would be erected. Signs must be placed in accordance with the following:

(1) No sign shall be permitted in the right-of-way of a fully controlled access highway.

(2) No sign shall be closer than three feet from the edge of the pavement of the road.

(3) No sign shall obscure motorist visibility at an intersection.

(4) No sign shall be higher than 42 inches above the edge of the pavement of the road.

(5) No sign shall be larger than 864 square inches (6 square feet), or not exceeding twenty-four (24) square feet on a vacant lot within a nonresidential zoning district,

(6) No sign shall obscure or replace another sign.

(f) **Religious Signs**. Religious signs shall be limited to eighteen (18) square feet.

(g) **Occupancy Signs**. Occupancy signs shall be limited to one sign per dwelling unit or principal use, and no such sign shall exceed one square foot in area.

(h) **Historical Markers**. Historical markers shall be erected or placed by a bona fide historical association or by a governmental agency and shall not exceed twelve (12) square feet in area.

(i) **Landmark Indicators**. Landmark indicators including signs, banners or streamers displayed in the downtown, center city, or other limited areas, which promote special points of interest and events and do not exceed fourteen (14) square feet in area are permitted. Said signs shall be installed by the jurisdiction, its agents, or employees, at the direction of, or with the approval of, the Elected Body.

(j) **Agricultural Signs**. Up to two off-premises directional signs are permitted for agricultural produce grown and sold on the premises.

(k) **Temporary Grand Opening** One (1) on-premises grand opening sign per road frontage, for any new business located in a nonresidential zoning district is permitted, provided that the sign be no larger than one hundred (100) square feet. The sign display shall be limited to twenty-one (21) days.

(l) **Sidewalk Sandwich Boards**. One sidewalk sandwich board may be erected and placed to provide advertising of a business to pedestrian traffic. Any such board shall be placed within five (5) feet of the building with which the business is located. No such board shall be placed on any sidewalk so as to prevent pedestrian passage. The sidewalk area shall provide at a minimum thirty-six (36) inches of clear passable area. The sign shall not exceed six (6) square feet in size and interfere with site distances at vehicular intersections. Such boards shall only be allowed during normal business hours and must be removed on a daily basis.

(m) **Special Event Signs.**

(i) **On-Premise Special Event Signs**. One on-premise special event sign per road frontage, advertising an event sponsored by a governmental, religious institute, nonprofit organization 501(c) (3) or other charitable organization shall be permitted for a twenty one day period and shall not exceed thirty two (32) square feet per road frontage, not to exceed four (4) special events per year. Private company sponsorship identification is limited to 25% or less of the signage. Signs may not, in any way, obstruct the flow of traffic, or the view of motorists either on the road or attempting to access the road and cannot be placed within the road right-of-way. An all-weather resistant material must be used for the signage.

(ii) **Off-Premise Special Event Signs.** Off-premise special event signage, advertising an event sponsored by a governmental, religious institute, nonprofit

organization 501(c) (3) or other charitable organization shall be permitted, but must be registered with the Community Development Department. Off-premise signage is limited to one sign per road, with a maximum of 10. The sign shall not exceed six (6) square feet. Sign placement is limited to six (6) days or less prior to the event and must be removed the day the event ends. Signs may only be located on private property, with permission from the property owner. Signs located on utility poles or street signs and in the right-of-way are prohibited. Private company sponsorship identification is limited to less then 25% of the signage. Signs may not, in any way, obstruct the flow of traffic, or the view of motorists either on the road or attempting to access the road. An all-weather resistant material must be used for the signage.

(iii) **Yard Sale Signs.** A yard sale sign is limited to one on-premise and a lead-in (directional) from the nearest minor or major thoroughfare(s). The sign(s) shall not exceed six (6) square feet. The duration of the signage is from Friday noon to Monday noon or immediately after the event, whichever comes first. Signs may only be located on private property, with permission from the property owner. Signs located on utility poles or street signs and in the right-of-way are prohibited. Private company sponsorship identification is limited to less than 25% of the signage. Signs may not, in any way, obstruct the flow of traffic, or the view of motorists either on the road or attempting to access the road. An all-weather resistant material must be used for the signage.

(iv) **Public Event Banners.** Such banners shall be permitted only for public events proclaimed or supported by the Board of Aldermen. Private company sponsorship identification is limited to less than 25% of the signage. Signs may not, in any way, obstruct the flow of traffic, or the view of motorists either on the road or attempting to access the road. Signs located on utility poles or street signs and in the right-of-way are prohibited without approval from the approving authority. An all-weather resistant material must be used for the signage.

(n) **Construction Signs.** On-premise signs identifying the construction, financing and/or Real Estate firms connected with the construction of a new development shall not exceed eighteen (18) square feet in size nor eight (8) feet in height and shall further be erected only during the period extending from the time of issuance of the building permit to the time of issuance of the certificate of occupancy.

Signage announcing current or future construction of a structure located on a parcel of twenty (20) acres or more adjoining I-40 or Business I-40 is permitted to have a maximum of a one hundred and fifty (150) square foot letter area and a twenty four (24) foot height until the issuance of a certificate of occupancy or twenty four 24 months; whichever is less. Signage announcing current or future construction of a Business, Commercial, or Industrial Park/Complex located on a parcel of twenty (20) acres or more adjoining I-40 or Business I-40 is permitted to have a maximum of a one hundred and fifty (150) square foot letter area and a twenty four (24) foot height until the issuance of a certificate of occupancy of the last occupant or five (5) years; whichever is less. Signs shall be maintained at a level as when first erected. The signage shall be limited to one and is required to face the Interstate.

(o) **Auction Sign On-Site**. In all RS and RM Districts, an auction sign is limited to six (6) square feet. In all other districts, an auction sign shall not exceed eighteen (18) square feet.

(p) **Auction Directional Sign.** Weekend directional signs, limited to six (6) square feet, for real estate auction, real estate showing, estate auction, and business liquidation auction, are allowed from Friday noon to Monday noon.

Weekday directional signs, limited to six (6) square feet, for a real estate auction, business liquidation auction and estate auction and property preview are allowed to be placed 48 hours prior to the event, and must be removed immediately after said event. The preview shall be limited to two events with only one event per week. A written notice shall be submitted to the Community Development Department at least two (2) weeks prior to previews providing dates, times and locations of said previews.

(q) Church Directional Sign. Weekend directional signs, limited to six (6) square feet, and a maximum of two (2) signs are allowed from Friday noon to Monday noon.

(2) Application of Table of Permitted Districts for Signs. The following signs shall be permitted in the zoning districts as indicated in Table 3.6, Permitted Districts for Signs, and shall comply with all regulations of the applicable district unless otherwise regulated by specific regulations of this section.

Table 3.6
Permitted Districts for Signs

	RM	NO	LO	CPO	GO	NB	PB	LB	NSB	HB	GB	CB	MBP	LI	CPI	GI	CI	BI	IP	C	MUC
Off-Premises Signs																					
Ground Sign														Z		Z					
On-Premises Signs																					
Ground Sign	Z		Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
Awning			Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
Projecting Sign	Z						Z			Z	Z	Z	Z	Z		Z		Z	Z	Z	Z
Roof Sign																					
Wall Sign	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z

Z = Districts in which signs permitted; zoning permit required.

(C) SIGN MEASUREMENT.

(1) Maximum Sign Area. The maximum sign area of a ground (on-premises) sign shall be limited to the areas established for each district below. Projecting signs shall be limited to twenty-four (24) square feet:

(a) In the HB, LI, GI Districts, the maximum sign area of a ground (on-premises) sign shall be limited to one hundred (100) square feet. Projecting signs shall be limited to twenty-four (24) square feet.

(b) In the GB, PB, and MU-C Districts, the maximum sign area of a ground (on-premises) sign shall be limited to fifty (50) square feet. Projecting signs shall be limited to twenty-four (24) square feet.

(c) In the CB District, the maximum sign area of a ground (on-premises) sign shall be limited twenty-four (24) square feet. Projecting signs shall be limited to twenty-four (24) square feet.

(d) **In the NB, NSB, LB, CI, CPI, CPO, GO, and LO Districts**, the maximum sign area of a ground (on-premises) sign shall be limited to twenty-four (24) square feet. Projecting signs are not permitted.

(e) **In the NO District**, sign size shall be limited to eight (8) square feet. Wall signs only are permitted and the maximum combined area of all signs is limited to twenty-four (24) square feet.

(f) **In any residential district**, sign size shall be limited to eighteen (18) square feet. This shall include entrance signs for subdivisions, residential developments, multifamily developments, PRD's and mobile home parks.

(g) **In the IP District**, sign size shall be limited to eighteen (18) square feet. Maximum height shall be limited to eight (8) feet.

(h) **In the BI and MBP Districts**, sign standards shall be applied as set forth within the specific zoning district.

(2) **Height**. The maximum height of a ground (on-premises) or projecting sign shall as set forth below, and shall be measured from the road to which the sign is oriented or grade of the site, whichever is higher. If a sign is located upon a mound or berm, sign height shall be measured from the lowest grade of said mound or berm. Where a sign interferes with pedestrian clearance or sight distance, the lowest part of the sign shall be a minimum of nine (9) feet from the grade of the site on which the sign is located. Sign height shall be measured from the highest portion of the sign, including any molding, trim, border, or frame designed to attract attention, including any extensions.

(a) **In HB, LI, GI, and GB Districts**, maximum height shall be twenty (20) feet.

(b) **In the CB, NB, NSB, PB, LB, CI, CPI, MU-C, CPO, GO, and LO Districts**, the maximum height shall be twelve (12) feet.

(c) **In the NO, R, and IP Districts**, the maximum height shall be eight (8) feet.

(d) **In the BI and MBP Districts**, sign standards shall be applied as set forth within the specific zoning district.

(3) **Number of Faces**. Ground signs (on-premises) which contain two (2) faces may contain up to the maximum sign area as computed under size requirements in this section. Signs with three (3) faces shall contain a minimum of thirty percent (30%) less sign area for each face than the standard maximum. A sign with four (4) faces shall contain a minimum of fifty percent (50%) less sign area for each face than the standard maximum.

(D) OFF-PREMISES GROUND SIGNS

(1) **Zoning Districts**. Ground signs (off-premises) are permitted only in the districts as shown in Table 3.6 and only along roads in the Interstate System or the National Highway System.

(2) **Designated Roads.**

(a) **Permitted Areas**. Ground signs (off-premises) are permitted only along the following roads: I-40, Business 40, NC 66, US 421, and NC 150.

(3) **Location and Setbacks**.

(a) **Distance from the Centerline**. Ground signs (off-premises) shall be located within two

hundred (200) feet of the centerline of the roadway to which they are oriented.

(b) **Spacing**. Ground signs (off-premises) shall be located no closer than two thousand (2,000) feet as measured down the centerline of the roadway. Along I-40 and Business 40, measurement shall begin at the Guilford County line and all other signs shall be measured from the intersection of Main and Mountain streets according to ascending numbers.

(c) **Setbacks**. Ground signs (off-premises) shall observe the same setbacks as principal buildings in the zoning district.

(d) **Distance from Residential Zones**. Ground signs (off-premises) shall be located no closer than three hundred (300) feet.

(4) **Size Measurement**.

(a) **Area Calculation**. The sign area for ground signs (off-premises) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof, which will encompass the entire sign designated to attract attention, including any molding, trim, border, or frame. Any such measurements shall be taken on only one face of the sign; however, informational or advertising matter may be displayed on both sides of any permitted sign.

(b) **Sign Area**. The maximum sign area of an off-premise sign shall be five hundred and fifty (550) square feet. No top outs or extensions are permitted.

(c) **Height**. Off-premises ground signs shall be limited to a maximum height of thirty-five (35) feet above the roadway to which it is oriented or grade of the site on which the sign is located, whichever is higher. Sign height shall be measured to the highest portion of the sign, including any molding, trim, border, or frame designed to attract attention, excluding any extensions.

(5) **Number of Faces**. Off-premises ground signs shall be permitted to have a maximum of two (2) faces, provided, however, that stacked and/or rooftop locations of off-premises signs shall not be permitted.

(E) ON-PREMISES SIGNS - AWNING SIGNS

(1) **Zoning Districts**. Awning signs are permitted only in the districts as shown in Table 3.6.

(2) **Illumination**. No background illumination of an awning sign is permitted.

(3) **CB District Restriction**. In the CB District, printed information, limited to the name, street number, and address, or logo of the establishment(s) occupying the building to which the awning is attached, may be printed on the outside surface area of the awning. Printed information and/or logo shall not exceed one square foot per linear foot of building frontage on the street or thirty percent (30%) of the total outside surface area of the awning, whichever is less.

(4) **Restrictions in NO and NB Districts**. In the NO and NB Districts, only one of the following signs is permitted for each business: awning, ground (on-premises), projecting, or wall.

(F) ON-PREMISES SIGNS - GROUND SIGNS, PROJECTING SIGNS

(1) **Zoning Districts**. Ground signs (on-premises) and projecting signs are permitted only in the districts as shown in Table 3.6 or as specified in Section 3-2.1(F)(9) below.

(2) Location and Setbacks.

(a) All parts of ground signs (on-premises) must be completely out of the right-of-way.

(b) A projecting sign. On-premises projecting signs that come within six feet of the edge of a right-of-way should be ten feet above the grade and should not extend into the right-of-way.

(c) Ground signs (on-premises) shall be set back a minimum of one linear foot per square foot of sign area from any structure used exclusively as a residence.

(3) Sign Measurement.

(a) Area Calculation. Sign area shall be computed by means of the smallest square, circle, rectangle, or combination thereof, measuring the copy area. The outside dimensions of the sign, exclusive of structural support shall not increase the overall dimensions by more than twenty-five percent (25%).

(b) Maximum Sign Area. The maximum sign area of a ground (on-premises) sign shall be limited to the areas established for each district below. Projecting signs shall be limited to twenty-four (24) square feet.

(i) In the HB, LI, GI Districts, the maximum sign area of a ground (on-premises) sign shall be limited to one hundred (100) square feet. Projecting signs shall be limited to twenty-four (24) square feet;

(ii) In the GB, PB, and MU-C Districts, the maximum sign area of a ground (on-premises) sign shall be limited to fifty (50) square feet. Projecting signs shall be limited to twenty-four (24) square feet;

(iii) In the CB District, the maximum sign area of a ground (on-premises) sign shall be limited to twenty-four (24) square feet. Projecting signs shall be limited to twenty-four (24) square feet;

(iv) In the NB, NSB, LB, CI, CPI, CPO, GO, and LO Districts, the maximum sign area of a ground (on-premises) sign shall be limited to twenty-four (24) square feet. Projecting signs are not permitted;

(v) In the NO District, sign size shall be limited to eight (8) square feet. Wall signs only are permitted; and the maximum combined area of all signs is limited to twenty-four (24) square feet;

(vi) In any R District, sign size shall be limited to eighteen (18) square feet;

(vii) In the IP District, sign size shall be limited to eighteen (18) square feet. Maximum height shall be limited to eight (8) feet;

(viii) In the BI and MBP Districts, sign standards shall be applied as set forth within the specific zoning district.

(c) Height. The maximum height of a ground (on-premises) or projecting sign shall be as set forth below, and shall be measured from the road to which the sign is oriented or grade of the site, whichever is higher. If a sign is located upon a mound or berm, sign height shall be measured from the lowest grade of said mound or berm. Where a sign interferes with pedestrian clearance or sight distance, the lowest part of the sign shall be a minimum of

nine (9) feet from the grade of the site on which the sign is located. Sign height shall be measured from the highest portion of the sign, including any molding, trim, border, or frame designed to attract attention, including any extensions.

(i) **In HB, LI, GI, and GB Districts**, maximum height shall be twenty (20) feet.

(ii) **In the CBD, NB, NSB, PB, LB, CI, CPI, MU-C, CPO, GO, and LO Districts**, the maximum height shall be twelve (12) feet.

(iii) **In the NO, R, and IP Districts**, the maximum height shall be eight (8) feet.

(iv) **In the BI and MBP Districts**, sign standards shall be applied as set forth within the specific zoning district.

(4) **Number of Faces**. Ground signs (on-premises) which contain two (2) faces may contain up to the maximum sign area as computed under size requirements in this section. Signs with three (3) faces shall contain a minimum of thirty percent (30%) less sign area for each face than the standard maximum. A sign with four (4) faces shall contain a minimum of fifty percent (50%) less sign area for each face than the standard maximum.

(5) **Number**.

(a) **Maximum**. Each zoning lot frontage of less than two hundred and fifty (250) feet shall be limited to one ground (on-premises) and one projecting sign per street or right-of-way frontage. If the lot frontage contains more than two hundred fifty (250) feet, then two (2) signs of each type may be used on that street frontage, except in any RM District, with a minimum separation of one hundred twenty-five (125) feet between these two (2) signs or between them and any other ground signs on the lot.

(b) **Restrictions in NO and NB Districts**. In the NO and NB Districts, only one of the following signs is permitted for each business: awning, ground (on-premises), projecting, and wall.

(6) **Exceptions**.

(a) **Corner Lots and Lots with Two Hundred Fifty (250) Feet of Frontage**. Corner lots and lots with two hundred fifty (250) or more feet of frontage are permitted a fifty percent (50%) addition in maximum ground and projecting sign size for using one sign where two (2) would be allowed.

(b) **Lots on Freeways/Expressways in the Interstate System**. Signs located within four hundred (400) feet of the centerline of a freeway/expressway in the Interstate System, except in any RM District, may display additional sign area up to a maximum of two hundred (200) square feet and a maximum height of fifty (50) feet. This exception will become void along any highway which installs a government sponsored highway logo sign system.

(c) **Lots of Three (3) Acres or More**. On zoning lots containing three (3) acres or more, the maximum size of ground and projecting signs shall be that permitted in the zoning district where the sign is permitted, regardless of the amount of road frontage of the lot.

(d) **Shopping Centers and Business Centers**

(i) **Number and Size.** Any shopping center or business center in one building or connected buildings occupied by four (4) or more tenants shall be permitted a fifty

percent (50%) increase in ground sign (on-premises) area provided that such signs shall be of the marquee type, and no ground signs are permitted for individual businesses. If the lot frontage is greater than one hundred fifty (150) feet, two (2) ground signs may be used with seventy-five (75) feet separation between signs and the fifty percent (50%) addition applies to both signs.

(ii) **Freestanding Building Signs.** A freestanding building located within designated parking lots and containing eight hundred (800) square feet or more shall be permitted one additional ground sign (on-premises) not to exceed thirty-six (36) square feet, with a maximum height of six (6) feet.

(iii) **Along Interstates -** Shopping Centers along a federal interstate shall be allowed maximum three hundred (300) square feet of letter area and twenty four (24) foot height Signage must incorporate the primary building material and design elements of the structures.

(7) **Movie Theaters and Performance Halls**. A changeable copy marquee may apply to either a ground or projecting sign with a fifty percent (50%) addition to the maximum size permitted in the district.

(8) **Illumination in RM Districts**. In any RM District, internally illuminated signs are not permitted, except such internally illuminated signs in RM District which existed as of the effective date of this Ordinance.

(9) **On-Premises Ground and Projecting Signs in the YR, AG, MH, and RS Districts**.

(a) **Permitted Districts and Uses**. On-premises ground and projecting signs are allowed with the following uses in the YR, AG, and MH Districts, and in any RS District:

(i) Agriculture production

(ii) Cemetery, licensed or unlicensed

(iii) Child day care center accessory to a church or school

(iv) Fish hatchery

(v) Golf course

(vi) Manufactured housing development

(vii) Park and shuttle lot

(viii) Planned residential development

(ix) Riding stable

(x) Shooting range, outdoor

(xi) Utilities

(b) **Number and Size**. Only one sign per use with a maximum of eighteen (18) square feet per zoning lot per street or right-of-way frontage. If a zoning lot is permitted more than one sign, there shall be at least fifty (50) feet of spacing between each sign.

(c) **Height**. Fifteen (15) feet maximum, measured from the road or grade of the site to which the sign is oriented, whichever is higher.

(d) **Illumination**. Internally illuminated signs are not permitted for these uses, except such internally illuminated signs which existed as of the time of the adoption of this Ordinance.

(G) ON-PREMISES SIGNS - ROOF SIGNS, WALL SIGNS

(1) **Zoning Districts** Roof and wall signs are permitted only in the districts as shown in Table 3.6 or as specified in Section 3-2.1(G)(5) below. The message of a wall sign shall be limited to the name(s), trademark(s) and servicemark(s) of the establishment(s) located on the zoning lot and/or a multi-use development located thereon. Additionally, the message of wall signs may include information necessary to direct entrance from the street or pedestrian way.

(2) **Size**.

(a) **Maximum Size** On-premises wall, canopy and awning signs, including window signs not exceeding twenty-five (25%) of the window, shall be limited to:

ZONING DISTRICT	AREA COMPUTATION
NO, NB, IP, C, RM	5% of wall area
LO, CPO, GO, PB, LB, NSB, MU-C	7.5% of wall area
HB, GB, CB, MBP, LI, CPI, GI, CI, BI	10% of wall area
Awning, Canopy Signs	25% of wall area
All Non-Residential Districts	

(b) **Restrictions in NO and NB Districts**. In the NO District, sign size shall be limited to eight (8) square feet; in the NB District, sign size shall be limited to four (4) square feet.

(c) **Restrictions**. Total wall face, for the purposes of calculating the sign area of a wall sign shall be determined as follows:

(i) **In a single story building**:

[A] All of the vertical surface of a single plane wall; and,

[B] For recessed or projecting surfaces, the sum of all the vertical surfaces.

(ii) **In a multi-story building**, all of the vertical surface of the main floor only; or if multi-tenant or multi-levels, then the vertical surface of each level may be used in determining the area of each sign.

(iii) **For the purposes hereof, the term "single story"** shall mean a maximum of fourteen feet as it pertains to determining the maximum area of sign.

(iv) **Sign area of a wall sign** placed on an irregular area, such as a gable or dormer, shall be based on the vertical surface area of that feature.

(v) **The maximum area of any wall sign** shall not exceed one hundred fifty (150) square feet.

(3) **Height**.

(a) **Flat Roof Building**. On a flat roof building, no roof signs are allowed. No wall sign shall project more than fifty percent (50%) of its height above the wall on which it is placed, but in no case shall extend more than two (2) feet above the wall.

(b) **Peaked Roof Building.** Signs on a peaked roof building shall not extend above the peak of the roof.

(4) **Number**.

(a) **Restrictions in NO and NB Districts**. In the NO and NB Districts, only one of the following signs is permitted for each business: awning, ground (on-premises), projecting, and wall.

(5) **Wall Signs in the YR, AG, MH, and RS Districts**. Wall signs are allowed with the following uses in the YR, AG, and MH Districts, and in any RS District:

(a) Agriculture production

(b) Cemetery, licensed or unlicensed

(c) Child day care center accessory to a church or school

(d) Fish hatchery

(e) Golf course

(f) Manufactured housing development

(g) Park and shuttle lot

(h) Planned residential development

(i) Riding stable

(j) Shooting range, outdoor

(k) Utilities

(6) **Rooftop Penthouses or Unenclosed Screening**. No signage is permitted on either roof top penthouses or unenclosed screening of roof top mechanical equipment.

(7) **Roof Signs Not Permitted**. Roof signs are not permitted, except such roof signs which existed as of the effective date of this Ordinance.

(H) **Other Sign Regulations**

(1) **Menu Boards, Fast Food Restaurants**. Menu boards for fast food restaurants must be located in such a way as to be viewed from a designated drive-through lane and not located within the required front, side, or rear yards.

(2) **Adult Establishment Advertisements.** Adult establishments shall not be permitted to display promotional materials visible to the public from pedestrian sidewalks or walkways; nor shall any signage contain lewd or offensive language, or any sort of sexually explicit graphics.

(3) **Nonconforming Uses**. Nonconforming uses shall be permitted on-premises ground, projecting,

roof, or wall signs, provided such signs are on the premises of the use and provided:

(a) **Existing signs at** the time of adoption of this Ordinance which advertise a nonconforming use on a site shall comply with the requirements of any zoning district which would permit such use. These existing signs may be replaced, or may be replaced and increased by a maximum of twenty-five percent (25%) provided that such increase would not exceed the requirements of any zoning district which would permit such use. Existing signs meeting these requirements may be replaced due to deterioration or destruction.

(b) **Signs existing at** the time of the adoption of this Ordinance which advertise a nonconforming use on a site that do not comply with the requirements of any zoning district which would permit such use, shall have one hundred and eighty (180) days after the time of the adoption of this Ordinance to come into compliance or the signs shall be removed.

(c) **Nonconforming uses** which do not have ground (on-premises) signs on the site at the time of the adoption of this Ordinance shall not be permitted to install such signs.

(d) **Removal of Signs**. Town employees and their designees may remove nonconforming temporary signs in the Town's right-of-way. Whenever a noncompliance sign on private property is found to exist within the Town, the Town Manager or his assigns shall give written notice to the owner or occupant of the property upon which such sign exists or upon the person causing or maintaining the sign. The issued notice to remove a sign shall contain

(1) An order to remove the sign or to request, in writing, a hearing within a stated time, which shall be reasonable under the circumstances.

(2) The location of the sign.

(3) A description of the sign.

(4) A statement of acts necessary to abate the situation.

(5) A statement that if the sign is not removed or the situation abated as directed and no request for hearing is made within the prescribed time, the Town will remove such sign and assess the cost thereof against such person.

(4) **Parks and Recreation Areas Open to the Public With One Thousand (1,000) Acres or More**. On-premises ground and projecting signs not to exceed seventy-five (75) square feet. Maximum height of signs shall be fifteen (15) feet. Signs shall be spaced at least four hundred (400) feet apart. Exempt from this spacing requirement are signs located within fifty (50) feet of the centerline of the main entrance to the park or recreation area. The main entrance shall be defined as the one major controlled access point from a major or minor thoroughfare to the park or recreation area. The nearest sign located to the main entrance signs shall meet the four hundred (400) foot spacing requirement. Signs shall be so located as to not obstruct the vision of drivers of motor vehicles.

(5) **Subdivision Signs.** A sign identifying a subdivision development shall be allowed at the entrance area of a subdivision and on-site signage along thoroughfares that do not provide an entrance.

(a) The height and sign area standards of the district shall apply, except in the Business Industrial, Medical Business Park, and Mixed Use-Conditional Zoning districts.

(b) The Business Industrial, Medical Business Park, and Mixed Use-Conditional Zoning District maximum structural dimensions shall be twenty-four (24) square

feet with a maximum height of the sign area at eight (8) feet and the total maximum structure height at twenty-four (24) feet.

(c) The Business Industrial, Medical Business Park and Mixed Use-Conditional Zoning District zoning districts signs height limitation shall not apply to an architecturally enhanced entrance or focal point structure(s) that incorporates signage.

(d) Subdivision sign may be located off-premise if the subdivision access road is approved with the subdivision and has a sign easement.

(e) Subdivision signs may be located on both sides of an entrance.

(6) Person Held Signage. Person held signage shall include signs that are held, worn or supported by a person, including but not limited to: handheld signs, sandwich boards, posters, banners, flags, balloons and pennants. They shall be prohibited at intersections impeding the site distance areas as described in the *Town of Kernersville Design and Construction Specifications* (Dated December 6, 2016); shall not be located in vehicular traffic areas such as streets and parking lots; shall be prohibited within five (5) feet of the curb and gutter or edge of pavement and shall be prohibited after dark, which means one-half hour after sunset until one-half hour before sunrise. As required in the Town Code where sidewalks are not provided, any pedestrian walking along or upon a highway shall walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction.

(I) AMORTIZATION SCHEDULE

(1) On-Premises Signs.

(a) Nonconforming Signs. One on-premises sign per zoning lot or business not conforming to these standards may be allowed to remain in its present location provided that the sign was legally erected in compliance with all laws existing prior to the passage of this Ordinance, and provided that the owner filed notice with the Permit & Enforcement Division not later than May 1, 1995. Said notice shall contain documentation on the location, height, size, and dimensions of the sign to remain, as well as a photograph showing the entire sign and its supporting structure. Said sign shall be allowed to remain for the life of the sign, and any such sign destroyed or damaged by fifty percent (50%) or more of its value shall not be rebuilt or replaced except in compliance with this Ordinance.

(b) Other Nonconforming Signs. All other nonconforming signs shall be removed or brought into compliance with the requirements of this Ordinance within one year from January 1, 1995.

(2) Off-Premises Signs. All non-conforming off-premises signs, except those that are nonconforming only with respect to setback, shall be brought into compliance with all the requirements of this Ordinance within seven (7) years from October 6, 1987.

3-3 OFF-STREET PARKING, STACKING, AND LOADING AREAS

3-3.1 GENERAL REQUIREMENTS

(A) PARKING, STACKING, AND LOADING AREAS REQUIRED

In all districts, every use of a building, structure, or piece of land hereafter erected, modified, enlarged, or increased in capacity, shall provide off-street parking, stacking, and loading in compliance with this section, unless otherwise provided in this Ordinance, except no off-street parking shall be required in the CB District. However, on-site parking requirements shall be met in the Central Business District where the petitioned property is not contiguous with or across a public street from existing CB zoned property unless the property is located within five hundred feet (500') of a public parking lot. Property across railroad rights-of-way shall not be construed as being contiguous under any circumstance.

(B) CHANGE IN SIZE

Only those portions of existing buildings or structures enlarged after the adoption of this Ordinance shall comply with the requirements of this section.

(C) CHANGES IN USE

If a change in principal use causes an increase in the required number of off-street parking, stacking, or loading spaces, such additional spaces shall be provided in accordance with the requirements of this section. However, if the change in use requires an increase of less than five percent (5%) in the required number of spaces, no additional off-street parking, stacking, or loading spaces shall be required.

(D) USE FOR NO OTHER PURPOSE

Land used to provide required parking, stacking, and loading shall not be used for any other purposes except for temporary events.

(E) SEPARATION OF PARKING AND LOADING AREAS

No loading area or access drive to serve such loading area shall be considered as required parking area. No parking area or access drive to serve such parking area shall be considered as required loading area.

(F) MAINTENANCE AND OPERATION

(1) **Maintenance**. All parking, stacking, and loading areas shall be permanently maintained by the owners or occupants for as long as the principal use exists.

(2) **Operation**. All required parking areas shall be used exclusively for the parking of vehicles. Parking areas shall not be used for the storage of merchandise, location of dumpsters, or for the storage or repair of vehicles or equipment. Parking areas shall not be used for the sale of merchandise except on a temporary basis for special events.

(G) ACCESS

The principal access to all parking, stacking, and loading areas shall have vehicular access to a publicly dedicated street, road or highway maintained by either the North Carolina Department of Transportation or the responsible municipality. Alleyways may be used for secondary access and maneuvering areas.

(H) PROHIBITED LOCATIONS

No parking, stacking, or loading area, access drive or driveway shall be located over a sand filter or nitrification field.

3-3.2 OFF-STREET PARKING REQUIREMENTS

(A) NUMBER OF SPACES

Table 3.8 contains the off-street parking requirements for motor vehicles. Special requirements, including maximum allowed spaces applicable to new uses constructed after the effective date of this Ordinance, are provided under the *Notes* column where appropriate.

(B) COMPUTING PARKING REQUIREMENTS

(1) **Multiple Use**. In cases of mixed use or where a combination of uses are developed on a site, the minimum number of off-street parking spaces shall be the cumulative total of each of the uses on the site according to the requirements of this Ordinance unless a reduction is granted pursuant to Section 3-3.5.

(2) **Fractional Space Computations**. When the computation of the number of off-street parking spaces required by this section results in a fractional parking space requirement, any fraction less than one-half may be disregarded, and any fraction equaling or exceeding one-half shall be construed as requiring one full parking space.

(3) **Seating Computations**. Where parking is based on seating which consists of benches or pews, each eighteen (18) inches of a bench or pew shall be considered as one seat.

(4) **Number of Employees Computations**. For the purpose of computing parking requirements based on the number of employees, the owners or managers of the establishment shall be considered employees. Where more than one work shift is employed for any operation, the number of employees shall be calculated as the largest number of persons on any single shift.

(C) Unlisted Uses

The Zoning Administrator shall establish the minimum number of parking spaces required and may establish the maximum number of parking spaces permitted for any use not specifically listed in Table 3.8. The Zoning Administrator may consider, but is not limited to, the following in establishing parking requirements for an unlisted use:

(1) **Documentation**. Documentation supplied by the applicant regarding actual parking demand for the proposed use;

(2) **Evidence**. Evidence in available planning and technical studies relating to the proposed use;

(3) **Other jurisdictions**. Required parking for the proposed use as determined by other comparable jurisdictions; or,

(4) **Examination of similar uses**. Examination of the parking requirements for uses most similar to the proposed use.

(D) AUTHORITY TO APPROVE PARKING EXCEEDING THE MAXIMUM PERMITTED

Except within the CB and CI Districts, the Zoning Administrator may approve the installation of more than the maximum number of parking spaces if the property owner demonstrates each of the following:

(1) **Such additional parking is necessary** to meet the parking demand for a specified use;

(2) **Cooperative use of parking** is not available or adequate to meet demand; and,

(3) **The maximum number** of compact size automobile, motorcycle and bicycle spaces has been used.

(E) LOCATION OF PARKING AREAS

(1) **Same Zoning Lot**. All parking areas required in this section shall be located on the same zoning lot as the principal use, except as authorized in the off-site parking provisions in Section 3-3.4.

(2) **Unoccupied Recreational Vehicles**. In residential districts, an unoccupied recreational vehicle or travel trailer may be stored on a privately owned lot, provided that it is not located within any required front or side yard nor nearer than six (6) feet to a rear property line, except that it may be stored in an accessory structure, provided that such structure is enclosed and meets the setback requirements for either a principal or accessory structure.

(3) **Parking for Multifamily Dwellings**. A minimum three (3) foot wide landscaped area shall be provided between any parking area and building wall providing access into the unit(s).

Table 3.8
OFF-STREET PARKING REQUIREMENTS

PRINCIPAL USES	MINIMUM REQUIREMENTS	NOTES
RESIDENTIAL USES		
Residential Building, Single Family	2 spaces per dwelling unit	
Duplex	2 spaces per dwelling unit	
Multifamily, Efficiency	1 space per dwelling unit	All visitor spaces shall be designated as visitor only. Single room occupancy (SRO) facilities are considered efficiencies.
1 Bedroom	1.5 spaces per dwelling unit	
2 Bedroom	1.75 spaces per dwelling unit	
3 Bedroom	2 spaces per dwelling unit	
Elderly Housing	0.75 spaces per dwelling unit	
Twin Home	2 spaces per dwelling unit	
Townhouse	See multifamily requirements	
Urban	1.5 spaces per dwelling unit	
Manufactured Home, Class A	2 spaces per manufactured home	
Manufactured Home, Class B	2 spaces per manufactured home	
Manufactured Home, Class C	2 spaces per manufactured home	
Manufactured Home, Class D	2 spaces per manufactured home	
Boarding or Rooming House	1 space per bedroom plus two spaces for resident manager	
Combined Use	Spaces required based on sum of principal uses	
Congregate Care Facility	0.5 spaces per dwelling unit	
Family Group Home A	2 spaces	
Family Group Home B	1 space per 3 residents	
Family Group Home C	1 space per 4 residents	

Table 3.8
OFF-STREET PARKING REQUIREMENTS

PRINCIPAL USES	MINIMUM REQUIREMENTS	NOTES
Fraternity or Sorority	1 space per bedroom plus two spaces for resident manager	
Group Care Facility	1 space per 4 residents	Parking shall not be located within the required front yard setback
Life Care Community	Spaces required based on sum of principal uses, except 1 space per single family, duplex, twin home, or townhouse dwelling unit	
Manufactured Housing Development	1.5 spaces per manufactured home	A minimum of one space shall be located within the applicable manufactured home space. Additional required parking may be located in group parking areas no further than 150 feet from units being served.
Planned Residential Development	Spaces required based on sum of principal uses	
AGRICULTURAL USES		
Agricultural Production, Crops (City)	None	
Livestock (City)	None	
Agricultural Production, Crops (County)	None	
Livestock (County)	None	
Animal Feeding Operation	2 spaces per 3 employees plus 1 space	
Fish Hatchery	2 spaces per 3 employees plus 1 space	
RETAIL AND WHOLESALE TRADE		
ABC Store (liquor)	1 space per 250 SF GFA*	
Arts and Crafts Studio	1 space per 400 SF GFA*	
Brewery	2 spaces per 3 employees plus 1 space per vehicle used in the operation. 1 space per 75 SF for the restaurant and taproom area.	
Brewpub	1 space per brewery worker and vehicle used in the operation. 1 space per 75 SF for the restaurant and taproom area.	
Building Materials Supply	1 space per 500 SF GFA*	
Bulk Storage of Petroleum Products	1 space per 5,000 SF of land	

Table 3.8
OFF-STREET PARKING REQUIREMENTS

PRINCIPAL USES	MINIMUM REQUIREMENTS	NOTES
Convenience Store	1 space per 200 SF GFA*; restaurant area including seating area inside or outside of the building – 1 space per 75 SF GFA*	
Food or Drug Store	1 space per 200 SF GFA*	
Fuel Dealer	2 spaces per 3 employees plus 1 space	
Furniture and Home Furnishings Store	1 space per 1,000 SF GFA*	
General Merchandise Store	1 space per 200 SF GFA*, except consumer electronics @ 1 space per 250 SF GFA* and household appliance @ 1 space per 500 SF GFA*	
Hardware Store	1 space per 200 SF GFA*	
Implement Sales and Service	1 space per 750 SF GFA*	
Microbrewery	1 space per brewery worker and vehicle used in the operation. 1 space per 75 SF for the restaurant and taproom area.	
Motor Vehicle Dismantling and Wrecking Yard	1 space per 10,000 SF of land plus 1space per employee	Customers may park outside the fenced area but not within the right-of-way
Motorcycle Dealer	1 space per 500 SF GFA*	
Nursery, Lawn and Garden Supply Store, Retail	1 space per 400 SF GFA* indoors plus 1 space per 1,000 SF GFA in outside display and storage	
Outdoor Display Retail	1 space per 500 SF GFA*	
Restaurant (without drive-through service)	1 space per 75 SF GFA*; restaurants with take-out service only (no seating) – 1 space per 200 SF GFA *	
Restaurant (with drive-through service)	1 space per 75 SF GFA*; restaurants with take-out service only (no seating) – 1 space per 200 SF GFA *	See stacking requirements, Section 3-3.3(F)
Retail Store, Specialty or Miscellaneous	1 space per 500 SF GFA*, except auto supply store @ 1 space per 300 SF GFA*	
Shopping Center, Centers up to 250,000 SF GFA	1 space per 225 SF GFA*	1 space per 200 SF GFA maximum; calculation of GFA shall exclude walkways or other common or non-commercial areas

Table 3.8
OFF-STREET PARKING REQUIREMENTS

PRINCIPAL USES	MINIMUM REQUIREMENTS	NOTES
Centers 250,000 SF GFA or more	1 space per 250 SF GFA*	1 space per 200 SF GFA maximum; calculation of GFA shall exclude walkways or other common or non-commercial areas
Wholesale Trade A	2 spaces per 3 employees plus 1 space per vehicle used in the operation	
Wholesale Trade B	2 spaces per 3 employees plus 1 space per vehicle used in the operation	
BUSINESS AND PERSONAL SERVICES		
Adult Establishment	1 space per 200 SF GFA*	1 space per 75 SF GFA* for establishments with live entertainment (F)
Banking and Financial Services	1 space per 300 SF GFA*for Non-Depository Institutions 1 space per 200 SF GFA* for Depository Institutions	See stacking requirements, Section 3-3.3(F)
Bed and Breakfast	1 space per room plus 2 spaces	
Building Contractors, General	1 space per 750 SF GFA*	
Building Contractors, Heavy	1 space per 750 SF GFA*	
Car Wash, Full Service	2 spaces per 3 employees	3 spaces per vehicle in washing structure for dry down area
Self Service or Accessory	2 spaces	1 space per bay for dry down area
Computer Data Center	1 space per 6,000 SF GFA*	Any change of use of a site previously utilized as a Computer Data Center must meet the off-street parking requirements of the new use as specified in this Table 3.8.
Event Center	1 space per 3 event attendees	If event parking demands exceed the on-site parking lot capacity, the event center shall submit to the Community Development Department a parking plan that will meet the parking demands of the event.
Funeral Home	1 space per 4 seats in main chapel plus 2 spaces	
Health Services, Miscellaneous	1 space per 200 SF GFA*	
Hotel or Motel	1 space per room	Banquet and convention facilities that are part of a hotel or motel shall provide 1 space per each 5 seats
Kennel	1 space per 300 SF GFA* plus 2 spaces	

Table 3.8
OFF-STREET PARKING REQUIREMENTS

PRINCIPAL USES	MINIMUM REQUIREMENTS	NOTES
Medical or Dental Laboratory	1 space per 200 SF GFA* for building containing 10,000 SF or less; 1 space per 250 SF GFA* for building containing more than 10,000 SF	
Medical and Surgical Offices	1 space per 200 SF GFA* for building containing 10,000 SF or less; 1 space per 250 SF GFA* for building containing more than 10,000 SF	
Motor Vehicle, Rental and Leasing	1 space per 400 SF GFA*	Customer parking shall not be used for motor vehicle rental and leasing parking
Repair and Maintenance	3 spaces per service bay plus 1 space per 500 SF GFA for parts sales	Towing services shall provide space(s) for each tow truck
Body or Paint shop	3 spaces per service bay plus 1 space per 500 SF GFA for parts sales	Towing services shall provide space(s) for each tow truck
Storage Yard	1 space per 5,000 SF of storage area	
Nightclub	1 space pr 50 SF GFA*	
Non-Store Retailer	1 space per 800 SF GFA*	
Offices, Miscellaneous	1 space per 400 SF GFA*	
Pet Daycare Services	1 space per 400 SF GFA*	
Professional Offices	1 space per 300 SF GFA*	
Services, Business A	1 space per 400 SF GFA*	
Services, Business B	1 space per 500 SF GFA*	
Services, Personal	1 space per 400 SF GFA*	
Signs, Off-Premises	None	
Storage Services, Retail	5 spaces, plus 1 additional space for each 100 storage units, or fraction thereof, in excess of 500 units	Minimum 21-foot wide aisle width or building spacing shall be provided for parking at units
Testing and Research Laboratory	1 space per 1,000 SF GFA*	
Veterinary Services	1 space per 400 SF GFA*	
Warehousing	2 spaces per 3 employees plus 1 space per vehicle used in the operation	
RECREATIONAL USES		
Fishing, Fee Charged	2 spaces per acre of water area	Parking shall be located not less than one hundred (100) feet from any right-of-way or property line.
Golf Course	4 spaces per tee	
Golf Driving Range	1 space per tee plus 1 space per 200 SF GFA* for retail uses	
Recreation Facility, Public	1 space per 7,500 SF land area	
Recreation Services, Indoor, Billiard Parlors	2 spaces per table	

Table 3.8
OFF-STREET PARKING REQUIREMENTS

PRINCIPAL USES	MINIMUM REQUIREMENTS	NOTES
Bowling Alleys and Centers	4.5 spaces per alley	
Coin-Operated Amusement Devices	1 space per 200 SF GFA*	
Dance Studios, Schools, and Halls	1.5 spaces per 200 SF GFA*	
Membership Sports and Recreation Clubs	1 space per 200 SF GFA*	
Miniature Golf	1 space per hole	
Physical Fitness Facilities	1 space per 200 SF GFA*	
Skating Rinks	1 space per 200 SF GFA*	
Theatrical Productions	1 space per 4 seats	
Recreation Services, Outdoor Amusement Parks	1 space per 200 SF of activity area	
Commercial Sports	1 space per 3 seats	
Recreational Vehicle Park	1 space per recreational vehicle site	
Riding Stable	1 space per 2 stalls	
Shooting Range, Indoor	1 space per firing station	
Shooting Range, Outdoor	1 space per firing station	
Swimming Pool, Private	1 space per 100 SF of pool surface area, except for a pool serving one single family residence on the same lot	
Theater, Drive-In	1 space per vehicle speaker plus 3 spaces	Stacking spaces shall be provided for five percent (5%) of the total spaces required
Theater, Indoor	1 space per 4 seats	
INSTITUTIONAL AND PUBLIC USES		
Adult Day Care Home	1 space per 2 employees plus 1 space	At least 1 loading and unloading space separate from parking area plus adequate turnaround area
Adult Day Care Center	1 space per 2 employees plus 1 space per 10 persons enrolled	At least 1 loading and unloading space separate from parking area plus adequate turnaround area
Cemetery, Licensed	1 space per 250 SF of sales area	
Cemetery, Unlicensed	1 space per full time employee	
Child Care Institution	1 space per 3 beds	
Child Day Care, Small Home	1 space per 2 employees plus 1 space	
Child Day Care, Large Home	1 space per 2 employees plus 1 space	At least 1 loading and unloading space separate from parking area plus adequate turnaround area
Child Day Care Center	1 space per 2 employees plus 1 space per 10 children enrolled	At least 1 loading and unloading space per 20 children enrolled, separate from parking area, plus adequate turnaround area
Church or Religious Institution, Neighborhood	1 space per 4 seats	50% reduction permitted with approval of City Department of Transportation

Table 3.8
OFF-STREET PARKING REQUIREMENTS

PRINCIPAL USES	MINIMUM REQUIREMENTS	NOTES
Church or Religious Institution, Community	1 space per 4 seats	50% reduction permitted with approval of City Department of Transportation
Club or Lodge	1 space per 200 SF GFA*	
College or University	1 space per 500 SF of classroom plus 1 space per 300 SF GFA of administrative and office space plus 1 space per dormitory bedroom	
Correctional Institution	1 space per 10 inmates	
Dirt Storage	2 spaces	Adequate loading, unloading, and maneuvering area
Government Offices	1 space per 300 SF GFA*	
Habilitation Facility A	1 space per 2 employees plus 1 space per 10 persons enrolled	At least 1 loading and unloading space separate from parking area plus adequate turnaround area
Habilitation Facility B	1 space per 2 employees plus 1 space per 10 persons enrolled	At least 1 loading and unloading space separate from parking area plus adequate turnaround area
Habilitation Facility C	1 space per 2 employees plus 1 space per 10 persons enrolled	At least 1 loading and unloading space for each 20 persons enrolled plus adequate turnaround area
Hospice and Palliative Care	1 space per 500 SF GFA*	
Hospital or Health Center	3 spaces per bed; if no beds, a space per 200 SF GFA*	
Institutional Vocational Training Facility	1 space per 1,000 SF GFA*	Except 1 space per 500 SF GFA* for retail sales areas.
Landfill, Sanitary	1 space per employee	
Library	1 space per 300 SF GFA*	
Limited Campus Uses, Office	1 space per 400 SF GFA*	All spaces shall be to the rear of the structure
Residential	See Residential Uses	All spaces shall be to the rear of the structure
Museum or Art Gallery	1 space per 300 SF GFA*	
Neighborhood Organization Office	1 space per 400 SF GFA*	
Nursing Care Institution	1 space per 3 beds	
Police or Fire Station	1 space per employee on largest shift plus 5 spaces	
Post Office	1 space per 300 SF GFA*	
Postal Processing Facility	1 space per 1,000 SF GFA*	
Recycling Center	1 space per employee	
School, Athletics	1 space per 250 SF GFA*	
School, Public or Private, Elementary	1 space per 10 students based on design capacity plus 1 bus space per 100 students	

Table 3.8
OFF-STREET PARKING REQUIREMENTS

PRINCIPAL USES	MINIMUM REQUIREMENTS	NOTES
Middle	1 space per 10 students based on design capacity plus 1 bus space per 100 students	
High	1 space per 5 students based on design capacity plus 1 space for each faculty and staff person or 1 space per 3 seats where a school stadium is an accessory use or incorporated into the design of a school, whichever is greater	
School, Vocational or Professional	1 space per 250 SF GFA*	
Stadium or Coliseum	1 space per each 3 seats	
MANUFACTURING AND MINING		
Manufacturing A	2 spaces per 3 employees plus 1 space per vehicle used in the operation	
Manufacturing B	2 spaces per 3 employees plus 1 space per vehicle used in the operation	
Manufacturing C	2 spaces per 3 employees plus 1 space per vehicle used in the operation	
Asphalt and Concrete Plan	1 space per employee	
Borrow Site	1 space	Adequate loading, unloading, and maneuvering area
Hazardous Waste Management Facility	1 space per employee	
Meat Packing Plant	1 space per 1,000 SF GFA*	
Mining, Quarry, or Extractive Industry	1 space per employee	
Recycling Plant	1 space per employee plus two spaces	
Storage and Salvage Yard	1 space per 5,000 SF of storage area	
TRANSPORTATION AND UTILITIES		
Airport, Public	1 space per 200 SF of waiting area	
Airport, Private	3 spaces per airplane space	
Broadcast Studio	1 space per 500 SF GFA*	
Helistop, Noncommercial	2 spaces	
Commercial	5 spaces	
Heliport	1 space per 1,000 SF of site area	
Park and Shuttle Lot	As needed	10% of requested space in business and industry can be used for Park and Shuttle Lots
Parking, Commercial	As needed	
Terminal, Bus or Taxi	3 spaces per loading bay	
Terminal, Freight	1 space per 1,000 SF GFA*	
Transmission Tower	1 space	

Table 3.8
OFF-STREET PARKING REQUIREMENTS

PRINCIPAL USES	MINIMUM REQUIREMENTS	NOTES
Utilities	1 space per employee	
USES WHICH MAY ONLY BE ACCESSORY TO PRINCIPAL USES**		
Dwelling, Single Family, Accessory Attached	1 space per dwelling	Must be located on the same zoning lot and share same driveway as the principal dwelling
Dwelling, Single Family, Accessory Detached	1 space per dwelling	Must be located on the same zoning lot
Home Occupation	1 space per dwelling	Maximum of three spaces
Postal Facility, Neighborhood	1 space per 300 SF GFA*	

** NOTE: Off-street parking for other accessory uses meeting the requirements of Section 2-6 shall be provided at the rate for the principal uses specified in this Table 3.8.

3-3.3 DESIGN STANDARDS FOR PARKING AREAS

(A) GENERAL REQUIREMENTS

All parking areas shall meet the following design standards:

(1) **Unobstructed Movement**. Parking areas shall be designed to allow unobstructed movement into and out of each parking space without interfering with fixed objects such as lighting fixtures, dumpsters, signage, or vehicles.

(2) **Access**. Parking spaces shall be designed to have access from parking aisles and not directly from public streets except as provided for in Section 3-3.5 of this Ordinance. In multifamily, commercial or industrial developments that utilize private streets for access to parking areas, parking may be provided along those private streets or private access easements unless otherwise restricted by the Community Development Department or the North Carolina Department of Transportation (NCDOT).

(3) **Maneuvering Area**. Except for single family dwellings, twin homes, duplexes, and for multifamily developments of four (4) dwelling units or less, all maneuvers associated with parking and loading must occur in the off-street parking area or structure. Private alleys may be used to conduct parking maneuvers.

(4) **Internal Circulation**. All parking areas shall be designed to provide for internal circulation such that each parking space is accessible to all other parking spaces without necessitating the use of a public street or alley.

(B) DIMENSIONAL REQUIREMENTS

All parking areas shall be designed and constructed to meet minimum parking space dimensions, aisle dimensions, and other standards shown in Table 3.9. Aisle widths for aisles composed of combinations of different angles of parking shall be the widest aisle width required for any angle of parking found on the entire aisle.

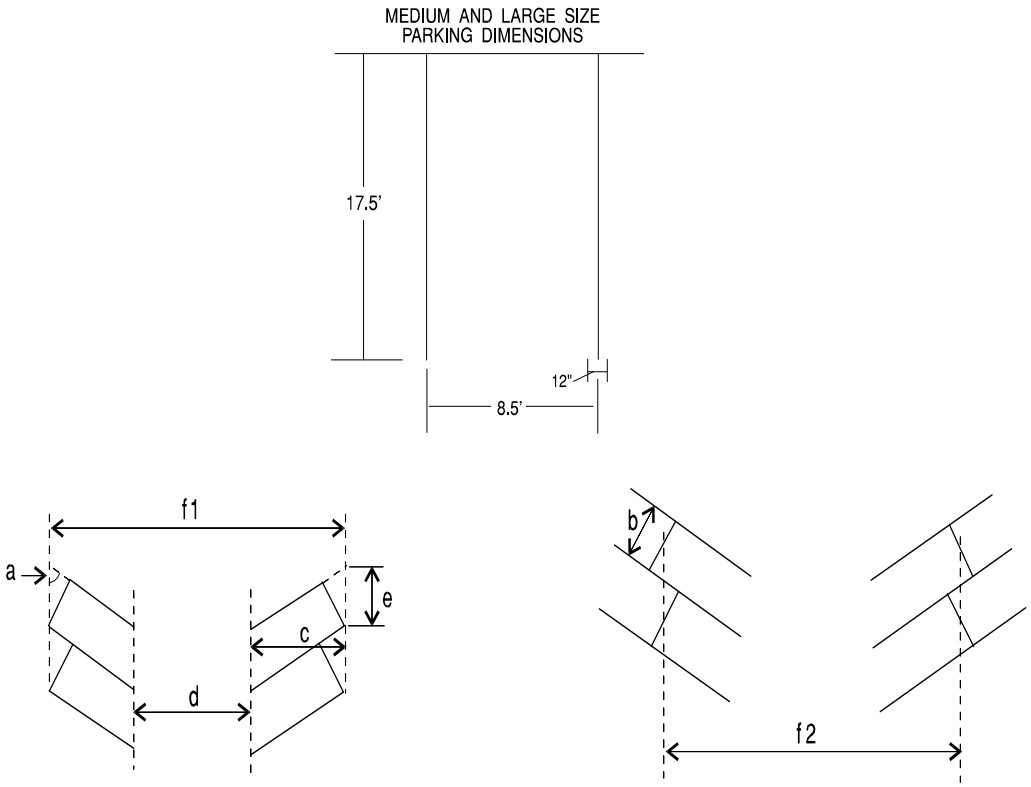


Table 3.9
DIMENSIONS FOR OFF-STREET PARKING

	a	b	c	d	e	f1	f2
Parking Direction	Parking Angle (Degrees)	Stall Width (ft)	Stall to Curb (ft)	Aisle Width (ft)	Curb Length (ft)	Center-to-Center Width of Two Row Bin with Access Road Between (ft)	
						Curb-to-Curb	Overlap C-C
		7.5	7.5	12.0	21.0	27.0	-
		8.5	8.5	12.0	23.0	29.0	-
One-Way	0	9.0	9.0	12.0	23.0	30.0	-
		7.5	14.0	11.0	15.0	39.0	32.0
		8.5	16.0	11.0	17.0	43.0	36.0
One-Way	30	9.0	16.0	11.0	18.0	43.0	36.0
		7.5	14.5	13.0	10.6	42.0	38.0
		8.5	16.5	15.0	12.0	48.0	44.0
One-Way	45	9.0	16.5	15.0	12.7	48.0	44.0
One-Way	60	7.5	15.5	15.0	8.7	46.0	43.0

		8.5	18.0	18.0	9.8	54.0	51.0
		9.0	18.0	18.0	10.4	54.0	51.0
		7.5	15.5	21.0	8.7	52.0	50.0
		8.5	18.0	26.0	9.8	62.0	59.0
Two-Way	60	9.0	18.0	26.0	10.4	62.0	59.0
		7.5	16.0	17.0	7.8	49.0	47.0
		8.5	18.5	22.0	8.8	59.0	57.0
One-Way	75	9.0	18.5	22.0	9.3	59.0	57.0
		7.5	16.0	21.0	7.8	53.0	51.0
		8.5	18.5	26.0	8.8	63.0	61.0
Two-Way	75	9.0	18.5	26.0	9.3	63.0	61.0
		7.5	15.0	21.0	7.5	51.0	-
		8.5	17.5	26.0	8.5	61.0	-
Two-Way	90	9.0	17.5	26.0	9.0	61.0	-

* 7.5 feet = Compact size motor vehicles only
8.5 and 9.0 feet = Medium or large size motor vehicles

(1) **Medium and Large-Size Motor Vehicle Spaces**. Each medium or large-size motor vehicle parking space shall be an unobstructed rectangle of not less than eight and one-half (8.5) feet in width by seventeen and one-half (17.5) feet in length. Medium and large-size motor vehicles are those with an overall length of fifteen (15) feet or greater.

(2) **Compact-Size Motor Vehicle Spaces**. Each compact parking space shall be an unobstructed rectangle of not less than seven and one-half (7.5) feet in width by fifteen (15) feet in length. Compact-size motor vehicle spaces are those with an overall length of fifteen (15) feet or less.

(3) **Motorcycle Spaces**. A motorcycle parking space shall be a minimum of four and one-half (4.5) feet in width by seven (7) feet in length.

(4) **Bicycle Spaces**. A bicycle parking space shall be a minimum of two and one-half (2.5) feet in width by six (6) feet in length. Bicycle racks shall be installed with adequate space (one foot minimum) beside the parked bicycle allowing a bicyclist to reach and operate a locking mechanism.

(5) **Recreational Vehicle Spaces**. A recreational vehicle parking space shall be a minimum of ten (10) feet in width by twenty-five (25) feet in length.

(6) **Parking Structures**. In parking structures, aisle and stall dimensions may be reduced in accordance with the *Recommended Guidelines for Parking Geometrics*, published by the National Parking Association (August 1989) or as subsequently amended.

(7) **Disabled Parking**. Please see Volume 1C of the North Carolina Building Code.

(C) PARKING SURFACES

(1) **Paving**. In City/Town Centers, any required parking, stacking, and loading area, and all access drives and maneuvering areas shall be paved and permanently maintained with asphalt, concrete, or similar material of sufficient thickness and consistency to support anticipated traffic volumes and weights, except as noted in Section 3-3.3(C)(3) below.

(2) **Gravel**. All other parking areas shall be improved with a minimum of four (4) inches of crushed rock, except as noted in Section 3-3.3(C)(3) below.

(3) **Exceptions**. Paving or graveling shall not be required for the following:

(a) **Temporary parking or parking for construction purposes**. Parking areas used on an irregular or temporary basis for churches, clubs or lodges, other similar nonprofit organizations, or structures under construction.

(b) **Agricultural Uses**. Parking areas for agricultural uses.

(c) **Parking for Construction Equipment**. Parking areas for tracked heavy construction equipment, skid-mounted equipment, and similar equipment, are exempt from the paving requirements provided these parking areas are constructed with an all-weather surface.

(d) **Overflow Parking**. Parking areas identified specifically as overflow parking or parking exceeding the minimum number of spaces required.

(e) **Neighborhood Shopping Center Business District (NSB)**. In the NSB District, up to ten percent (10%) of the required parking spaces may be unpaved and used for open space purposes during off peak hours, under the provisions of Section 2-1.3(H)(3)(f).

(D) MARKINGS AND TRAFFIC CONTROL DEVICES

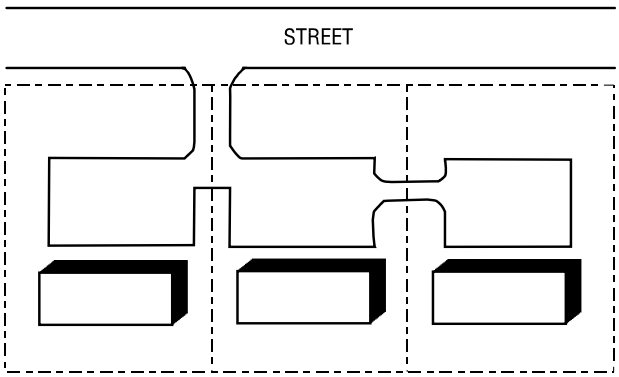
(1) **Delineation**. The property owner shall delineate all required parking and loading spaces, stacking lanes, disabled parking spaces, directional arrows, crosswalks, and maneuvering areas within parking areas using paint or other methods approved by the Zoning Administrator.

(2) **Signage**. The Zoning Administrator may require a developer to install signage in addition to directional arrows to ensure the safe and efficient flow of vehicles in a parking area or structure.

(E) DRIVEWAYS

(1) **Approvals**. Except for individual single family dwellings, the design and location of all entrance or exit driveways to parking or loading areas of any use from a public street or highway shall be approved by the appropriate jurisdiction as provided herein. Within the zoning jurisdiction of the Town of Kernersville, the Engineering Division shall approve all driveways prior to the issuance of a zoning or building permit. For all driveways outside the zoning jurisdiction of the Town of Kernersville, the District Engineer for the North Carolina Department of Transportation shall approve all driveway designs and locations prior to the issuance of a zoning or building permit.

(2) **Combined Driveways and Access**. The owners of adjoining properties are encouraged to provide combined driveways and connections whenever practical. Please refer to Section 3-3.5(M) for the incentive to provide combined driveways and connections.



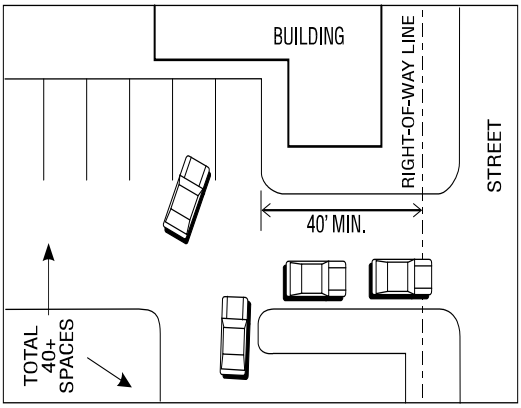
(3) **Dimensional Requirements for Access Drives**. Internal circulation driveways and access drives that do not provide direct access to parking spaces shall be a minimum of twenty (20) feet in width for two-way traffic and twelve (12) feet in width for one-way traffic unless otherwise specified by the Zoning Administrator. Residential uses containing six (6) or fewer dwelling units or having parking areas designed and clearly marked for one-way traffic shall have access drives a minimum of twelve (12) feet in width.

(4) **Driveways for Large Parking Areas (One Hundred [100] or More Spaces**. For each zoning lot containing parking areas with one hundred (100) or more required spaces, a minimum forty (40) foot deep unobstructed driveway shall be provided from the right-of-way line to a traffic aisle or access to a parking space to accommodate the ingress and egress of at least two (2) vehicles without interference to parking maneuvers or access drives, unless:

(a) **Frontage Road Access**. Internal access to the parking area is provided by a private frontage road which parallels the public street, provided no parking is provided along the access drive or frontage road and a minimum forty (40) foot distance without left turn movements is provided along the access drive;

(b) **Spaces per Driveway Ratio**. The ratio of parking spaces to driveway access points does not exceed 100:1, where multiple driveways provide access to the zoning lot; or,

(c) **Other Stacking Area**. Adequate unobstructed off-street stacking area to accommodate two (2) vehicles is otherwise provided.



(F) DRIVE-THROUGH FACILITY STACKING LANES

(1) **Number**. In addition to the parking required by this Article, drive-through facilities requiring stacking lanes shall be provided as follows:

Number of Lanes	Number of Spaces per Lane
1	5
2	5
3	4
4 or more	3

(2) **Width**. Each lane of stacking space shall be a minimum of nine (9) feet in width and must be delineated with pavement markings.

(3) **Length**. Each stacking space shall be a minimum of sixteen (16) feet in length, however, individual spaces within the lane shall not be delineated with pavement markings.

(4) **No Conflict of Use**. Stacking lanes shall not interfere with access to required parking or ingress or egress from a public street.

(5) **Automatic Teller Machines**. Automatic teller machines located in parking areas of shopping centers or on internally oriented out lots are not required to provide stacking spaces.

(G) WHEEL STOPS OR CURBS

Where concrete curbs are not installed adjacent to public sidewalks, public rights-of-way, landscaped areas, or internal roadways, anchored wheel stops shall be installed to prevent vehicles from encroaching into these areas. All wheel stops shall be two (2) feet from the front end of the parking space for front-end parking and four (4) feet from the front of the parking space for rear-end parking.

(H) PARKING IN REQUIRED YARDS

A parking area may be located in a required yard provided that wheel stops are installed and maintained to protect required screening.

(I) LANDSCAPING AND SCREENING

All motor vehicle surface areas shall be landscaped as required in Section 3-4 and bufferyards shall be provided as required in Section 3-5.

(J) LIGHTING

Any lighting in parking, stacking, and loading areas shall be so shielded as to cast no direct light upon adjacent properties or structures.

(K) DRAINAGE

All parking, stacking, and loading areas shall be designed to meet the requirements of the Erosion Control Regulations (Article VII of the *Environmental Ordinance*).

3-3.4 OFF-SITE PARKING

(A) OFF-SITE PARKING ACCESSORY TO MULTIFAMILY OR INSTITUTIONAL USES

Surface parking in a RS or RM District to serve either multifamily residential or institutional must be approved by the Elected Body and meet the following additional requirements:

(1) **Multifamily parking**. Multifamily parking in a residential district shall be allowed only if said lot abuts for a distance of not less than twenty-five (25) feet upon the zoning lot to which such parking would be accessory.

(2) **Institutional parking**. Institutional parking in a residential district shall be allowed only if the lot used for institutional parking abuts for a distance not less than twenty-five (25) feet upon the zoning lot to which such parking would be accessory, or if said lot is adjacent for twenty-five (25) feet to, but separated by a public street from, the zoning lot to which such parking would be accessory.

(3) **Ingress or egress** shall be as follows:

(a) **Multifamily parking**. Ingress or egress for multifamily parking shall be only through the multifamily site.

(b) **Institutional parking**. Ingress or egress for institutional parking shall be only through the institutional site or from a public street.

(4) **Setback**. Where any such parking area abuts residentially zoned land or a residential use, said

parking shall be set back from the property line a distance of not less than fifteen (15) feet.

(B) OTHER OFF-SITE PARKING.

For all uses except multifamily or institutional uses described in Section 3-3.4(A) above, the Zoning Administrator may authorize a portion of the required parking for a use to be located on a site other than the principal use under certain circumstances. Off-site parking facilities shall meet the following requirements:

(1) **Ownership**. The off-site parking shall be located on a separate zoning lot from the principal use where both lots are owned by the same person or the off-site parking shall be leased by the owner of the principal use;

(2) **Zoning District**. The secondary parking lot shall be in a zoning district in which the principal use it supports is a permitted use, with the exception that a secondary parking lot supporting any twin home, duplex, townhouse, multifamily, or institutional use may be located in any nonresidential zoning district;

(3) **Visitor Parking**. Adequate visitor parking shall exist at the principal use location;

(4) **Pedestrian Access**. Adequate pedestrian, van, or shuttle connection between the sites shall exist;

(5) **Certain Retail Uses**. Off-site parking for retail uses requiring off-street parking at a rate of one space per 200 square feet gross floor area or greater, per Table 3.8, shall not be permitted;

(6) **Contract for Parking**. Where established by lease, the lease shall make the secondary parking lot or lots available for a minimum term of ten (10) years and grant subsequent options for two (2) additional five (5) year lease periods. A copy of the contract, properly executed, shall be filed with the Zoning Administrator prior to the issuance of a zoning permit for the secondary parking lot;

(7) **Other Uses**. Where parking is established on a secondary lot or lots owned by the owner of the lot on which the principal use is located, the secondary lot or lots may not be used for any purpose other than parking required for the principal use unless there is sufficient room for: shared parking; any use which may be placed on the secondary lot or lots; and any parking required for the use placed on the secondary lot or lots.

(8) **Continuance of Use**. The continuance of the principal use shall be contingent upon the continuance of the off-site parking or the substitution of other parking consistent with the terms of this Ordinance. A parking covenant shall be drawn to the satisfaction of either the City or County Attorney, executed by all parties concerned, and recorded. The contract shall assure the continued availability of the off-site parking facilities for the life of the use that the parking is intended to serve.

(9) **Adjacent Institutional and Public Uses.** Adjacent Institutional and/or Public Uses, as listed in the Permitted Uses Table, may be exempt from off-site parking requirement conditions 6 and 8 listed above in 3-3.4, (B) provided the following off-street parking requirements shall apply:

(a) The parking requirements of Chapter B, Article III, 3-3 shall be met by the adjacent institutional and/or public uses in combination in total.

(b) Either institutional and/or public use that does not meet parking requirements of § 3-3.41(b) shall apply for a Special Use Permit from the Board of Adjustment.

(c) At the time of Application for Special Use Permit, submittal of a Site Plan showing parking for both uses as meeting total parking required for both sites. Said Site Plan shall be reviewed by the Zoning Administrator and Fire Marshall for safety issues and compliance with the parking standards of Chapter B, Article III, 3-3 and State of North Carolina Fire Code. The Zoning Administrator and Fire Marshall shall make a recommendation for approval, or approval with conditions, or denial to the Board of Adjustment.

(d) At the time of Application for Special Use Permit, submittal of an executed Contract between the adjacent uses providing for shared parking meeting the total parking required

for the uses until such time as each institutional and/or public use has constructed on-site parking that meets the parking requirements of its separate use(s) under Chapter B, Article III, 3-3.

(e) The Board of Adjustment shall make determination that all provisions of this Section are met.

(f) The Special Use Permit must be renewed in front of the Board of Adjustment every (5) five years.

3-3.5 ALTERNATIVES AND INCENTIVES

(A) PURPOSE

The purpose of this section is to encourage the property owner to reduce the amount of impervious surface cover needed for parking by providing a variety of alternatives and incentives. Any parking alternative proposed or incentive utilized by the property owner must be approved by the Zoning Administrator and shall accomplish the following:

(1) **Intent**. The intent of the parking requirements is preserved;

(2) **Sufficient parking**. The parking provided will be sufficient to serve the use for which it is intended; and,

(3) **Impact**. The modification will not be detrimental to the public health, safety, or welfare.

(B) SHARED PARKING

(1) **Reduction of Parking Requirements**. The Zoning Administrator may authorize a reduction of the parking requirements or parking spaces for any mixed use project or nearby uses where peak parking demand characteristics or hours of operation are distinctly different in accordance with this section. All reductions of parking requirements authorized by the Zoning Administrator within the corporate limits of any municipality must also receive approval from the Community Development Director or Town Manager, whichever is applicable.

(2) **Requirements**. A request for approval of shared parking shall be accompanied by such information determined by the Zoning Administrator as necessary to evaluate the relevant factors listed in the section below, including, but not limited to, a description of the uses, a site plan, and a transportation engineering report. Calculations shall be based on the Shared Parking Standards developed by the Urban Land Institute, as amended.

(3) **Accessibility**. All shared parking spaces shall be located in a parking facility providing reasonably equivalent accessibility and usability to all uses which the parking is intended to serve.

(4) **Ownership**. In cases where the uses for which shared parking is requested are located on lots under different ownership, a contract pursuant to Section 3-3.4 shall be provided.

(5) **Conditions**. In determining whether to approve a reduction for shared parking, the Zoning Administrator shall consider all relevant factors, including the following:

(a) **Peak Parking Demand**. The characteristics of each use and the differences in projected peak parking demand, including days or hours of operation;

(b) **Reduction in Vehicle Movements**. Potential reduction in vehicle movements afforded by multi-purpose use of the parking facility by employees, customers, or residents of the uses served; and,

(c) **Potential Improvements**. Potential improvements in parking facility design, circulation,

and access afforded by a shared parking facility.

(C) PARK AND SHUTTLE LOTS IN BUSINESS AND INDUSTRIAL ZONING DISTRICTS

(1) Conditions. The Zoning Administrator may authorize any business use(s), industrial use(s), or zoning lot which has a minimum of one hundred and seventy-five (175) contiguous parking spaces to establish a park and shuttle lot provided that:

(a) Maximum. Not more than ten percent (10%) of the required parking spaces for the use(s) or for the zoning lot may be designated as a park and shuttle lot.

(b) Location. All designated park and shuttle spaces shall be located in outlying areas of the parking lot so as not to interfere with customer or employee parking needs.

(2) Short-term Parking. All designated park and shuttle areas shall be for short-term (less than twenty-four [24] hours) parking for commuters of any public carpooling, vanpooling, or transit program.

(D) REDUCTIONS IN THE NB AND NO DISTRICTS

(1) In the NB District:

(a) Amount Required. For any permitted use in the NB and LO Districts, the required amount of parking shall be reduced by thirty percent (30%). This reduction shall not affect the required disabled parking or loading spaces for that use.

(b) Location. All parking shall be provided to the rear of the structure, unless provided for in LO District in Section 2-1.3(B).

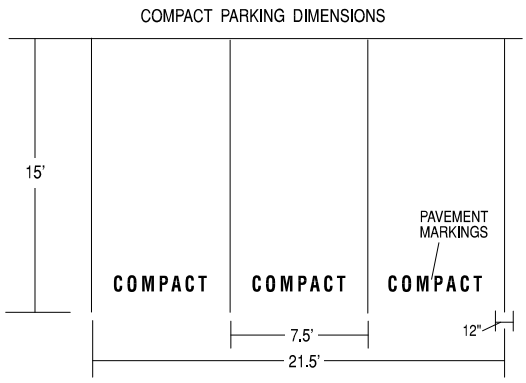
(2) In the NO District:

(a) Amount Required. For any permitted use in the NO District, the required amount of parking shall be reduced by fifteen percent (15%). This reduction shall not affect the required disabled parking or loading spaces for that use.

(b) Location. All parking shall be provided to the rear of the structure with the exception of two (2) parking spaces which may be provided in front of the structure.

(E) COMPACT PARKING

(1) Maximum Amount. For all uses, the property owner may design and construct up to a maximum of twenty-five percent (25%) of the required parking spaces for compact stalls in accordance with the dimensions provided in Section 3-3.3(B)(2).



(2) Identification.

(a) Markings. The property owner shall identify all compact parking stalls within the parking area with pavement markings. Each compact parking space shall be individually designated as a compact space in letters not less than twelve (12) inches high and seven (7) inches wide in size, which state: *COMPACT*.

(b) Symbols. A symbol may be used in lieu of letters if approved by the Zoning Administrator.

(3) Signs. Signs shall be provided to indicate the location of the compact parking.

(4) Location. All compact parking spaces shall be conveniently located and dispersed throughout the required parking area.

(G) MOTORCYCLE PARKING

(1) Maximum Amount. For all uses, the property owner may design and construct up to a maximum of two percent (2%) of the required number of parking spaces as motorcycle stalls in accordance with the dimensions provided in Section 3-3.3(B)(3).

(2) Identification.

(a) Markings. The property owner shall identify any motorcycle parking stalls within the parking area with pavement markings. Each motorcycle parking space shall be individually designated as a motorcycle space in letters not less than twelve (12) inches high and seven (7) inches wide in size, which state: *MOTORCYCLE*.

(b) Symbols. A symbol may be used in lieu of letters if approved by the Zoning Administrator.

(3) Fulfilling Requirements. Motorcycle parking spaces allowed by this section shall count toward fulfilling the total motor vehicle parking requirements.

(H) BICYCLE PARKING

(1) Maximum Amount. For all uses, the property owner may design and construct up to a maximum of two percent (2%) of the required number of parking spaces as bicycle stalls in accordance with the dimensions provided in Section 3-3.3(B)(4).

(2) Location. Bicycle parking stalls and racks shall be located to be highly visible from the street or building entrance from where bicyclists approach. Bicycle racks shall not be installed in isolated locations but shall be located near the main entrance(s) of the building for which they are intended or in a comparably convenient location where there is constant pedestrian traffic.

(3) Use. Bicycle racks shall be for use by the general public as well as employees.

(4) Separation from Motor Vehicle Parking. Bicycle parking areas shall be separated from motor vehicle parking areas (automobiles, trucks, motorcycles, etc.) by at least a curb barrier which would prevent vehicles from damaging bicycles.

(5) Bicycle Rack Design. Bicycle racks shall be designed to be capable of supporting the bicycle in an upright position. Bicycle racks shall be securely anchored to the supporting surface(s). Bicycle racks shall be at least three (3) feet in height unless the bicycle parking area is surrounded by a railing, hedge, or wall three (3) feet in height which is readily visible to pedestrians.

(I) PARKING REDUCTION FOR REQUIRED LANDSCAPING IN MOTOR VEHICLE USE AREAS

For all uses, the property owner may reduce the number of required parking spaces for the installation of required interior planting areas up to a maximum of ten percent (10%). Up to an additional five percent (5%) reduction is permitted where an area which would otherwise be devoted to parking cannot be used in order to preserve an existing tree with a diameter of six (6) inches or greater.

(J) PARKING REDUCTION ON WINSTON-SALEM TRANSIT AUTHORITY REGULAR-ROUTE TRANSIT LINE

For all uses located within five hundred (500) feet of a Winston-Salem Transit Authority regular-route transit line, the property owner may reduce the amount of required parking up to a maximum of three percent (3%). This reduction shall not affect the required disabled parking or loading spaces for that use.

(K) PARKING REDUCTION FOR PUBLIC GREENWAYS AND SIDEWALKS

For all uses abutting an existing or publicly adopted planned public greenway or sidewalk, the property owner may reduce the amount of required parking up to a maximum of three percent (3%). This reduction shall not affect the required disabled parking or loading spaces for that use.

(L) ALTERNATIVE PARKING ALLOWANCE IN NSB DISTRICT

In the NSB District, up to ten percent (10%) of the required parking spaces may be unpaved or unimproved with gravel, and used for open space under the provisions of Section 2-1.3(H)(3)(f).

(M) COMBINED DRIVEWAYS AND ACCESS

For all uses providing a combined driveway with or a private access connection to adjoining properties, the property owner may reduce the amount of required parking up to a maximum of five percent (5%).

3-3.6 OFF-STREET LOADING AND UNLOADING AREAS

(A) REQUIREMENTS

In all districts except the CB and CI Districts, any building or land used for commercial, industrial, or institutional purposes, shall be designed to provide adequate space for off-street parking to accommodate the loading and unloading of goods and materials consistent with the size and proposed use of the building or land. Such space, whether inside or outside a building, shall be in addition to the parking requirements in Table 3.8 and shall be designed so as not to impede normal vehicular and pedestrian circulation.

(B) LOCATION

Off-street loading and unloading areas shall be located on the same lot or adjoining lots as the use for which they are provided.

(C) DESIGN STANDARDS

(1) DIMENSIONAL REQUIREMENTS. Each loading area shall be at least twelve (12) feet wide, sixty-five (65) feet long, and shall have a minimum height clearance of fifteen (15) feet.

(2) REDUCTION. The Zoning Administrator may reduce the required stall length and maneuvering length if the property owner demonstrates that known delivery vehicles can park and maneuver within the proposed loading and maneuvering spaces such that no part of the vehicle projects into a public right-of-way, access easement, private road, or required landscaping. The reduction shall be based on the nature of the use, or combination of uses, as well as the specific design characteristics of the project.

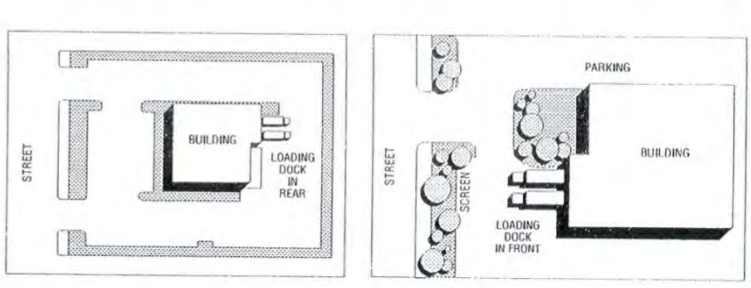
(3) MANEUVERING AREA. Loading areas shall be designed and located such that commercial vehicles shall not back into a public street or alley.

(4) ALLEY ACCESS. When the lot upon which loading areas are located abuts upon an alley, such loading areas may have access from the alley. Where such loading area is parallel with the alley and the lot is sixty (60) feet or less in width, the loading area shall extend across the full width of

the lot.

(5) **INDUSTRIAL DEVELOPMENTS**. Industrial developments shall be designed with the following loading area design standards:

(a) **Location**. Loading facilities shall be located either to the rear or side of the industrial structure(s) to alleviate unsightly appearances often created by loading facilities. Where such location is not feasible, a streetyard according to the standards of Section 3-4.3(B) shall be installed along the entire length of road which the loading docks face. Business Industrial (BI) is exempt from the loading facilities location.



(b) **Maneuvering**. Each industrial site shall be self-contained and capable of handling its own truck maneuvering and docking requirements. The use of public streets for commercial vehicles staging and/or maneuvering is prohibited.

(c) **Depth**. Minimum depth of eighty-five (85) feet is required for commercial vehicle docking and maneuvering.

(d) **Turning Radius**. At least one driveway approach capable of accommodating a forty-eight (48) foot wheel track turning radius and at least one on-site maneuvering area which provides a forty-eight (48) foot wheel track turning radius through the parking area shall be provided for each industrial site.

(D) **NUMBER OF LOADING SPACES REQUIRED**

(1) **Uses Handling Goods in Quantity**. Uses which normally handle large quantities of goods, including, but not limited to manufacturing plants, wholesale establishments, warehouses, freight terminals, hospitals, and shopping centers, shall provide off-street loading facilities as shown in Table 3.10.

Table 3.10
Loading Space Requirements for Uses Handling Goods in Quantity

Gross Floor Area (square feet)	Minimum Number of Spaces
5,000 - 20,000	1
20,001 - 50,000	2
50,001 - 80,000	3
80,001 - 125,000	4
125,001 - 170,000	5
170,001 - 215,000	6
215,001 - 260,000	7
Over 260,000	7, plus 1 space for each additional 45,000 square feet of gross floor area.

(2) **Uses Not Handling Goods in Quantity**. Commercial establishments which do not handle large quantities of goods, including, but not limited to, office buildings, restaurants, auditoriums, convention halls, stadiums, exhibition halls, funeral homes, hotels, and motels shall provide off-street loading as shown in Table 3.11.

Table 3.11
Loading Space Requirements for Uses Not Handling Goods in Quantity

Gross Floor Area (Square Feet)	Minimum Number of Spaces
5,000 - 80,000	1
80,001 - 200,000	2
200,001 - 320,000	3
320,001 - 500,000	4
500,001 - 680,000	5
680,001 - 860,000	6
806,001 - 1,040,000	7
Over 1,040,000	7, plus 1 additional space for each additional 180,000 square feet of gross floor area

3-4 LANDSCAPING STANDARDS

3-4.1 GENERAL REQUIREMENTS

(A) PURPOSE

It is the intent of this section to modify and enhance the character of motor vehicle use areas, outdoor storage areas, and utility service areas through the introduction of natural vegetation and landscaping, without unduly burdening property owners, in order to:

(1) **Appearance of Areas Near Rights-of-Way**. Improve the appearance of motor vehicle use areas within close proximity of vehicular rights-of-way;

(2) **Appearance of Large Areas**. Break the visual blight created by large expanses of motor vehicle use areas;

(3) **Property Value and Investments**. Enhance property values and protect public and private investments;

(4) **Water and Erosion Control**. Increase site storm water infiltration capacity, improve groundwater recharge, and reduce erosion and urban runoff pollution hazards;

(5) **Comfort**. Improve human comfort during the use of motor vehicle use areas by providing shade, reducing solar heat absorption, and reducing noise levels;

(6) **Environmental Sensitivity**. Encourage environmental sensitivity to natural features during the design and construction of motor vehicle use areas;

(7) **Glare**. Filter and reduce reflected sunlight and headlight glare from parked vehicles onto street rights-of-way; and,

(8) **Air**. Filter and reduce motor vehicle fumes and dust.

(9) **Public Properties.** Improve the appearance of public properties from vehicular right-of-ways and adjacent properties, as well as for users on the properties.

(B) APPLICABILITY

This section shall apply to all land located in the zoning jurisdiction. Unless otherwise provided in this section, an occupancy permit shall not be issued until all required planting and landscaping materials are installed. The following motor vehicle use areas are required to be landscaped:

(1) Motor Vehicle Surface Areas;

(2) Motor Vehicle Display Areas;

(3) Outdoor Storage Areas;

(4) Utility Service Areas;

(5) Parking Buildings or Structures; and,

(6) Public or Private Schools

(C) EXCLUSIONS

The following uses shall be exempt from the requirements of this section:

(1) A single family detached dwelling on its own lot;

(2) An attached dwelling unit which possesses an individually separated driveway and/or garage; and,

(3) Fire hydrants and other utility devices whose visibility is vital to public safety.

3-4.2 APPLICATION PROCEDURES AND GENERAL REQUIREMENTS

(A) APPLICATION

When an application is made for a building permit on any land where the landscaping requirements of this section are applicable, such building permit application shall be accompanied by the information listed in paragraphs below. Submittal of said information may occur up to ninety (90) days after the issuance of a building permit, provided, however, the developer or landowner submits with the building permit application a letter certified by a registered landscape architect, architect, surveyor, or engineer, stating sufficient land has been reserved for required plantings, and also files an improvement security as specified in Section 3-4.2(B)(2). Additional information to be submitted with the application for a building permit includes:

(1) **Storage, Surface, and Service Areas**. A site plan indicating the location, dimensions, and square footage of motor vehicle surface areas, motor vehicle display areas, outdoor storage areas, private utility service areas, proposed parking space striping, and overhead utility lines;

(2) **Landscaping**. A site plan indicating existing and proposed landscaping used to satisfy the requirements of this section, including the number, species, location, and heights of trees, shrubs, and groundcover; the location and dimensions of planting areas and streetyards; the location and size of earthen berms; and, the location, size, and construction material of fences, walls, and wall planters;

(3) **Existing Trees to be Preserved**. The number, location, species, height, and diameter at six (6) inches above ground level of existing trees to be preserved for credit as per Section 3-4.2(H); and,

(4) **Barriers**. The location and description of any barriers to be erected to protect any existing vegetation from damage during construction.

(B) DELAY OF LANDSCAPING

If the required landscaping has not been installed at the time of a request for an occupancy permit, and the Zoning Administrator determines that the unavailability of plant materials or adverse weather conditions prohibit the timely completion of planting, an occupancy permit may be issued prior to installation of required landscaping, subject to the following:

(1) **Completion Schedule**. The applicant shall sign a contract specifying that the work shall be completed within the six (6) months immediately following the date of application for an occupancy permit; and,

(2) **Security.** A performance surety shall be required prior to issuance of an occupancy permit. The performance surety shall be in an amount deemed sufficient by the Zoning Administrator to cover all costs of required landscaping or screening which has not been installed. Such performance surety shall be valid until the work is completed in accordance with the permit. The performance surety shall be forfeited upon violation of this section and shall be used toward completion of all planned improvements. Any moneys in excess of the cost of installing required landscaping shall be refunded to the applicant. The performance surety shall be released when the Zoning Administrator certifies that all requirements of this section have been met. In the event that the amount of the performance surety is not sufficient to permit the Town to complete the required landscaping, the applicant shall be responsible to the Town for the amount expended by the Town in excess of the performance surety amount.

(C) COMPLIANCE WITH SIGHT EASEMENT REQUIREMENTS

Landscaping required by this section shall comply with the minimum State or local sight easement requirements for street intersections and driveways.

(D) OBSTRUCTION OF PEDESTRIAN ROUTES

Required landscaping shall not obstruct or impede public pedestrian routes including sidewalks and greenway trails.

(E) PROTECTION OF PLANTING AREAS

Whenever any planting areas required by this section are adjacent to motor vehicle surface areas, motor vehicle display areas, or outdoor storage areas, the planting areas shall be protected from motor vehicle intrusion or damage from excessive motor vehicle lubricants or fuels.

(F) STABILIZATION OF SOIL SURFACE

The soil surface of all planting areas required by this section shall be stabilized to prevent erosion. In addition to required interior trees and shrubs, the soil surfaces of planting areas shall contain live groundcover, mulch, live shrubs, permeable pedestrian paver blocks, or a combination thereof.

(G) MAINTENANCE OF PLANTINGS

The landowner is responsible for maintaining all required plant materials in good health. Any dead or missing plants must be replaced with new planting which meets the minimum installation dimension standards of this section. Plant replacement shall take place within one month of written notification by the Zoning Administrator. In the event that plant material is severely damaged due to an unusual weather occurrence or other act of nature, or if replacement plantings are unavailable within one month of written notification, the landowner will have six (6) months from the date of written notification to replace plantings.

(H) USE OF EXISTING TREES FOR CREDIT

Existing trees may be preserved and used for credit in satisfying the requirements of this section, according to the conditions that follow:

(1) **Maximum Credits for Tree Preservation**. Maximum credits for tree preservation shall be determined by Table 3.12.

Table 3.12
Use of Existing Trees for Credit

Diameter of Existing Tree Six (6) Inches Above Ground Level	Number of Trees Credited
2 - 6 inches	1
7 - 12 inches	2
13 - 18 inches	3
19 - 24 inches	4
25 inches or greater	5

(2) **Minimum Planting Area**. Each tree to be preserved for credit shall be provided with a minimum planting area which coincides with the tree's dripline. The tree's dripline is defined as the area underneath a tree which would be encompassed by perpendicular lines dropped from the outermost edges of the crown of the tree.

(3) **Protection from Encroachment**. Tree preservation planting areas shall be cordoned off during

construction and protected from encroachment. The minimum area to be cordoned off shall consist of the critical root zone of the tree or an area ten (10) feet from the tree's trunk in all directions, whichever is the greater area. The protection measures shall be properly maintained during site development and shall not be removed prior to final landscaping. For the purposes of this section, encroachment is defined as the ground surface disturbance caused by grading; impervious surface cover; equipment, material, or earth storage; or by temporary or permanent construction vehicle access or circulation.

(4) **Minimum Streetyard Requirement**. Tree preservation credits may be used to reduce the number of trees required in this section; however, in no instance shall a required streetyard contain less than one tree, nor shall any required streetyard contain no trees for seventy-five (75) continuous feet; nor shall any parking space be more than fifty (50) feet from the trunk of a tree, unless otherwise authorized in Section 3-4.3(C).

(5) **Planting Area Used for Streetyard or Interior Plantings**. Planting areas required for tree preservation credit may be used to install streetyard or interior shrubs as required in this section.

(6) **Loss of Tree Credits**. Removal or death of any preserved tree shall result in the loss of all associated tree credits for that particular tree. Replacement of trees shall be subject to the planting requirements of Section 3-4. Developers and landowners are urged to seek professional expertise to preserve properly existing trees for credit.

(I) COMBINING PLANTING AREA AND BUFFERYARD REQUIREMENTS

Where motor vehicle use area plant materials and bufferyard plant materials are required on the same property, trees may be located in such a manner as to simultaneously satisfy both requirements. Required planting areas shall not be cumulative; however, the greater of the planting areas specified in Section 3-5 or this section shall be the required planting area.

(J) OVERHEAD UTILITY LINES

The location of overhead utility lines shall be considered during the placement of required trees. The maximum mature height of required trees shall be determined as follows: (Suggested plant materials are listed in Section 3-4.9).

(1) **Small varieties**: Small variety trees shall be used when located within twenty-five (25) feet, measured horizontally, from the nearest overhead utility lines(s).

(2) **Small or medium varieties**: Small or medium variety trees shall be used when located within twenty-five (25) to thirty-five (35) feet, measured horizontally, from the nearest overhead utility line(s).

(3) **Small, medium, or large varieties**: Small, medium, or large variety trees may be used when located more than thirty-five (35) feet, measured horizontally, from the nearest overhead utility line(s).

(K) SAFETY AND SECURITY

Safety and security concerns should receive prominent consideration during the selection and placement of landscape materials.

(L) FIRE PROTECTION EQUIPMENT

A minimum five (5) foot radius containing no plant materials or structural elements other than groundcover plants shall be maintained around all fire protection equipment, including fire hydrants, post indicator valves, and siamese connectors. Obvious sight lines to the fire protection equipment shall be maintained at all times.

(M) OFF-STREET PARKING REDUCTION

A reduction in the amount of required off-street parking is permitted in accordance with the alternatives and incentives provisions of the parking requirements Section 3-3.5 for the installation of landscaping required by the motor vehicle surface area landscaping standards.

(N) LOCATION

Landscape material shall be located as provided for herein, with the following exceptions:

(1) **Topographic Irregularities**. Where topographic irregularities require a different planting location, to allow for healthy growth and maintenance, the plantings may be relocated with approval of the Zoning Administrator. The approved relocation shall meet all requirements of Section 3-4.1.

(2) **Difficult Growing Areas**. Required plantings shall not be installed in locations detrimental to growth. The plantings shall be relocated with approval of the Zoning Administrator. The approved relocation shall meet all requirements of Section 3-4.1.

3-4.3 MOTOR VEHICLE SURFACE AREA LANDSCAPING STANDARDS

(A) GENERAL REQUIREMENTS

(1) **Exemption**. This section shall not apply to single family residential buildings.

(2) **Applicability**. This section shall apply to any motor vehicle surface area or portions thereof built after March 7, 1988.

(3) **Expansion of Preexisting Motor Vehicle Surface Areas**. When preexisting motor vehicle surface areas are expanded:

(a) **Required Interior Plantings**. Required interior plantings may be dispersed throughout the entire motor vehicle surface area in accordance with Section 3-4.3(C) below.

(b) **Streetyard Width**. Streetyard width may be reduced to a minimum of fifty percent (50%) of the required width, provided the minimum required streetyard area and plant quantities for the expansion are installed; and provided such streetyard trees shall be provided a planting area with a minimum radius of seven (7) feet.

(B) STREETYARDS

A landscaped streetyard shall be required for all motor vehicle surface areas located within one hundred (100) feet of a street right-of-way or vehicular right-of-way, including controlled access highways, whether or not it may provide access to the site, unless separated by an intervening building.

(1) **Width**. Minimum streetyard width is ten (10) feet, and shall be measured perpendicular to the street right-of-way. The streetyard shall be positioned between the motor vehicle surface area and street right-of-way.

(2) **Impervious Surface Cover**. A maximum of fifteen percent (15%) of the required streetyard may be covered with impervious surface cover which may be used for walkways, fountains, walls, or wall planters, but may not be used for motor vehicle surface or display, outdoor storage, private utility service, or service areas.

(3) **Number and Spacing of Trees**. Each streetyard shall contain a minimum of two (2) deciduous or evergreen trees per one hundred (100) linear feet, excluding points of motor vehicle ingress or egress. In no case shall any streetyard contain less than one tree. Required trees must be a minimum of eight (8) feet in height at installation and shall be at least two (2) inches in diameter measured six (6) inches above ground level. Where two (2) or more streetyard trees are required, all trees shall be planted with the center of the main trunks twenty (20) to seventy-five (75) feet apart. Existing deciduous trees located in the abutting street right-of-way may be used to satisfy the distribution requirements above.

(4) **Other Streetyard Components.** In addition to required trees, the landowner or developer shall use

one of the following to satisfy streetyard requirements: natural shrubs, closed fences, walls, wall planters, earthen berms, or a combination thereof, as follows:

(a) **Natural Shrubs**. Streetyard shrubs must be a minimum of eighteen (18) inches in height at installation, with a minimum height of thirty-six (36) inches within three (3) years after installation. Shrubs must be a locally adapted species which retain foliage to within six (6) inches above ground level. Said shrubs shall be spaced no more than eighteen (18) inches, edge to edge. No more than thirty percent (30%) of streetyard shrubs shall be deciduous.

(b) **Fences and Walls**. A streetyard fence or wall shall be a minimum of thirty-six (36) inches in height, opaque, and shall be constructed of masonry, stone, or wooden material, or of the same material as that of the principal building.

(c) **Wall planters**. A streetyard wall planter shall be constructed of masonry, stone, or other permanent material. At installation, the minimum combined height of wall planters and shrubs shall be twenty-four (24) inches. Within three (3) years after installation, the combined height of wall planters and shrubs shall be no less than thirty-six (36) inches. The effective planting width of a streetyard wall planter shall be no less than thirty-six (36) inches; however, where required streetyard trees are installed in wall planters, the effective planting width of the wall planters shall be no less than seven (7) feet. A minimum of one shrub shall be required for every five (5) square feet of wall planter area.

(d) **Earthen berms**. At installation, streetyard berms shall have a minimum height of eighteen (18) inches, a minimum crown width of two (2) feet, and a side slope with a width to height ratio of no greater than two (2) to one (2:1). The entire berm shall be planted and covered with live vegetation. Berm shrubs shall be a minimum of one foot in height at installation and shall be spaced no greater than eighteen (18) inches, edge to edge. Within three (3) years after installation, the combined height of berm and shrubs must be at least thirty-six (36) inches. Streetyard berms which are thirty-six (36) inches or greater in height at installation shall not be required to contain shrubs; however, streetyard trees shall still be required as specified in this section.

(5) **CB District**. In the CB District, a minimum two (2) foot wide strip planted with trees and shrubs in accordance with this section or a three (3) foot high masonry wall shall be provided.

(C) INTERIOR MOTOR VEHICLE SURFACE AREA PLANTINGS

In addition to the required streetyard, all motor vehicle surface areas shall contain landscaped planting areas, as follows:

(1) **Location of Plantings**. Interior planting areas shall be located adjacent to motor vehicle surface area edges or within the interior as islands or medians, and may contain berms of the minimum dimensions specified in Section 3-4.3(B)(4)(d).

(2) **Size**. Each planting area shall contain a minimum of one hundred fifty (150) square feet, with a minimum radius of seven (7) feet.

(3) **Required Trees in Planting Area**. Each planting area shall contain at least one deciduous or evergreen tree with a minimum height of eight (8) feet at the time of installation, and a minimum diameter of two (2) inches measured six (6) inches above ground level.

(4) **Ratio**. One deciduous or evergreen tree shall be required for every two thousand five hundred (2,500) square feet of motor vehicle surface area.

(5) **Distance of Parking Spaces to Trees**. No parking space shall be located more than fifty (50) feet from the trunk of a required tree, unless otherwise authorized in this section.

(6) **Loading/Maneuvering Areas**. For loading docks or other maneuvering areas where placement of trees in the interior of the site is impractical, the required number of trees may be clustered around the edge of such areas, with the approval of the Zoning Administrator.

(7) **Credit for Streetyard or Bufferyard Trees**. Deciduous or broadleaf evergreen trees used as streetyard or bufferyard plantings may be used as credit toward interior planting area requirements, provided that no parking space shall be located more than fifty (50) feet from the trunk of a required tree.

(8) **Credit for Bufferyard Area**. The landscaped bufferyard area provided to meet the requirements of Section 3-5 and located adjacent to a motor vehicle use area may be counted toward the interior planting requirement.

(9) **Expansion of Preexisting Areas**. When preexisting motor vehicle surface areas are expanded, required interior plantings may be dispersed throughout the entire motor vehicle surface area if the landowner so desires, subject to the following conditions:

(a) The required plant material will be calculated with reference to the expansion area only;

(b) Such planting may be dispersed throughout the entire, combined, existing, and new motor vehicle surface area; and,

(c) The provisions of this section shall preempt the fifty (50) foot spacing requirement contained in Section 3-4.2(H)(4) and Section 3-4.3(C)(5).

(10) **Alternative Compliance**. An applicant whose contiguous parking area exceeds five hundred (500) spaces may propose a landscaping plan which varies from the strict application of the provisions of this section in order to accommodate unique characteristics of the site or to utilize innovative design. Application for alternative compliance shall include a site plan following the requirements specified in Article VII and shall be approved by the Planning Board only upon a finding that the proposed landscaping plan fulfills the intent and purposes of this section as well as or better than would strict conformance with the requirements of this section.

(11) **Along Front Facades**. Landscape plantings along front facades are required at a ratio of six (6) square feet of planting area for each one (1) foot of horizontal wall. Plantings are to be located between the building and the parking area. Planting areas are to be planted with a mix of small trees and shrubs as defined in UDO Section 3-4.9(C) & (D). Plantings are to be installed at a rate of one (1) small tree or three (3) shrubs per three hundred (300) square feet or required planting area as described in Section 6-1.3(A)(1)(a).

3-4.4 MOTOR VEHICLE DISPLAY AREA LANDSCAPING STANDARDS

(A) GENERAL REQUIREMENTS

(1) **Applicability**. This section shall apply to any motor vehicle display area, or portions thereof, built after December 31, 1994.

(2) **Expansion of Preexisting Motor Vehicle Surface Areas**. When preexisting motor vehicle display areas are expanded, streetyard width may be reduced to a minimum of five (5) feet, provided the minimum required streetyard area and plant quantities for the expansion are installed, and provided each streetyard tree shall be provided a planting area with a minimum radius of seven (7) feet.

(3) Landscaping Requirements. Motor vehicle display areas shall comply with the general landscaping requirements of Section 3-4.3.

(B) STREETYARDS

A landscaped streetyard shall be required as specified in Section 3-4.3(B) except:

(1) Natural Shrubs. Any streetyard shrubs, wall planters, earthen berms, or combinations thereof, shall be installed at a minimum height of eighteen (18) inches, and shall reach a minimum height of thirty (30) inches within three (3) years after installation.

(2) Fences and Walls. Closed fences or walls shall be installed at a minimum height of thirty (30) inches.

3-4.5 OUTDOOR STORAGE AREA SCREENING STANDARDS

(A) APPLICABILITY

Any outdoor storage area not screened from any public or private street by an intervening building built after the adoption of this Ordinance with a linear dimension of fifteen (15) feet or greater, or any dumpster with a linear dimension of five (5) feet or greater and not screened by an intervening building shall be screened from view from any street right-of-way or vehicular right-of-way including controlled access highways, whether or not it may provide access to the site, for its entire length except for necessary access.

(B) SCREENING

Outdoor storage area screening shall be provided as specified in either of the conditions below or as a combination of the two conditions:

(1) Fencing. A fence or wall may be used to screen an outdoor storage area. The fence or wall shall be at least six (6) feet in height, opaque and of masonry, stone or wooden material, or of the same material as that of the principal building.

(2) Plantings. Natural evergreen plant materials may also be used to screen an outdoor storage area as follows: (Suggested plant materials are listed in Section 3-4.9.)

(a) Minimum Height. The minimum height of the plant material shall be six (6) feet at installation; and,

(b) Spacing. The spacing of the planting shall be in a double-row configuration, staggered, with five (5) foot spacing between the centers of the main trunks.

3-4.6 UTILITY SERVICE AREA SCREENING STANDARDS

(A) APPLICABILITY

Utility service area structures built after the adoption of this Ordinance are required to be screened from street rights-of-way or vehicular rights-of-way, whether or not it may provide access to the site, provided that said structures have vertical dimensions exceeding three (3) feet or horizontal dimensions in excess of five (5) feet, and are located less than one hundred (100) feet from the nearest street right-of-way.

(B) SCREENING

Where screening for utility service areas is not provided by an intervening building, said screening may be accomplished by locally adapted evergreen or deciduous plantings or an opaque fence or wall.

(1) Installation Height. Plantings shall have a minimum installation height of eighteen (18) inches, be spaced no more than eighteen (18) inches, edge to edge, and be expected to reach a height and width

equal to or greater than the utility service structures that are being screened.

(2) **Fences or Walls**. Fences or walls shall be opaque, of masonry, stone, or wooden material, or of the same material as that of the principal building, if applicable, and of a height and width equal to or greater than the utility service structures that are being screened.

(C) RESPONSIBLE PARTY

Screening for utility service areas in a street right-of-way is to be installed by the utility or party who installed the service; in all other instances the property owners shall install required screening. Where screening for public utility service areas is to be provided by private property owners, such screening shall be installed only after consultation with the utility who owns the device to be concealed. No screening shall be installed that would impair the safe operations, maintenance, or function of the utility equipment.

3-4.7 PARKING STRUCTURES OR BUILDINGS

Any parking structure or building, or expansion thereof, built after the adoption of this ordinance that exceeds two thousand five hundred (2,500) square feet in gross floor area shall be provided with a landscaped streetyard as specified in Section 3-4.3(B). This provision shall apply only to structures whose principal use is parking, and shall not apply to vertical expansion of preexisting parking structures.

3-4.8 PUBLIC OR PRIVATE SCHOOLS

(A) Applicability

A landscape plan for the school campus shall be prepared and installed prior to occupancy for any new school or any improvement to an existing school which results in an increase in building area or footprint.

(B) Standards

Landscaping plans shall meet the following standards:

(1) **Number of Trees.** A minimum of one tree of either large or medium variety as described in Section 3-4.9 shall be provided per thirty-five (35) linear feet of public road frontage. In any event, a minimum of fifteen (15) trees shall be planned for and provided on each campus.

(2) **Existing Trees**. Existing trees to be incorporated into the design of the school or currently on the campus may be preserved and used for credit in meeting the site plan requirements, per Section 3-4.2(H)(1).

(3) **Height at Installation.** New plantings shall meet the requirements of Section 3-5.3(B).

(4) **Variety of Trees**. Notwithstanding subsection (2) above, at least one-half (1/2) of the trees on the campus shall be large variety as described in Section 3-4.9.

(5) **Other Plant Material**. Other plant material described in Section 3-4.9 may be installed and may be used for credit in meeting the requirements of subsection (1) above with approval of Community Development Staff.

(6) **Location**. Trees and other plant material may be located in any required yards or in the interior of the campus, and may function as a bufferyard to screen or soften uses, structures, or activities which may be incompatible. Landscaping should be placed to enhance entryways into campuses and upgrade previously disturbed areas. On existing campuses built prior to the landscaping requirements for motor vehicle surface areas, trees and other plant materials may also be located in parking areas or other motor vehicle surface areas.

3-4.9 VARIANCE

Applications for variances from the requirements of the landscaping and screening standards may be approved by the Board of Adjustment after such Board of Adjustment holds a duly advertised public hearing

in each case. Said application for a variance will be governed by the procedures set forth in Section 6-1.4.

3-4.9 SUGGESTED PLANT MATERIALS LIST

The suggested plant materials list includes common trees and shrubs suitable for use in the Forsyth County area. Due to individual site soil, moisture, and microclimate conditions, professional expertise should be sought to determine the appropriate plant materials for any particular development project.

(A) LARGE VARIETY TREES (mature height: thirty-five (35) feet or greater):

Willow Oak	*Quercus phellos*
Sugar Maple	*Acer saccharum*
Red Maple	*Acer Rubrum*
Scarlet Oak	*Quercus coccinea*
Southern Magnolia	*Magnolia grandiflora*
London Plane-tree	*Platanus acerifolia*
River Birch	*Betula nigra*
Japanese Zelkova	*Zelkova serrata*
Tulip Poplar	*Liriodendron tulipifera*
Pin Oak	*Quercus palustris*
Black Gum	*Nyssa sylvatica*
Littleleaf Linden	*Tilia cordata*
White Oak	*Quercus alba*
Japanese Scholartree	*Sophora japonicum*
Gingko	*Gingko biloba*
English Oak	*Quercus robur*
Japanese Katsuratree	*Cercidiphyllum japonicum*
Schumard Oak	*Quercus schumardi*
Chinese Elm	*Ulnus parviflora*

(B) MEDIUM VARIETY TREES (mature height: twenty-five (25) to thirty-five (35) feet):

Bradford Pear	*Pyrus calleryana "Bradford"*
Mountain Silverbell	*Halesia monticola*
Sourwood	*Oxydendrum arboreum*
Thornless Honeylocust	*Gleditsia triacanthos "Inermis"*
Eastern Redbud	*Cercis canadensis*
Mountain Ash	*Sorbis americana*
Yoshino Cherry	*Prunus yedoensis*
Golden-Rain-Tree	*Koelreutreria paniculata*
Saucer Magnolia	*Magnolia soulangeana*
Weeping Cherry	*Prunus subhirtilla pendula*
Kwansan Cherry	*Prunus serrucata "Kwansan"*
Yellowood	*Cladastris lutea*
Ironwood	*Carpinus carolineana*
Pistachio	*Pistachia chinensis*
Redmond Linden	*Tilia americana "Redmond"*
American Holly	*Ilex opaca*

(C) SMALL VARIETY TREES (mature height: less than twenty-five (25) feet):

Japanese Maple	*Acer palmatum*
Japanese Dogwood	*Cornus kousa*
Flowering Dogwood	*Cornus florida*

Smoketree	*Cotinus coggyria*
Crape Myrtle	*Lagerstroemia indica*
Crabapple (var.)	*Malus hybrida (var.)*
Amur Maple	*Acer ginnala*
Russian Olive	*Eleaegnus angustifolia*
Wax Myrtle	*Myrica Cerifer*
Star Magnolia	*Magnolia stellata*

(D) STREETYARD AND INTERIOR SHRUBS (mature height: approximately thirty-six (36) inches):

(1) Evergreen.

Warty Barberry	*Berberis verruculosa*
Dwarf Burford Holly	*Ilex cornuta "Burfordii" nana*
Japanese Holly (var.)	*Ilex crenata (var.)*
Azalea (var.)	*Azalea sp.*
Mugo Pine	*Pinus mugo*
Juniper (var.)	*Juniperus sp.*
Euonymous (var.)	*Euonymous sp.*
Leatherleaf Viburnum	*Viburnum rhytidophyllum*

(2) Deciduous.

Forsythia	*Forsythia sp.*
Dwarf Burning Bush	*Euonymous alatus "Compacta"*
Thunberg Spirea	*Spirea thunbergi*
Viburnum (var.)	*Viburnum sp.*
Oakleaf Hydrangea	*Hydrangea quercifolia*
Japanese Flowering Quince	*Chaenomeles japonic*
Potentilla	*Potentilla fruticosa*
Ornamental Grass Varieties	
Oregonholly Grape	*Mahonia bealei*
Nandina	*Nandina domestica*
Dwarf Nandina	*Nandina domestica nana*

(E) OUTDOOR STORAGE AREA SCREENING PLANTS (installation height: six (6) feet):

American Holly	*Ilex opaca*
Burfora Holly	*Ilex cornuta "Burfordii"*
Nellie Stevens Holly	*Ilex cornata "Nellie Stevens"*
Red Tip Photinia	*Photinia glabra*
Wax Myrtle	*Myrica cerifera*
Hetz Juniper	*Juniperus hetzi*
Arborvitae	*Thuja occidentalis*
Eastern Red Cedar	*Juniperus virginiana*
Japanese Black Pine	*Pinus thunbergiana*

(F) GROUNDCOVERS (planting areas, berms, wall planters):

Lily-Turf	*Liriope muscarii*
Creeping Lilyturf	*Liriope spicata*
Hybrid Daylily	*Hemerocallis hybrida*
Periwinkle	*Vinca minor*
English Ivy	*Hedera helix*

Purpleleaf Winter- creeper	*Evonymous fortunei coloratus*
Aaronsbeard	*Hypericum calysinum*
Rockspray Cotoneaster	*Cotoneaster horizontalis*

3-5 BUFFERYARD STANDARDS

3-5.1 GENERAL REQUIREMENTS

(A) PURPOSE

Bufferyard standards are designed to provide visual and functional separation between different land uses to:

(1) Reduce potential nuisances, such as glare, dirt, noise, unsightly views, and other adverse impacts;

(2) Safeguard property values and preserve the character and integrity of the community; and,

(3) Protect the health, safety, and welfare of the public.

(B) APPLICABILITY

Every use, change of use, or expansion of a structure or land hereafter established shall meet the bufferyard requirements of this section, except for the following:

(1) Single family, duplex, or twin home uses;

(2) Development or redevelopment in the CB or CI Districts;

(3) Between component parts of a planned residential development or MU-C District; or,

(4) Where no bufferyard requirement is shown in Table 3.13.

3-5.2 DETERMINATION OF BUFFERYARD

(A) PROCEDURE

The type of bufferyard required shall be determined as follows:

(1) Identify the Zoning Type for the Proposed Project and all adjacent properties, excluding properties across a public right-of-way. The zoning types are defined below for the purposes of this section only.

(a) Single Family Residential (SFR) Zoning Types. Single family residential zoning types include the H, YR, AG, all RS Districts (including RSQ), and the MH District where an individual manufactured home on a single lot is involved.

(b) Multifamily Residential (MFR) Zoning Types. Multifamily residential zoning types include all RM Districts and the MH District where a manufactured housing development is involved.

(c) Low Intensity Commercial (LIC) Zoning Types. Low intensity commercial zoning types include the LO, PB, LB, IP, and C Districts.

(d) High Intensity Commercial (HIC) Zoning Types. High intensity commercial zoning types include the CPO, GO, NSB, HB, GB, CB, and MU-C Districts.

(e) Industrial (IND) Zoning Types. Industrial zoning types include the LI, CPI, GI, BI, and CI Districts and certain uses which require outdoor storage, have high trip generation rates, or have the potential for nuisance to adjacent properties due to noise, light and glare, or typical hours of operations. The following list of specific uses identified in Permitted Uses 2.6 shall be classified as industrial zoning types for bufferyard purposes.

(1) Banking and Financial Services, with Drive-Through Facilities;

(2) Car Wash;

(3) Convenience Store with Gasoline Sales;

(4) Implement Sales and Service;

(5) Kennels;

(6) Outdoor Display Retail;

(7) Motor Vehicle Repair and Maintenance;

(8) Motor Vehicle Storage Yard;

(9) Outdoor Display Retail;

(10) Recreational Vehicle Park;

(11) Recreation Services, Outdoor;

(12) Restaurants (With Drive-Through Service);

(13) Storage and Salvage Yard; and,

(14) Dirt Storage Sites.

(2) Determine the Bufferyard Type (I, II, III, or IV) required for each adjacent zoning type from Table 3.13 below.

TABLE 3.13
Bufferyard Requirements

Zoning Type of Project	Zoning Type of Adjacent Property				
	SFR	MFR	LIC	HIC	IND
Single Family Residential (SFR)	*	*	*	*	*
Multifamily Residential (MFR)	II	*	*	I+	I+
Low Intensity Commercial (LIC)	II	I	*	*	*
High Intensity Commercial (HIC)	III	II	*	*	*
Industrial (IND)	IV	IV	I	*	*

* = No bufferyard requirement
\+ = Type I bufferyard required if no bufferyard is provided on developed adjacent property designated as high intensity commercial (HIC) or industrial (IND) zoning types.

(3) Select the Desired Bufferyard Option for the required bufferyard type from those described below.

(a) Type I Bufferyard. A type I bufferyard is a low density screen designed to partially block visual contact and create spatial separation between adjacent uses. The four (4) design options that may be used to satisfy this bufferyard requirement are identified in Table 3.14.

TABLE 3.14
Type I Bufferyard Design Options

Minimum Bufferyard Width	Minimum Plant Material per One Hundred (100) Linear Feet
10 feet	2 deciduous trees; 8 primary evergreen plants; 10 supplemental evergreen shrubs
20 feet	2 deciduous trees; 8 primary evergreen plants
30 feet	2 deciduous trees; 5 primary evergreen plants
50 feet	2 deciduous trees; 3 primary evergreen plants

(b) **Type II Bufferyard**. A type II bufferyard is a medium density screen designed to block visual contact and create spatial separation between adjacent uses. The four (4) design options that may be used to satisfy this bufferyard requirement are identified in Table 3.15.

TABLE 3.15
Type II Bufferyard Design Options

Minimum Bufferyard Width	Minimum Plant Material per One Hundred (100) Linear Feet
15 feet	2 deciduous trees; 8 primary evergreen plants; 20 supplemental evergreen shrubs
20 feet	2 deciduous trees; 8 primary evergreen plants; 10 supplemental evergreen shrubs
30 feet	2 deciduous trees; 8 primary evergreen plants
100 feet	2 deciduous trees; 4 primary evergreen plants

(c) **Type III Bufferyard**. A type III bufferyard is a high density screen designed to eliminate visual contact and create spatial separation between adjacent uses. The five (5) design options that may be used to satisfy this bufferyard requirement are identified in Table 3.16.

TABLE 3.16
Type III Bufferyard Design Options

Minimum Bufferyard Width	Minimum Plant Material per One Hundred (100) Linear Feet
15 feet	2 deciduous trees; 18 primary evergreen plants; 20 supplemental evergreen shrubs
20 feet	2 deciduous trees; 18 primary evergreen plants
30 feet	3 deciduous trees; 13 primary evergreen plants
40 feet	3 deciduous trees; 10 primary evergreen plants
200 feet	3 deciduous trees; 5 primary evergreen plants

(d) **Type IV Bufferyard**. A type IV bufferyard is a high density screen designed to eliminate visual contact and create spatial separation between adjacent uses. The six (6) design options that may be used to satisfy this bufferyard requirement are identified in Table 3.17.

Table 3.17
Type IV Bufferyard Design Options

Minimum Bufferyard Width	Minimum Plant Material per One Hundred (100) Linear Feet
15 feet	2 deciduous trees; 18 primary evergreen plants; 20 supplemental evergreen shrubs
30 feet	2 deciduous trees; 18 primary evergreen plants; 10 supplementary evergreen shrubs
40 feet	3 deciduous trees; 18 primary evergreen plants
50 feet	3 deciduous trees; 14 primary evergreen plants
100 feet	3 deciduous trees; 10 primary evergreen plants
200 feet	3 deciduous trees; 5 primary evergreen plants

(B) ADDITIONAL REQUIREMENTS

(1) **Fractional Calculations**. Fractional planting requirement calculations shall be rounded to the next higher whole number.

(2) **Existing Plant Material**. Existing plant material within the required bufferyard may be included in the computation of the required plantings with approval of the Zoning Administrator.

(3) **Fence or Wall Option**. An opaque fence or wall may be used in lieu of not more than fifty percent (50%) of the required evergreen bufferyard plantings with the approval of the Zoning Administrator and providing the following conditions are met, where applicable:

(a) **Fence Height for Industrial Zoning Type**. The minimum required fence height shall be eight (8) feet above ground level when the proposed project zoning type is classified as an industrial zoning type.

(b) **Fence Height for Zoning Types Except Industrial**. The minimum required fence height shall be six (6) feet above ground level when the proposed project zoning type is classified as any zoning type except those classified as industrial.

(c) **Vegetation Planted on Exterior Sides**. Where a fence or wall is used as part of the required screening, all required vegetation shall be planted on the exterior side of the fence or wall.

(d) **Screening Multifamily Residential Zoning Type**. Where the fence option is used to screen multifamily residential zoning types from more intense zoning types, the required vegetation may be planted on the interior side of the fence or wall.

(e) **Remaining Vegetation Distribution**. Where a fence is used in lieu of not more than fifty percent (50%) of the required vegetation, the remaining percentage of vegetation to be used in conjunction with the fence or wall shall be evenly distributed in the bufferyard.

(4) Earthen Berms

Earthen berms six (6) feet high or greater, or earthen berms with combined evergreen shrub plantings reaching a minimum height of six (6) feet, may be used in lieu of not more than fifty percent (50%) of the evergreen bufferyard plantings providing the following conditions are met:

(a) Live Vegetation. The entire berm shall be planted and covered with live vegetation.

(b) Evergreen Shrubs. On berms less than six (6) feet in height, evergreen shrubs, if used, shall be a minimum of one foot in height at installation and shall be placed no greater than eighteen (18) inches edge to edge.

(c) Shape. Berms shall be naturally shaped, shall have a minimum crown width of two (2) feet, and shall have side slopes stabilized to sedimentation and erosion control standards.

(C) ALTERNATIVE COMPLIANCE FOR IP, PB, NO, NB, AND MU-C DISTRICTS

In the IP, PB, NO, NB and MU-C Districts, a developer may propose a bufferyard plan that varies from the strict application of the provisions of this section in order to accommodate unique characteristics of the site, utilize innovative design, or provide an appropriate degree of buffering for separate phases and types of development. Application for alternative compliance shall include a site plan following the requirements specified in Article VII, and shall be approved by the Planning Board only upon a finding that the proposed bufferyard plan fulfills the intent and purposes of this section better than would strict conformance with the requirements of this section.

(D) ALTERNATIVE COMPLIANCE FOR SCHOOLS

The bufferyard requirements of this section otherwise required for development of public or private schools in certain zones may be met by the submittal and approval of a landscaping plan according to the provisions of Section 3-4.8.

3-5.3 BUFFERYARD LOCATION AND DESIGN REQUIREMENTS

(A) LOCATION OF BUFFERYARDS

(1) Location. Bufferyards shall be located on the outer perimeter of a lot or parcel, extending to the lot or parcel boundary line, with the following exceptions:

(a) On Adjacent Property. All or part of the bufferyard may be located on adjacent property within a permanent easement dedicated for such purpose with approval of the Zoning Administrator.

(b) Portion of Site Proposed for Development. If only a portion of a site is proposed for development, the required bufferyard may be located at the limit of construction perimeter with approval of the Zoning Administrator.

(c) Topographic Irregularities. Where topographic irregularities require a different location to meet the intent of this section, the location of the bufferyard may be varied with approval of the Zoning Administrator.

(d) Slope Ratios. Required bufferyard plantings shall not be installed on cut or fill slopes with slope ratios greater than two (2) to one (2:1).

(2) Cut Slope. Where bufferyards include any part of a cut slope greater than ten (10) feet in height, grading for such cut slope shall not encroach closer than ten (10) feet to the property line.

(3) Rights-of-way and Streets. Bufferyards shall not be located on any portion of an existing, dedicated, or proposed right-of-way, or a private street.

(4) Existing Easement Within Bufferyard. Where an existing easement that prohibits bufferyard-type plantings is partially or wholly within a required bufferyard, the developer shall design the bufferyard to meet the planting limitation of the easement. Such design may necessitate choosing a bufferyard with more land area and fewer required plantings.

(B) DESIGN REQUIREMENTS

(1) Size of Plant Material.

(a) Deciduous trees in bufferyards thirty (30) feet in width or less may be either medium or large varieties as described in Section 3-4.10, provided, however, at least one-half of the required trees shall be large variety. Deciduous trees in bufferyards of greater than thirty (30) feet in width shall be large variety trees. Suggested plant materials are listed in Section 3-4.10.

(b) All deciduous trees used for bufferyard screening must be a minimum of eight (8) feet in height at installation and shall be at least two (2) inches in diameter measured six (6) inches above ground level.

(c) All primary evergreen plants shall be a minimum of six (6) feet in height at time of installation unless combined with an approved earthen berm, and shall be not less than ten (10) feet in height at maturity.

(d) All supplemental evergreen shrubs shall be a minimum of eighteen (18) inches in height at installation, and shall attain a minimum height of thirty-six (36) inches three (3) years after installation.

(2) Spacing of Plant Material

(a) All deciduous trees shall be installed with tree trunks spaced a minimum distance of thirty (30) feet apart and a maximum distance of sixty (60) feet apart.

(b) All primary evergreen plants shall be distributed evenly along the length of the bufferyard and shall be staggered where quantities permit. Primary evergreen plants shall be installed with tree trunks spaced a minimum of seven (7) feet apart and a maximum of fifteen (15) feet from other primary evergreen plants and from any required deciduous tree.

(c) All supplemental evergreen shrubs shall be distributed evenly along the length of the bufferyard and shall be staggered where quantities permit.

(3) Maintenance

Any fence, earthen berm, or plant material used for screening shall be maintained in sound condition by the bufferyard provider. Maintenance includes replacement of any required bufferyard materials which are damaged and/or dying.

(C) APPLICATION TO NONCONFORMING SITUATIONS

The bufferyard standards shall apply to the entire zoning lot in nonconforming situations per the requirements of Section 5-4.3(C)(2).

3-5.4 MULTIPLE USE OF BUFFERYARDS

(A) TO SATISFY OTHER REQUIREMENTS

Areas set aside as required bufferyards may also be used to satisfy the following:

(1) Minimum setback requirements;

(2) Minimum open space requirements; and,

(3) Minimum landscaping requirements.

(B) FOR OTHER PURPOSES

Required bufferyards may also be used for the following additional purposes:

(1) Bufferyards may contain storm water retention or detention areas, provided:

(a) The required bufferyard plantings shall be provided and the design and landscaping of the bufferyard do not interfere with the proper functioning of the drainage system; and,

(b) The designed water depth shall not harm the viability of the plantings.

(2) Bufferyards may be used for passive recreation, such as pedestrian, bicycle, or equestrian trails, subject to the following limitations:

(a) No plant material shall be eliminated;

(b) The total width of the bufferyard shall be maintained; and,

(c) All other requirements of this Ordinance shall be met.

(3) Bufferyards may be used for the installation of underground utilities, provided the location and use of the utility lines do not interfere with the required bufferyard plantings.

(C) REDUCTION FOR DRIVEWAY TO REAR PARKING AREAS

A side or rear bufferyard may be reduced to five (5) feet if the Planning Board determines that such reduction is necessary, due to lot size, shape, or topographic features, to allow a driveway which accesses off-street parking to the rear of the property.

(D) PROHIBITED USES

The following uses shall be prohibited in a required bufferyard: playfields, stables, swimming pools, tennis courts, or similar active recreation uses, and storage or parking facilities.

3-5.5 BUFFERYARD VARIANCE

Application for variances from the requirements of the bufferyard standards may be approved by the Board of Adjustment in accordance with the procedures in Section 6-1.4.

3-6 COMMON RECREATION AREAS

3-6.1 APPLICABILITY

All multifamily developments containing forty (40) or more units, and all manufactured home developments, shall provide onsite common recreation area as required below. Elderly housing, life care communities, and other developments occupied exclusively by persons who are at least fifty-five (55) years old or disabled are exempt from the requirements of this section.

3-6.2 MINIMUM SIZE

A minimum of one hundred (100) square feet per unit shall be devoted to common recreation areas.

3-6.3 COMBINING AREAS

The total common recreation area may be divided into areas not less than four thousand (4,000) square feet each where the average length of the space does not exceed twice the average width.

3-6.4 ACCESS

Common recreation areas shall be easily accessible by pedestrian walkways so they can be conveniently and safely reached and used.

3-6.5 FINISHED GRADE

Common recreation areas shall be constructed on land where the average finished grade of the slope does not exceed five percent (5%), is well drained, and is otherwise capable of serving the purposes intended.

3-6.6 LANDSCAPING

Common recreation areas shall be attractively landscaped and provided with sufficient natural or constructed screening to minimize any negative impacts upon adjacent residences within the development.

3-6.7 EXCLUSIONS

Common recreation areas shall not include streets, access easements, rights-of-way, parking areas, required perimeter bufferyards or streetyards or required building setbacks; shall be closed to motor vehicle traffic except for maintenance and service vehicles; and, shall not be located over a septic system drainage field.

3-6.8 MAINTENANCE

Common recreation areas shall be improved and maintained for the purposes intended.

3-7 PROTECTION OF PUBLIC RIGHTS-OF-WAY AND GREENWAYS

3-7.1 PUBLIC RIGHTS-OF-WAY

(A) DEDICATION OF RIGHT-OF-WAY WITH DENSITY TRANSFER

(1) **Dedication**. Whenever a tract of land is proposed for subdivision or for use pursuant to a zoning or building permit, and a portion of it is located within a corridor for a street or highway on a plan established and adopted pursuant to State law for a street or highway that is included in the Department of Transportation's *Transportation Improvement Program*, the right-of-way within that corridor shall be dedicated to the appropriate agency.

(2) **Required Findings**. No dedication of right-of-way shall be required pursuant to this section unless the Planning Board or Elected Body granting final subdivision plat approval, the special use permit, or other approval or permission finds prior to the grant that the dedication does not result in the deprivation of a reasonable use of the original tract and that the dedication is either reasonably related to the traffic generated by the proposed subdivision or use of the remaining land or the impact of the dedication is mitigated by measures provided in this Ordinance.

(3) **Transfer of Density Credits**. The applicant may transfer density credits attributable to the dedicated right-of-way to contiguous land owned by the applicant. If the dedication of right-of-way is not required, an applicant for subdivision plat approval on a zoning or building permit, or any other permission pursuant to this Ordinance elects to dedicate the right-of-way, the applicant may transfer density credits attributable to the dedicated right-of-way to contiguous land that is part of a common development plan.

(4) **Definition of Density Credit**. As used in Section 3-7.1(A), the term *density credit* means the potential for the improvement or subdivision of part or all of a parcel of real property, as permitted by this Ordinance or the *Subdivision Ordinance*, as set forth in Section 3-7.1(A).

(5) **Transferable Percentage**. One hundred percent (100%) of the density credit or development potential of the property dedicated pursuant to Section 3-7.1(A) may be transferred to contiguous land that is part of a common development plan as identified in Section 3-7.1(A).

(B) *TRANSPORTATION PLAN* CORRIDORS

(1) **Limits on Approvals**. Whenever a tract of land is proposed for subdivision or for use pursuant to a zoning or building permit, and a portion of it is located within a corridor for a thoroughfare identified on the *Transportation Plan*, no building permit shall be issued for any building or structure or part thereof located within the roadway corridor, nor shall approval of a subdivision be granted with respect to property within the roadway corridor. The City Traffic Engineer and/or the North Carolina Department of Transportation district engineer shall be notified within ten (10) days of all such requests for building permits or subdivision approvals within the roadway corridor.

(2) **Exemptions**. The provisions of this section shall not apply to valid building permits issued prior to the effective date of this Ordinance, or to building permits for buildings and structures which existed prior to the filing of the roadway corridor, provided the size of the building or structure is not increased and the type of building code occupancy as set forth in the North Carolina Building Code is not changed. If, within one year following the establishment of a roadway corridor official map or amendment, work shall not have begun on an environmental impact statement or preliminary engineering, the corridor shall be deemed abandoned, and the provisions of this section shall no longer apply to properties or portions of properties located within the roadway corridor.

(3) **Time Limits**. No application for building permit issuance or subdivision plat approval shall be delayed by the provisions of this section for more than three (3) years from the date of the original

building permit or subdivision plat submittal.

(4) **Waiver of Requirements**. The Board of Adjustment shall hear and decide requests to waive the requirements of this section. A variance may be granted by the Board of Adjustment upon a showing that:

(a) Even with the tax benefits provided as authorized by State Law, no reasonable return may be earned from the land; and

(b) The requirements of this section result in practical difficulties or unnecessary hardships.

3-7.2 GREENWAYS

Before any zoning permit is approved for a lot which lies within fifty (50) feet of a stream identified for a greenway in the adopted *Greenway Plan*, the Zoning Administrator shall notify the Town Manager. The adopting jurisdiction will assess the potential impact of the development on future greenway construction and may then offer to purchase or undertake other action to protect the potential greenway corridor. The Zoning Administrator shall not approve any permit which would authorize disturbance of the potential greenway corridor, nor shall the property owner or his/her agent disturb the potential greenway corridor, until the Town Manager formally responds to the Zoning Administrator regarding the intent of the adopting jurisdiction. If no response is received within fifteen (15) days, the Zoning Administrator may issue the requested permit.

3-8 SUPPLEMENTARY STANDARDS FOR OLDER NEIGHBORHOODS

3-8.1 APPLICABILITY

These supplementary standards for older neighborhoods apply to development on blocks which:

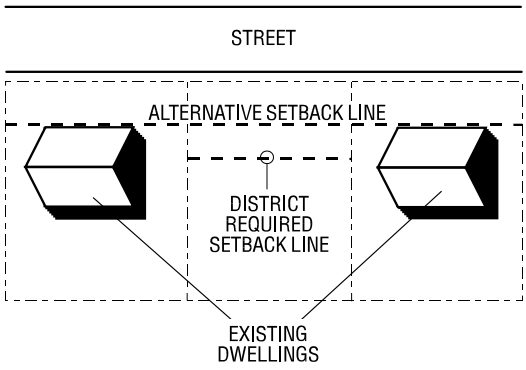
(A) DATE PLATTED OR DEVELOPED
Were originally platted or developed prior to February 3, 1970;

(B) PERCENTAGE OF LOTS DEVELOPED
Have at least fifty percent (50%) of the lots developed; and,

(C) PERMITTED IN CERTAIN ZONING DISTRICTS
Are zoned in whole or in part, RS, RM, NO or NB.

3-8.2 ALTERNATIVE SETBACKS AND STANDARDS

(A) ALTERNATIVE SETBACKS
In older neighborhoods the required setbacks for the underlying zoning district may be replaced by the following alternative method of compliance. No building or part of a building, other than steps, open porches, overhanging eaves and cornices, shall extend nearer to the front, side or rear property lines than the average distance of the respective setbacks of the principal buildings on the same block and on the same side of the street within one hundred (100) feet from the zoning lot in either direction. Any fractional amounts calculated shall be rounded up. However, in no case shall the front setback be less than eight (8) feet nor more than forty (40) feet.



(B) DEVELOPMENT STANDARDS
If the alternative method of compliance is used, the following development standards apply:

(1) **Impervious Surface Cover**. For new construction on vacant lots, impervious surface cover is limited to a maximum of sixty percent (60%). Impervious surface cover is otherwise limited to seventy percent (70%).

(2) **Building Height**. No building shall exceed a height of forty (40) feet.

(3) **Bufferyard**. Bufferyard requirements of Section 3-5 must be met for multifamily developments containing more than four (4) units, or for nonresidential uses.

(4) **Off-Street Parking**.

(a) **Number of Spaces**. Off-street parking for multifamily uses shall meet the standards for *Efficiency* units, if applicable, or *Urban Residential Building* in Table 3.8.

(b) **Parking in Rear**. All off-street parking shall be provided to the rear of the principal building(s) unless the Planning Board determines that, due to lot size, shape or topographic features, some or all parking cannot be placed to the rear.

(c) **Reduction in Bufferyard**. A side or rear bufferyard width may be reduced to allow a driveway to the rear of the property which accesses the off-street parking if the provisions of Section 3-5.4(C) are met.

(d) **Landscaped Separation From Building**. A minimum three (3) foot wide landscaped area shall be provided between any parking area and building wall providing access into the unit(s).

(5) **Vehicular Use Landscaping Requirements**. Vehicular use landscaping requirements of Section 3-4 must be met for multifamily developments containing more than four (4) units or nonresidential uses.

(6) **Building Size**. For projects located on two (2) acres or less, multifamily buildings shall contain no more than six (6) units.

(7) **Roofs**. A roof having a pitch with a minimum vertical rise of four (4) feet for each twelve (12) feet of horizontal run is required on all buildings.

3-8.3 ALTERATION OR EXPANSION NOT AFFECTING OCCUPANCY OR INTENSITY

For any existing residential building containing four (4) units or less, any expansion or alteration of the principal building which meets the dimensional requirements of Section 3-8.2(A) and which does not increase the occupancy capacity of the building, including expansion or alteration of kitchen, bathroom, closet, or patio areas, shall not be subject to the provisions of Section 5-4.3 of this Ordinance.

3-8.4 SUBMITTAL OF INFORMATION

The applicant or property owner shall be responsible for submitting all information relative to the setbacks and buildings of the relevant nearby properties in support of the permit request.

3-9 WATER SUPPLY AND SEWAGE DISPOSAL

3-9.1 APPROVAL

Wherever the water supply and sewage disposal facilities of the City of Winston-Salem or of Forsyth County or of a sanitary district are not available, application for a zoning permit or a special use permit shall not be deemed acceptable unless the proposed methods of water supply and sewage disposal have been specifically approved in writing by an authorized officer of the appropriate agency indicated in Section 3-10.3. Written approval shall be provided along with three (3) schematic drawings showing the proposed development and the proposed water and sewerage connections or facilities. One copy shall be retained by the Public Health Department, one copy by the Zoning Administrator, and one by the applicant. No excavation or construction for any building or use of land shall be commenced until such approval is noted on the plan of proposed development and a zoning permit is issued.

3-9.2 METHOD TO BE SPECIFIED

Any such approval shall specify the method or methods approved and shall describe any special conditions to be met. Such methods, and the approvals required, may include the following:

(A) PUBLIC SEWER

Connection to community sewerage and water systems operated by a responsible person, firm or corporation other than a governmental agency, where the proposed connection is approved by an authorized officer of each system.

(B) PRIVATE SEWER

Installation of facilities other than public or community sewerage systems, for which design approval by the Public Health Department has been obtained.

3-9.3 SYSTEM APPROVAL

The sewerage and water systems to which connections are to be made shall be only those systems approved as follows:

(A) WATER SUPPLY

(1) For ten (10) to twenty-five (25) dwelling units, approval by the State Board of Health.
(2) For twenty-five (25) or more dwelling units, approval by the State Board of Health and the State Utilities Commission.

(B) SEWAGE COLLECTION AND TREATMENT

(1) For a septic tank, approval by the Public Health Department.
(2) For a sewerage system serving facilities regulated by the State Board of Health, i.e., institutions, restaurants, motels, etc., approval by the Public Health Department.
(3) For a sewerage system serving all other uses, i.e., industry, commerce, communities, etc., approval by the North Carolina Department of Water and Air Resources when applicable.

3-9.4 COMMUNITY WATER SYSTEM

The person, firm, or corporation operating a community water system for twenty-five (25) or more customers or a sewerage system for which a rate is charged shall hold a certificate of public convenience and necessity from the State Utilities Commission, and there shall be recorded with a plat of the property the written affidavit of a registered engineer, engaged in the independent practice of civil engineering, that water and sewer mains and laterals comply with pertinent standards of the city, as existing on the date of the affidavit, and that such mains and laterals are installed in accordance with plans and specification which have been submitted to and approved in writing by the Community Development Director of the Town of Kernersville; and a bond or bonds, or other form of written assurance, satisfactory to the Planning Board, assuring the continuous proper maintenance and operation of such sewerage and water systems.

3-10 OTHER STANDARDS

3-10.1 LIGHTING

Where a bufferyard is required pursuant to Section 3-5, outdoor lighting shall be so shielded and oriented as to cast no direct light onto adjacent property.

3-10.2 NOISE

(A) SETBACK.

All air handling machinery, dumpsters, compressors or water coolers for nonresidential uses shall be set back a minimum distance of fifty (50) feet from any property line adjacent to residential uses or residentially zoned land.

3-10.3 KEEPING OF SWINE, GOATS, GEESE, OR PEAFOWL

(A) Swine, goats, geese, and peafowl are prohibited, except upon property:

(1) Within the AG District;

(2) Qualifying as a "bona fide farm"; or,

(3) Where they are maintained as domestic pets.

3-11 RESIDENTIAL LANDSCAPING REQUIREMENTS

All residential developments shall comply with the following standards:

(A) Single Family Residential

(1) Developer shall install initial landscaping on each lot within Single Family Residentially Zoned Districts in the front yard a minimum of five (5) shrubs, eighteen inches (18") in height at planting and one (1) tree per quarter acre. Newly planted trees shall be eight feet in height (8') at planting. If a lot is over one quarter acre in size at least one tree shall be planted "or" saved in the front yard. Any required tree can be planted or saved in front, side or rear yards. Trees in front, side, or rear yards shall not be considered or count toward being street trees. Such initial landscaping shall be maintained, minimally, until the certificate of occupancy is issued.

(2) If a developer plants street trees as defined in the Town of Kernersville Design and Construction Standards, the guidelines in the Town of Kernersville Design and Construction Standards for placement of trees shall be followed.

(B) Multifamily Residential

(1) Foundation plantings per unit for duplexes, twinhomes, triplexes, and quadraplexes, shall consist of a minimum of five (5) shrubs, eighteen inches (18") in height at planting and one (1) tree, eight feet (8') in height at planting excluding required streetyard or interior parking lot landscape trees. For multi-family developments including apartments, townhomes and condominiums the developer shall plant for every 25 linear feet 5 shrubs and 1 deciduous tree. This requirement shall be in addition to any required streetyard or interior parking lot trees.

(C) Tree Preservation for New Construction

(1) In any "required", streetyard, bufferyard and interior parking lot planting area, the developer undertaking new construction of any parcel shall preserve existing healthy trees six inches (6") or greater "unless" grading for construction or erosion control requires their removal as determined by the Community Development Director.

(2) Preservation of trees shall follow the standards of Section 3-4 Landscape Standards, 3-4.2 Application Procedures and General Requirements, (H) *Use of Existing Trees for Credit.*

(3) If a protected tree is located within any proposed streetyard berm, the tree protection area is not required to have a berm.

(D) On-Going Tree Protection Measures Required

Unless damage to trees are due to *Acts of God,* or tree disease, the following measures shall need to be taken:

(1) All required tree protection measures set forth in this section shall be instituted prior to any development activities, including, but not limited to clearing, grading, excavation or demolition work, and shall be removed only after completion of all construction activity, including landscaping and irrigation installation. Tree protection measures shall be identified on a grading plan that shows the trees that will not be removed during construction. These trees if located in required streetyard or bufferyard areas may be counted toward credit in those areas.

(2) Construction fencing, a minimum of 3 feet in height, shall be installed at the edge of the tree protection zone or dripline, whichever is greater, and at the boundary of any open space tracts, riparian areas, or conservation easements that abut the parcel being developed.

(3) Construction fencing shall be flush with the initial undisturbed grade. Approved signs shall be attached to the fencing stating that inside the fencing is a tree protection zone. Trees within this

area shall not be disturbed unless approval has been granted from the Community Development Director based on damage of trees due to *Acts of God* or tree disease.

(4) No construction activity shall occur within the tree protection zone, including but not limited to, dumping, storage of materials such as building supplies, soil, waste items, equipment, or parking.

(5) The tree protection zone shall remain free of all hazardous chemical materials and liquids including but not limited to paints, thinners, cleaning solutions, petroleum products, concrete or dry wall excess, construction debris, and run-offs.

(6) No excavation, trenching, grading, root pruning or other activity shall occur within the tree protection zone.

(7) Inspections. The applicant shall not proceed with any construction activity, except installation of erosion control measures, until the Community Development Director has inspected and approved the installation of the required tree protection measures and a building and/or grading permit has been issued by the Town of Kernersville.

(8) Performance Surety. The Town may require the permittee to post a performance surety ensuring the satisfactory completion and maintenance of the Tree Protection Plan. In the event that the amount of the performance surety is not sufficient to permit the Town to complete and maintain the required landscaping, the applicant shall be responsible to the Town for the amount expended by the Town in excess of the performance surety amount.

3-12 PERFORMANCE SURETY REQUIREMENTS

For all development not regulated under Chapter D of this Ordinance**,** all sureties associated with Plat Recordation shall follow the same performance surety requirements as set out in Chapter D-Subdivision Ordinance, Section 4-Major Subdivision, Subsection H–Recording of Final Plats and Section 5–Industrial and Commercial Development.

CHAPTER B - *ZONING ORDINANCE*
ARTICLE IV- HISTORIC LANDMARKS AND HISTORIC/HISTORIC OVERLAY DISTRICTS

4-1 CREATION

Pursuant to the authority conferred by the North Carolina General Statutes (G.S.) 160D-940, the Forsyth County Board of Commissioners, the City Council of the City of Winston-Salem, the Board of Aldermen of the Town of Kernersville, the Village Council of Clemmons, and the Town Councils of the Towns of Bethania, Lewisville, Rural Hall, and Walkertown (hereinafter the Elected Bodies) by concurrent ordinances, do hereby create and establish a joint commission to be known as the Forsyth County Historic Resources Commission (hereinafter the Commission). In establishing the Commission and making appointments to it, the Elected Bodies may seek the advice of State or local historical agencies, societies, or organizations. For purposes of this Article IV, County/City/Town/Village shall refer to Forsyth County and the City of Winston-Salem, the Town of Kernersville, the Village of Clemmons, and the Town Councils of the Towns of Bethania, Lewisville, Rural Hall, and Walkertown or jointly, as the context requires.

4-2 PURPOSE

The purpose of the Commission is to safeguard the heritage of the County, the City, the Towns, and the Village by preserving any district or landmark therein that embodies important elements of its culture, history, architectural history or prehistory; and to promote the use and conservation of such district or landmark for the education, pleasure and enrichment of the residents of the city of county and the State as a whole.

The historic heritage of Forsyth County is among its most valued and important assets. It is the intent of these regulations:

(A) To safeguard the heritage of Forsyth County by preserving those areas and individual properties therein which reflect elements of its cultural, social, economic, political, or architectural history;

(B) To stabilize and improve property values of Local Historic Landmarks and within the H and HO Districts;

(C) To foster civic beauty; and,

(D) To promote the use and conservation of Forsyth County's historic resources for the education, pleasure, and enrichment of residents of Forsyth County and of the State and nation as a whole.

4-3 FORSYTH COUNTY HISTORIC RESOURCES COMMISSION

The Commission is designated as the historic preservation advisory and quasi-judicial body for Forsyth County. The Commission shall consist of twelve (12) members appointed as follows: five (5) by the Forsyth County Board of Commissioners, which shall include representation from Bethania, Lewisville, Rural Hall. and Walkertown; five (5) by the Winston-Salem Board of Aldermen; one (1) by the Kernersville Board of Aldermen; and, one (1) by the Clemmons Village Council.

4-3.1 MEMBERSHIP AND ORGANIZATION

(A) **Membership and Qualification.** All members of the Commission shall reside within Forsyth County. All members of the Commission shall have demonstrated interest or competence in, or knowledge of, historic preservation; and a majority of members shall have demonstrated special interest, experience, or education in history, architecture, archaeology, or related fields. The Commission shall consist of six (6) at-large members and six (6) categorical members. The categorical members shall include at least one each of the following categories:

- Architect licensed in the State of North Carolina
- Architectural historian or historic preservationist

- Archaeologist, landscape architect/designer, planner, surveyor, or arborist
- Historic (H) District property owner
- Historic Overlay (HO) District property owner
- Local Historic Landmark (LHL) property owner

(B) APPOINTMENT OF CATEGORICAL MEMBERS

The six (6) categorical members shall be appointed as follows: The Forsyth County Board of Commissioners shall appoint one (1) architect licensed in the State of North Carolina, and one (1) Local Historic Landmark (LHL) property owner; and the Winston-Salem Board of Aldermen shall appoint one (1) architectural historian or historic preservationist, one (1) Historic (H) District property owner, and one (1) Historic Overlay (HO) District property owner in accordance with regulations required by certified local government status.

(C) TERM

In making initial appointments to the Commission, each Elected Body shall give special preference to the outgoing members of the Forsyth County Joint Historic Properties Commission and the Winston-Salem Historic District Commission in order to provide continuity to the work of the Commission.

The regular term of office for Commission members shall be four (4) years. Unless a jurisdiction's code of ordinances provides otherwise, a member may be reappointed for a second consecutive term, but, thereafter, a member shall be ineligible for reappointment until one (1) full term has elapsed from the member's termination of service. Members shall continue in office until a successor has been appointed and qualified. Service of less than 50 percent of a normal term shall not be deemed a term, and service for more than 50 percent shall be deemed a term.

(D) COMPENSATION

Members shall serve without compensation.

(E) MEETINGS

The Commission shall establish a meeting time, and shall meet at least monthly, unless there is not sufficient business to warrant a meeting. All meetings of the Commission shall be open to the public and subject to the North Carolina Open Meetings Law.

(F) RULES OF PROCEDURE

The Commission shall adopt and publish Rules of Procedure for the conduct of its business.

(G) ANNUAL REPORT

An annual report shall be prepared and submitted by December of each year to the Elected Bodies. Such report shall include a comprehensive and detailed review of the activities and actions of the Commission, as well as any budget requests and/or recommendations.

(H) MEETING MINUTES

The Commission shall keep permanent minutes of its meetings. The minutes shall record attendance of its members, its resolutions, findings, recommendations, and other actions. The minutes of the Commission shall be a public record.

4-3.2 COMMISSION POWERS

(A) GENERAL RESPONSIBILITIES OF THE HISTORIC RESOURCES COMMISSION

The Commission shall act to promote, enhance, and preserve the character and heritage of Forsyth County.

(B) SPECIFIC AUTHORITY AND POWERS

The Commission shall have all powers of an historic preservation commission as provided in Chapter 160D-

941 of the NCGS including the following duties and responsibilities:

(1) To undertake inventories of properties of historical, archaeological, architectural, and/or cultural significance;

(2) To recommend to the Elected Bodies that individual properties be designated as Local Historic Landmarks (LHL) and/or that areas be designated as Historic (H) or Historic Overlay (HO) Districts;

(3) To recommend that the Elected Bodies revoke historic landmark and/or district designations, in whole or part, for cause;

(4) To review and act on proposals for exterior alteration, relocation, new construction, or demolition of, or within, designated historic landmarks or districts in accordance with 160D-942;

(5) To review and act on proposals for alteration of interior features of designated historic landmarks if such features are specified in the designation ordinance;

(6) To delay the relocation, demolition, or destruction of a designated landmark, or a building, structure, or site located within a designated historic district for not more than three hundred sixty-five (365) calendar days from the date of approval.

(7) To negotiate with property owners who have received a Certificate of Appropriateness to demolish or relocate designated historic landmarks and/or properties within designated historic districts, in an effort to find a means of preserving the properties;

(8) To delay demolition or destruction of buildings, sites, or structures proposed for historic landmark designation or located in areas proposed for historic district designation, for which the Commission has voted to recommend designation, for up to one hundred eighty (180) days, or until the Elected Bodies take final action on the recommendation, whichever occurs first;

(9) To report violations of the law to the appropriate Permit & Enforcement Division of the County/City/Town/Village responsible for enforcement, and/or institute action to prevent, restrain, correct, or abate violations of this Article;

(10) To organize itself and conduct its business by whatever legal means it deems proper;

(11) To appoint advisory bodies or committees, as appropriate;

(12) To receive and spend funds appropriated by the Elected Bodies for operation and performance of the Commission's duties;

(13) To accept funds granted to the Commission from private or nonprofit organizations or individuals;

(14) To contract for services or funds from the State of North Carolina and agencies or departments of the United States government;

(15) To obtain the services of private consultants in order to perform the Commission's official duties;

(16) To negotiate with property owners for acquisition or protection of historic properties;

(17) To acquire under Commission ownership, manage, and dispose of properties designated as historic landmarks or within designated historic districts, pursuant to NCGS 160D-942;

(18) To enter private lands to examine or survey them, at reasonable times and with the consent of the owner or occupant, in order to perform the Commission's official duties;

(19) To give advice to property owners concerning treatment of the historic and related visual characteristics of their properties;

(20) To conduct educational programs on historic resources within Forsyth County;

(21) To publish information about, or otherwise inform the public and/or owners of designated historic landmarks or property within designated historic districts of any matters pertinent to the Commission's duties, organization, procedures, responsibilities, functions, or requirements;

(22) To undertake programs of information, research, or analysis relating to any matters under the Commission's purview;

(23) To recommend to the Elected Bodies and the State of North Carolina buildings, structures, sites, objects, or districts worthy of national, State, or local recognition;

(24) To cooperate with State and federal governments on matters related to historic preservation;

(25) To cooperate with local governmental boards, commissions, or agencies or other governmental units; and, to offer or request assistance, aid, guidance, or advice concerning matters under its purview or of mutual interest;

(26) To prepare and recommend adoption of a preservation element as part of a Comprehensive Development Plan for the County/City/Town/Village;

(27) To propose to the Elected Bodies changes to this or any related ordinance, and to propose new ordinances or laws relating to designated historic landmarks or districts, or relating to the total program for the development of the historic resources of Forsyth County; and,

(28) To exercise such other powers and perform such other duties as are required elsewhere by this Ordinance, State law, or by the Elected Bodies.

4-4 LOCAL HISTORIC LANDMARK (LHL) DESIGNATION

4-4.1 DESIGNATION APPLICATION

A property owner, or other interested party, may request that a property be designated as a Local Historic Landmark (LHL) by application to the Commission. Requests for designation shall be made on forms provided by the Commission. An application fee may be required by the Commission for processing of the application.

4-4.2 DESIGNATION CRITERIA

The Commission shall adopt local criteria by which properties may be considered for designation as historic landmarks.

4-4.3 DESIGNATION PROCEDURES

No ordinance designating an historic landmark nor any amendment thereto may be adopted, nor may any designated historic landmark be accepted or acquired by the Commission until the following procedural steps have been taken:

(A) The Commission shall adopt Rules of Procedure.

(B) The Commission shall prepare and adopt principles and design review guidelines for altering, restoring, moving, or demolishing properties designated as historic landmarks.

(C) In accordance with NCGS 160D-946(2), the Commission shall make or cause to be made an investigation and report on the archaeological, historical, architectural, educational, or cultural significance of each building, structure, site, area, or object proposed for designation or acquisition. The investigation and report shall be forwarded to the Division of Archives and History, North Carolina Department of Cultural

Resources.

(D) In accordance with NCGS 160D-946(3), the North Carolina Department of Cultural Resources shall be given the opportunity to review and comment upon the substance and effect of the designation of any historic landmark. Any comments shall be provided in writing. If the Department of Cultural Resources does not submit its comments within thirty (30) days following receipt by the Department of the investigation and report, the Commission and the Elected Body are relieved of any responsibility to consider such comments.

(E) The Commission shall hold a public hearing on the proposed designation ordinance. It shall recommend to the Elected Body, as appropriate, approval of designation or denial of designation of the proposed historic landmark.

(F) The Elected Body, as appropriate, shall hold a public hearing on the proposed designation ordinance. Following the public hearing, the Elected Body may adopt the designation ordinance as proposed, adopt the designation ordinance with any amendments it deems necessary, or reject the proposal.

(G) Upon adoption of the designation ordinance, the following provisions shall apply:

(1) The owners and occupants of each designated historic landmark shall be given written notification of such designation by Commission staff, insofar as reasonable diligence permits.

(2) One (1) copy of the ordinance and each amendment thereto shall be filed by the Commission staff in the office of the Register of Deeds of Forsyth County. Each historic landmark designated in the ordinance shall be indexed according to the name of the owner of the property in the grantee and grantor indexes in the Register of Deeds office.

(3) One (1) copy of the ordinance and each amendment thereto shall be given to the appropriate Permit & Enforcement Division.

(4) One (1) copy of the ordinance and each amendment thereto shall be kept on file in the office of the appropriate County/City/Town/Village Clerk, and made available for public inspection at any reasonable time.

(5) The fact that a building, structure, site, area or object has been designated as an historic landmark shall be clearly indicated on all tax maps maintained by Forsyth County for such period as the designation remains in effect.

(6) The Commission shall give notice of the adoption of a designation ordinance and any amendment thereof to the Forsyth County Tax Supervisor. The designation and any recorded restriction upon the property limiting its use for preservation purposes shall be considered by the Tax Supervisor in appraising the property for tax purposes.

4-4.4 LHL REGULATIONS

(A) PERMITTED USES

All uses permitted in the existing residential and nonresidential zoning district, whether by right or as a special use, shall be permitted for each LHL according to the procedures established for such uses.

(B) DIMENSIONAL REQUIREMENTS

(1) **Requirements**. All buildings and structures designated as a LHL shall comply with the dimensional requirements established in the design review guidelines adopted for each separate LHL. Design review guidelines are addressed in Section 4-7.5.

(2) **Exceptions to Dimensional Requirements Due to Authentic Restoration or Reconstruction**. In

the event that the Commission finds that an application for a building permit covers activity constituting an authentic restoration or reconstruction in the same location as the original location and in the original conformation of the structure of historic and/or architectural significance to LHL, said building or structure may be restored or reconstructed without compliance with dimensional requirements of Section 3-1 of the UDO. Any items restored, reconstructed, or maintained over, on, or within public sidewalks, public alley areas, or other such public way shall be the responsibility of the owner. The owner's restoration, reconstruction, or maintenance of any such item shall constitute the owner's agreement to protect and hold the County/City/Town/Village blameless against any and all liability, cost, damage, or expense suffered or sustained by the County/City/Town/Village as a result of or growing out of the restoration, reconstruction, or maintenance. Such items, so approved, may be lawfully restored, reconstructed, or maintained. Any such item projecting over the street or alley shall be, at its lowest point, twelve (12) feet above the travel way unless located in the H District. If located in an H District see Section 4-6.1(C)(2). The provisions of this subsection shall prevail over inconsistent or conflicting provisions of this Ordinance.

(C) NONCONFORMING STRUCTURES AND IMPROVEMENTS

Any LHL existing prior to December 31, 1994 shall be exempt from the current dimensional requirements in Sections 3-1 and 3-3 of the UDO, which includes off street parking requirements. Such exemptions shall be based upon the structure's use at that time, which includes the number of permitted parking spaces for the site and use. In no instance shall the structure's use be allowed to convert to a more intense use as per the parking requirements of Section 3-3 without first meeting the additional parking needs of the new use.

4-5 HISTORIC DISTRICTS -- ESTABLISHMENT AND AMENDMENT

The following Historic Districts are hereby established.

4-5.1 H HISTORIC DISTRICT

(A) The H District is established as a separate use district. The purpose of the H District is to:

(1) Safeguard the heritage of the community by preserving those areas that embody important elements of the community's culture, history, architectural history, or archaeology; and,

(2) Promote the use and conservation of such areas for the education, pleasure, and enrichment of the residents of Forsyth County and the State.

(B) The boundaries of the H Districts are shown on the Official Zoning Maps.

4-5.2 HO HISTORIC OVERLAY DISTRICT

(A) The HO District is established as a district which overlays existing zoning districts in designated historic areas. The purpose of the HO District is to:

(1) Safeguard the heritage of the community by preserving those areas that embody important elements of the community's culture, history, architectural history, or archaeology; and,

(2) Promote the use and conservation of such areas for the education, pleasure, and enrichment of the residents of Forsyth County and the State.

(B) The boundaries of the HO Districts are shown on the Official Zoning Maps.

4-5.3 ESTABLISHMENT AND AMENDMENT PROCEDURE

(A) Establishment

The Elected Bodies may designate one or more geographic areas as an H or HO District. The following shall

be the procedure for establishing H or HO Districts:

(1) Requests for establishment of H or HO Districts may be made in any one of the following methods:

(a) by the Elected Bodies of Forsyth County;

(b) by property owners within an affected area;

(c) by a neighborhood group, association, or coalition;

(d) at the initiative of the Commission.

(2) All requests shall first be presented to the Commission. The Commission shall conduct a preliminary consideration of the request to determine the eligibility of the general area proposed to become an H or HO District.

(3) If the Commission determines by vote that said general area is ineligible to become an H or HO District, the Commission shall report such determination to the appropriate Elected Body. The Elected Body may accept the determination of the Commission, or it may direct the Commission to proceed in accordance with this Article as if the Commission's determination had been that said general area was eligible to become an H or HO District.

(4) If the Commission determines by vote that said general area is eligible to become an H or HO District, it shall notify property owners within said general area, through first class mail, that establishment of a designated historic district has been proposed and that the formation of a task force to prepare a detailed study for such establishment will be considered by the Commission at a specified date and time.

(5) The Commission may appoint a task force to develop design review guidelines and boundaries for said general area. The task force shall be composed primarily of individuals representing various interests in said general area.

(6) After developing design review guidelines and boundaries, the task force shall report to the Commission.

(7) The Commission shall review the design review guidelines and boundaries and shall then vote on whether to accept the task force report.

(8) Once the task force report has been accepted, the Commission shall schedule at least two (2) public informational meetings about the proposed district. Property owners within the proposed boundary area shall be notified of the public informational meetings through first class mail and through notice in a newspaper having general circulation in the area.

(9) The Commission shall hold the public informational meetings and receive questions and comments.

(10) The Commission shall consider revisions to the proposed design review guidelines and boundaries, as necessary, and prepare final proposed design review guidelines and boundaries.

(11) The Commission shall prepare and submit a report to the Community Development Director and the North Carolina Department of Cultural Resources. The report shall include, but not be limited to, the following information:

(a) A boundary description of the area;

(b) A map at a scale of not less than one inch represents two hundred (200) feet (1" equals

200'), showing the boundaries of the proposed area; and,

(c) A description of the significance of the area, including its buildings, structures, features, sites, or surroundings.

(12) The North Carolina Department of Cultural Resources shall submit an analysis of, and recommendations concerning, the report described in Section 4-5.3(A)(11) above to the Elected Body. Failure of the North Carolina Department of Cultural Resources to submit written analysis and recommendations to the Elected Body within thirty (30) calendar days after a written request for such analysis has been received by the Department of Cultural Resources shall relieve the County/City/Town/Village of any responsibility for awaiting such analysis, and the Elected Body may at any time thereafter take any necessary action to adopt or amend its zoning ordinance.

(13) Once all the previous procedural steps have been met, an application for rezoning the said general area to an H or HO District shall be accepted. The County/City/Town/Village shall proceed in the same manner as would otherwise be required for a change in the Zoning Ordinance and the request shall be processed according to the procedures set forth in Chapter B, Section 6-2 of the Zoning Ordinance. In addition, the design review guidelines for the proposed district shall be made available to the Elected Body for its review and comment.

(14) Sections 4-5.3(A)(1)-(9) shall not apply to a rezoning petition for a proposed H or HO District for which a task force has been previously appointed to study said general area and has submitted a report to the Commission.

(B) Amendment

The following shall be required to amend, supplement, change, modify, or repeal any district boundaries of the H or HO Districts.

(1) The Commission shall prepare and submit a report to the Community Development Director and the North Carolina Department of Cultural Resources. The report shall include, but not be limited to, the following information:

(a) A boundary description of the area;

(b) A map at a scale of not less than one inch represents two hundred (200) feet (1" equals 200'), showing the boundaries of the proposed area; and,

(c) A description of the significance of the area, including its buildings, structures, features, sites, or surroundings.

(2) The North Carolina Department of Cultural Resources shall include an analysis of and recommendations concerning the report described in Section 4-5.3(B)(1) above to the Elected Body. Failure of the North Carolina Department of Cultural Resources to submit written analysis and recommendations to the Elected Body within thirty (30) calendar days after a written request for such analysis has been received by the Department of Cultural Resources shall relieve the Town of any responsibility for awaiting such analysis, and the Elected Body may at any time thereafter take any necessary action to adopt or amend its zoning ordinance.

(3) Once all the previous procedural steps have been met, an application to amend, supplement, change, modify, or repeal any district boundaries of the H or HO Districts shall be accepted. The Town shall proceed in the same manner as would otherwise be required for a change in the Zoning Ordinance and the request shall be processed according to the procedures set forth in Chapter B, Section 6-2 of the Zoning Ordinance.

4-6 H AND HO DISTRICT USES AND DIMENSIONAL REQUIREMENTS

4-6.1 H DISTRICT REGULATIONS

(A) PERMITTED USES

In H Districts, the following principal and accessory uses are permitted:

(1) Any use found by the Commission to have existed on the particular property in or prior to 1856 in the Old Salem Historic District, and in or prior to 1832 in the Bethabara Historic District;

(2) Any single family residential use which is allowed without a special use permit from the Board of Adjustment;

(3) A religious institution, college or university, or operation of an historic preservation organization with purposes related to the district; and,

(4) Uses normally accessory to the principal uses permitted above.

(B) NONCONFORMING USES

Prior to its acting upon an application for a special use permit pursuant to Chapter B, Section 6-2 of the Zoning Ordinance to expand or convert a nonconforming use in the H Districts, the Board of Adjustment shall first receive the recommendation of the Commission with respect to such application.

(C) DIMENSIONAL REQUIREMENTS FOR NEW CONSTRUCTION

(1) **Requirements**. All buildings and structures in the H Districts shall comply with the following yard and height provisions:

(a) **Front Yard**. No building or part of a building, other than steps, open porches, overhanging eaves, and cornices, shall extend nearer to a front street line than the average distance of the setbacks of the principal buildings on the same block and on the same side of the street within one hundred (100) feet from the zoning lot in either direction. Provided, however, that in no case shall the front setback be less than eight (8) feet, and no building shall be required to set back more than forty (40) feet from the front street line.

(b) **Side Yards**. There shall be a side yard of not less than seven (7) feet on each side of the principal building. This restriction shall not apply to accessory buildings.

(c) **Rear Yard**. There shall be a rear yard with a depth of not less than thirty-five (35) feet. When a building extends through from street to street, the front yard restrictions shall be observed on both streets.

(d) **Height**. No building shall exceed a height of thirty-five (35) feet.

(2) **Exceptions to Dimensional Requirements Due to Authentic Restoration and Reconstruction**. In the event that the Commission finds that an application for a building permit covers activity constituting an authentic restoration or reconstruction of a building or structure that existed at the same location in or prior to 1856 in the Old Salem Historic District or in or prior to 1832 in the Bethabara Historic District, said building or structure may be restored or reconstructed without compliance with dimensional requirements in Section 3-1 of the UDO.

Any items restored, reconstructed, or maintained over, on, or within public sidewalks, public alley areas, or other such public way shall be the responsibility of the owner. The owner's restoration, reconstruction, or maintenance of any such item shall constitute the owner's agreement to protect and hold the County/City/Town/Village blameless against any and all liability, cost, damage, or expense suffered or sustained by the County/City/Town/Village as a result of or growing out of the restoration, reconstruction, or maintenance. Such items, so approved, may be lawfully restored,

reconstructed, or maintained. Any such item projecting over the street or alley shall be, at its lowest point, seven (7) feet above the travel way. The provisions of this subsection shall prevail over inconsistent or conflicting provisions of this Ordinance.

(D) NONCONFORMING STRUCTURES AND IMPROVEMENTS

In the H Districts, any habitable structure existing prior to December 31, 1994 shall be exempt from the current dimensional requirements in Sections 3-1 and 3-3 of the UDO, which includes off-street parking requirements. Such exemptions shall be based upon the structure's use as of December 31, 1994, which includes the number of required parking spaces for the site and use. In no instance shall the structure's use be allowed to convert to a more intense use as per the parking requirements of Section 3-3 without first meeting the additional parking needs of the new use.

4-6.2 HO DISTRICT REGULATIONS

(A) PERMITTED USES

The HO District is established as a district which overlays existing residential and nonresidential zoning districts in certain areas with historic resources. All uses permitted in these residential and nonresidential districts, whether by right or as a special use, shall be permitted in the HO District according to the procedures established for such uses.

(B) DIMENSIONAL REQUIREMENTS

(1) **Requirements**. All buildings and structures in the HO Districts shall comply with the dimensional requirements established in the design review guidelines adopted for each separate HO District. Design review guidelines are addressed in Section 4-7.5.

(2) **Exceptions to Dimensional Requirements Due to Authentic Restoration or Reconstruction**. In the event that the Commission finds that an application for a building permit covers activity constituting an authentic restoration or reconstruction in the same location as the original location and in the original conformation of the structure of historic and/or architectural significance to the HO District, said building or structure may be restored or reconstructed without compliance with dimensional requirements in Section 3-1 of the UDO.

Any items restored, reconstructed, or maintained over, on, or within public sidewalks, public alley areas, or other such public way shall be the responsibility of the owner. The owner's restoration, reconstruction, or maintenance of any such item shall constitute the owner's agreement to protect and hold the County/City/Town/Village blameless against any and all liability, cost, damage, or expense suffered or sustained by the County/City/Town/Village as a result of or growing out of the restoration, reconstruction, or maintenance. Such items, so approved, may be lawfully restored, reconstructed, or maintained. Any such item projecting over the street or alley shall be, at its lowest point, twelve (12) feet above the travel way. The provisions of this subsection shall prevail over inconsistent or conflicting provisions of this Ordinance.

(C) NONCONFORMING STRUCTURES AND IMPROVEMENTS

In the H Districts, any habitable structure existing prior to December 31, 1994 shall be exempt from the current dimensional requirements in Sections 3-1 and 3-3 of the UDO, which includes off-street parking requirements. Such exemptions shall be based upon the structure's use as of December 31, 1994, which includes the number of required parking spaces for the site and use. In no instance shall the structure's use be allowed to convert to a more intense use as per the parking requirements of Section 3-3 without first meeting the additional parking needs of the new use.

(D) PARKING VARIANCE

Where the Commission, in considering an application for a certificate of appropriateness, finds that the number of off-street parking spaces required by this Ordinance for a building or structure within an H or HO District or a designated Local Historic Landmark would render the building incongruous with the historic

aspects of the designated district, it may recommend to the Board of Adjustment a variance, in part or in whole, of the off-street parking requirements. The Board of Adjustment may authorize a lesser number of off-street parking spaces, provided:

(1) The Board of Adjustment finds that the lesser number of off-street parking spaces will not create problems due to increased on-street parking; and,

(2) The Board of Adjustment finds that the lesser number of off-street parking spaces will not constitute a threat to the public safety.

4-7 CERTIFICATE OF APPROPRIATENESS

4-7.1 REQUIREMENTS FOR CERTIFICATES OF APPROPRIATENESS FOR LOCAL HISTORIC LANDMARKS (LHL)

From and after the designation of a Local Historic Landmark (LHL), no designated portion of any building or other structure (including masonry walls, fences, light fixtures, steps, pavement, or other appurtenant features); nor any above-ground utility structure; nor any type of outdoor advertising sign; nor important landscape and natural features may be erected, altered, restored, moved, or demolished on such designated historic landmark until after the property owner or his/her designated agent has determined that the project is in compliance with the Design Review Guidelines either through consultation with Commission staff or review of the Design Review Guidelines.

The City/County/Town/Village shall require a Certificate of Appropriateness to be issued by the Commission prior to the issuance of a building permit or other permit granted for the purposes of constructing, altering, moving, or demolishing structures, which Certificate may be issued subject to reasonable conditions necessary to carry out the purposes of this Ordinance.

If a Certificate of Appropriateness is required, then the applicant shall be provided with an application form and instructions. Certificates of Appropriateness shall be issued or denied in accordance with the Standards for Review found in Section 4-7.5. A Certificate of Appropriateness shall be issued prior to any application for a building permit being made. Any building permit or other such permit not issued in conformity with this section shall be invalid. A Certificate of Appropriateness shall be required for all activities specified in this section, whether a building permit is otherwise required or not.

For the purposes of the section, the term "designated portion" shall mean any portion of a designated historic landmark that was included in the ordinance designating the landmark, including the main structure or structures, the interior or portions of the interior, any outbuildings or secondary structures, site elements, and landscaping.

Where the exterior of a building or structure is designated as an historic landmark, the term "exterior features" shall mean 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 material, the size and scale of the building or other structure, and the type and style of all windows, doors, light fixtures, signs and other appurtenant features. In the case of outdoor advertising signs, the term "exterior features" shall be construed to mean the style, material, size, and location of all such signs. These "exterior features" may include historic signs, color, and significant landscape, archaeological, and natural features of the area.

4-7.2 REQUIREMENTS FOR CERTIFICATES OF APPROPRIATENESS IN HISTORIC AND HISTORIC OVERLAY DISTRICTS

Within an H or HO District, no exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps, pavement, or other appurtenant features); nor any above-ground utility structure; nor any type of outdoor advertising sign; nor important landscape and natural features may be erected, altered, restored, moved, or demolished until after the property owner or his/her designated agent has determined that the project is in compliance with the Design Review Guidelines either through consultation with Commission staff or review of the appropriate Design Review Guidelines.

The City/County/Town/Village shall require a Certificate of Appropriateness to be issued by the Commission prior to

the issuance of a building permit or other permit granted for the purposes of constructing, altering, moving, or demolishing structures, which Certificate may be issued subject to reasonable conditions necessary to carry out the purposes of this Ordinance.

If a Certificate of Appropriateness is required, then the applicant shall be provided with an application form and instructions. Certificates of Appropriateness shall be issued or denied in accordance with the Standards for Review found in Section 4-7.5.

A Certificate of Appropriateness shall be issued prior to any application for a building permit being made. Any building permit or other such permit not issued in conformity with this section shall be invalid. A Certificate of Appropriateness shall be required for all activities specified in this section, whether a building permit is otherwise required or not.

For the purposes of the section, the term "exterior features" shall 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 material, the size and scale of the building or other structure, and the type and style of all windows, doors, light fixtures, signs and other appurtenant features. In the case of outdoor advertising signs, the term "exterior features" shall be construed to mean the style, material, size, and location of all such signs. These "exterior features" may include historic signs, color, and significant landscape, archaeological, and natural features of the area.

4-7.3 CIRCUMSTANCES NOT REQUIRING CERTIFICATES OF APPROPRIATENESS

No certificate of appropriateness shall be required for:

(A) The routine maintenance or repair, as defined in the applicable design review guidelines, of any exterior architectural feature in an H or HO District or on a Local Historic Landmark (LHL) which does not involve a change in design, material, or outer appearance;

(B) The construction, reconstruction, alteration, restoration, moving, or demolition of any such feature which the building inspector or similar official shall certify in writing to the property owner and to the Commission is required by the public safety because of an unsafe or dangerous condition; and,

(C) The maintenance of any existing above-ground utility structure or, in the event of an emergency, the immediate restoration of any existing above-ground utility structure.

4-7.4 PROCEDURES

The following procedures shall govern the issuance of a Certificate of Appropriateness.

(A) APPLICATIONS

Application for a Certificate of Appropriateness shall be submitted to Commission staff on forms provided. The Commission shall, in its Rules of Procedure, require such data and information as is reasonably necessary to evaluate the nature of the application. An application for a Certificate of Appropriateness shall not be considered complete until all required information has been submitted. For properties within H and HO Districts, the names and mailing addresses of the property owners filing the application and the names and addresses of the property owners within one hundred (100) feet on all sides of the property which is the subject of the application must also be filed.

(B) APPLICATION TO HISTORIC RESOURCES COMMISSION

Commission staff shall transmit the Certificate of Appropriateness application, together with the supporting information and material, to the Commission for consideration.

(C) NOTICE AND HEARING WITHIN H AND HO DISTRICTS

Commission staff will make a reasonable attempt to identify and notify by mail the owners of any property located within one hundred (100) feet on all sides of the property which is the subject of the application. Prior to issuance or denial of a Certificate of Appropriateness, the Commission shall give the applicant and other property owners and/or residents likely to be affected by the application an opportunity to be heard.

(D) VIEWING SITE

As part of its review procedure, the Commission may, solely in performance of its official duties and only at reasonable times, enter upon private lands to view the premises. However, no member, employee, or agent of the Commission may enter any private building or structure without the express permission of the owner or occupant thereof. Additionally, the Commission may seek the advice of the North Carolina Division of Archives and History or such other expert advice as the Commission may deem necessary.

(E) TIME FOR ACTION

The Commission shall act upon complete applications within one-hundred-twenty (120) calendar days after the filing, unless an extension of time has been mutually agreed upon between the Commission and the applicant. Otherwise, failure to act upon a complete application shall be deemed to constitute approval and a Certificate of Appropriateness shall be issued.

(F) FORM OF DECISION

All formal actions of the Commission shall be set forth in writing. A decision of the Commission shall be effective upon filing the written decision with the Historic Preservation Officer of the Commission. The decision of the Commission shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.

(G) TIME LIMITS

Unless otherwise designated by the Commission, all work approved under a Certificate of Appropriateness shall be completed within three (3) years of the effective date of the Certificate of Appropriateness. Is a request is made to renew a Certificate of Appropriateness prior to its expiration, Commission staff may renew it for one (1) additional years. If the work approved under a Certificate of Appropriateness has not been completed within the designated time period, the Certificate of Appropriateness shall expire.

(H) APPROVAL OF MINOR WORKS

The Commission may delegate to Commission staff the review and approval of minor works for the Local Historic Landmarks (LHL), and for the Historic (H) and Historic Overlay (HO) Districts after approval of Design Review Guidelines for the Local Historic Landmarks (LHL) and each Historic (H) and Historic Overlay (HO) District. Minor works are defined as projects which do not involve substantial alterations, additions, or removals that could impair the integrity of an historic landmark, property, and/or a district as a whole or be incongruous with the special character of an historic landmark, property, or district. Minor works require a Certificate of Appropriateness. A minor works application may be filed at any time and no public notification is required for review of a minor work application. No minor works application may be denied by Commission staff. If Commission staff cannot approve a minor works application, it shall be presented to the Commission for review and formal action.

(I) REAPPLICATION AFTER DENIAL

If the Commission determines that a Certificate of Appropriateness should not be issued, a new application affecting the same property may be submitted only if substantial change is made in the application, or if conditions related to the Local Historic Landmark (LHL) or H or HO District or surrounding uses have changed. A reconsidered application shall be treated as a new application.

(J) DEMOLITION PERMITS

An application for a Certificate of Appropriateness authorizing the relocation or demolition of a designated historic landmark or building or structure within an H or HO District may not be denied; however, the effective date of such Certificate may be delayed for not more than three hundred and sixty-five (365) calendar days from the date of approval. The maximum delay may be reduced by the Commission when it finds that delay would impose an extreme hardship on the owner or would permanently deprive the owner of all beneficial use or return from such property from such delay. During the period of delay, the Commission may negotiate with the owner and other parties in an effort to preserve the building or structure. If the Commission finds that the building or structure has no particular significance or value toward maintaining the character of the designated landmark or district, it shall waive all or part of such period and authorize

earlier demolition or removal.

(K) APPLICABILITY TO COUNTY, CITY, TOWN, VILLAGE AND UTILITY COMPANIES

The County/City/Town/Village and all public utility companies shall be required to obtain a Certificate of Appropriateness prior to initiating on a Local Historic Landmark (LHL) or in an H or HO District any changes in the character of street paving, sidewalks, trees, utility installations, walls, lighting, fences, structures, and buildings on property, easements, or streets owned or franchised by the County/City/Town/Village or public utility companies.

(L) APPEALS

An appeal of a decision of the Commission in granting or denying any Certificate of Appropriateness shall be taken to the appropriate Board of Adjustment. Appeals shall be taken by any aggrieved party by the later of thirty (30) calendar days after the decision is effective or after a written copy thereof is delivered in accordance with Paragraph (F) above, and shall be in the nature of certiorari (only evidence presented at the Commission's meeting shall be considered at the appeal). Appeal from the decision of the Board of Adjustment shall be to the Forsyth County Superior Court.

(M) INSPECTION AFTER ISSUANCE OF CERTIFICATE

The Zoning Administrator shall from time to time inspect the construction or alteration approved by a Certificate of Appropriateness and report to the Commission any work not in conformance with the Certificate of Appropriateness.

4-7.4.1 AFTER-THE-FACT CERTIFICATES OF APPROPRIATENESS

(A) After-the-Fact Certificate of Appropriateness Applications

An after-the-fact Certificate of Appropriateness application includes any major or minor work projects that have been initiated or completed prior to obtaining the required Certificate of Appropriateness.

(B) After-the-fact Certificate of Appropriateness Application Fee

To discourage activity without a Certificate of Appropriateness and to assist in offsetting the costs associated with the additional staff work that accompanies an after-the-fact application, an escalating fee system has been implemented. The escalating fee system is based upon the number of after-the-fact Certificate of Appropriateness applications sought by or on behalf of the property owner. The after-the-fact Certificate of Appropriateness application fee, as established by the Board of Aldermen of the Town of Kernersville and the County Commissioners of Forsyth County, shall be due upon submission of the application.

(C) Application Consideration

All after-the-fact Certificate of Appropriateness applications shall be brought before the Commission for consideration.

(D) Approval of After-the-Fact Certificate of Appropriateness Applications

Unless otherwise designated by the Commission, if an after-the-fact Certificate of Appropriateness application is approved, the applicant shall have (90) days to complete the approved work.

(E) Denial of After-the-Fact Certificate of Appropriateness Applications

If an after-the-fact application for approval of work, completed without a Certificate of Appropriateness, receives a denial from the Commission, the subsequent Certificate of Appropriateness application, if required, shall be considered anew. A subsequent Certificate of Appropriateness application must be submitted to the Commission within thirty (30) days of the effective date of the denial of the original after-the-fact application. Commission staff shall determine if the subsequent application qualifies as a major or minor work and said application shall be reviewed accordingly.

4-7.5 STANDARDS FOR REVIEW

A Certificate of Appropriateness shall be issued or denied in accordance with the following standards.

(A) GENERAL CRITERIA

In granting a Certificate of Appropriateness, the Commission shall take into account the historic or architectural significance of the property under consideration and the exterior and interior (where applicable), form and appearance of any proposed additions or modifications to a structure. The Commission shall not consider interior arrangement in H and HO Districts.

(B) GENERAL RESTRICTION ON DENIAL

The Commission shall not refuse to issue a Certificate of Appropriateness except for the purpose of preventing the construction, reconstruction, alteration, restoration, or moving of buildings, structures, appurtenant features, or outdoor advertising signs which would be incompatible with the Design Review Guidelines.

(C) DESIGN REVIEW GUIDELINES REQUIRED

The requirement for a Certificate of Appropriateness shall not become effective until after the Commission has prepared and adopted principles and guidelines not inconsistent with Chapter 160D-941 of the NCGS. Such principles and guidelines, hereafter referred to as Design Review Guidelines, shall be prepared for the Local Historic Landmarks (LHL), and for each H and/or HO District and shall address new construction, alterations, additions, moving, and demolition to properties and/or sites. These criteria shall take into account the historic, architectural, and visual elements which are unique to the designated landmarks and districts.

(D) DESIGN REVIEW GUIDELINES AMENDMENT

Prior to the amendment of design review guidelines for the Local Historic Landmarks (LHL) or any H or HO District, any person may comment upon the proposal. Not less than forty-five (45) days prior to the public hearing at which the Commission proposes to act upon the amendment(s), copies of the proposed amendment(s) shall be made available to the Elected Bodies, and any other interested person upon request. Concurrently, the Commission shall cause notice of the public hearing at which the proposed amendment(s) will be considered for adoption to be published in a newspaper of general circulation in Winston-Salem.

4-8 COMPLIANCE

Compliance with the provisions of this section shall be enforced by the appropriate Zoning Administrator. Failure to comply with this Section and provisions of a Certificate of Appropriateness shall be unlawful and a violation of the Zoning Ordinance, and all remedies authorized by law for noncompliance with this Ordinance may be exercised to enforce this section.

CHAPTER B - *ZONING ORDINANCE*
ARTICLE V - NONCONFORMING SITUATIONS

5-1 PURPOSE

The purpose of this Chapter is to regulate and limit the continued existence of nonconforming uses, nonconforming lots, and nonconforming structures, buildings and improvements. Nothing in this section shall limit the right of any person, firm, or corporation to complete construction of any project or use of any property, pursuant to a valid building permit or a special use permit approved by an Elected Body, which permit or site plan was in effect upon the effective date of this Ordinance.

5-2 NONCONFORMING USES

5-2.1 APPLICABILITY

(A) DEFINITION

Any use of land or a building is considered nonconforming if:

(1) Not Permitted in Zoning District. The use is not permitted in the zoning district in which it is located; and,

(2) Existed as of Effective Date. The use existed on May 8, 1968 and continues to exist, the use legally existed as of the effective date of this Ordinance, or the use legally existed as of the effective date of subsequent amendments thereto.

(B) H DISTRICT

In any H District, the provision of this section shall not apply. Regulations governing nonconforming uses in the H District are contained in Article IV of this Ordinance.

5-2.2 CONTINUATION

Nonconforming uses as defined above in Section 5-2.1(A) may continue under the provisions of this Article, except as provided in Sections 5-2.8 and 5-2.9 below.

5-2.3 EXPANSION OF A NONCONFORMING USE

(A) PURPOSE

The purpose of the following requirements is to authorize a limited expansion of nonconforming uses.

(B) SPECIAL USE PERMIT

A special use permit from the Board of Adjustment is required for any expansion of a nonconforming use. Application shall be made in accordance with the requirements of Section 6-1.4.

(C) INTERNAL EXPANSION OF A NONCONFORMING USE

Any nonconforming use may be extended throughout the same building; provided, however, that the building itself may not be enlarged or expanded. The nonconforming use may not be extended into any other building not already being used for the nonconforming use; nor may the nonconforming use be moved completely from one building into any other building not already being used for the nonconforming use.

(D) EXTERNAL EXPANSION INCLUDING DEMOLITION AND EXPANDED RECONSTRUCTION

Except with respect to those uses specified in Sections 5-2.3(D)(6) and 5-2.9 below, the Board of Adjustment shall have authority to issue a special use permit for the expansion, which may include demolition and expanded reconstruction, of a building which contains a nonconforming use or the expansion of a nonconforming use of open land; provided, under the following circumstances, the following limitations, conditions, and provisions are met:

(1) Expansion Limitations. No expansion, with or without demolition and reconstruction, of a

building which contains a nonconforming use, shall be permitted which would result in any increase in the size of the building in excess of:

(a) **Twenty-five percent (25%) of the floor area** lawfully existing as of the effective date establishing the nonconforming status of the use; or,

(b) **Twenty-five percent (25%) of the cubical content** of the building lawfully existing as of the effective date of establishing the nonconforming status of the use.

There shall be only one such expansion permitted, regardless of the size of the expansion.

(2) **Unenclosed Canopy**. The intent of this section is to permit one expansion of a canopy in addition to one expansion of the structure. Where the proposed expansion consists of the construction of an unenclosed canopy at a service station, drive-through bank, or other similar use, said canopy shall not be limited to the twenty-five percent (25%) of floor area standard referred to herein, but shall be limited to an expansion of three (3) times the enclosed floor area of the structure which lawfully existed at 12:01 A.M. on the effective date of this Ordinance or September 16, 1968, whichever is applicable; provided the expansion shall not exceed one thousand (1,000) square feet. The unenclosed canopy shall not later be enclosed.

(3) **Increase in Land Area**. No expansion of a nonconforming use of open land shall be permitted which would result in any increase in the land area of such nonconforming use in excess of twenty-five percent (25%) of the land area of such nonconforming use lawfully existing as of the effective date of this Ordinance or September 16, 1968, whichever is applicable. There shall be only one such expansion.

(4) **Expansion onto Lot Not Currently Used for Nonconforming Use**. No expansion of either a building which contains a nonconforming use or a nonconforming use of open land may extend onto any lot no part of which is being used for the nonconforming use proposed for expansion.

(5) **Burden of Proof**. Each applicant for a special use permit to expand a building which contains a nonconforming use and/or to expand a nonconforming use of open land shall have the burden of proving the floor area and cubical content of the building and/or the land area occupied by the nonconforming use to which the application applies, as it lawfully existed as of the effective date establishing the nonconforming status of the use.

(6) **Nonconforming Uses Which May Not Be Expanded**. The following uses, if they are or become nonconforming by virtue of the adoption of this Ordinance or subsequent amendments, may not be expanded:

(a) Motor Vehicle Dismantling and Wrecking Yard;
(b) Building Materials Supply;
(c) Implement Sales and Service;
(d) Storage and Salvage Yard; or,
(e) Signs.

(7) **Prohibitions on Variances**. The Board of Adjustment may not grant variances of any yard requirements, off-street parking requirements, or any other applicable provisions of the *Zoning Ordinance* to allow for the expansion of a nonconforming use.

(E) CO-LOCATION ON TRANSMISSION TOWERS

(1) **Co-location Permitted**. There shall be no limitation as to the number of such additional antennae and ground buildings at existing nonconforming transmission tower sites as long as the co-location does not increase the existing fenced in area on the ground for the tower and equipment. Any

increase in the fenced in ground area must be approved by a Special Use Permit from the Board of Adjustment and shall be subject to the expansion limitations set forth in Section 5-2.3 of this Ordinance.

(2) **Additional Buildings and Equipment**. All additional buildings and equipment must comply with the setback, buffering, and other requirements of Section 2-5.72, the use conditions for transmission towers.

(3) **Existing Improvements**. Prior to granting any permits for co-location on a transmission tower site, the current fencing, signage, bufferyard, and control of land provisions of Section 2-5.72 must be met, except that where the size of the site, the existing location of improvements currently on the site, or other physical features of the site or adjacent property prevent the applicant from complying with the full dimensional requirements of the Ordinance, then Community Development staff may approve a site plan which attempts to meet the intent of the Ordinance but does not meet the full requirements of the use conditions (such as a reduced width of a bufferyard, use of fencing in lieu of some or all plant material, or use of adjacent property for part or all of the bufferyard). The width and condition of access easements must also be reviewed and approved.

(4) **Height**. No co-location proposed under this section shall result in a substantial modification.

(5) **Structural Integrity**. Prior to issuance of any permits approving a co-location, written verification certifying that the host tower is structurally and mechanically capable of supporting the proposed additional antenna or configuration of antennae must be submitted by a qualified engineer.

(F) CONDITIONS

In approving an application for the issuance of a special use permit, the Board of Adjustment may impose additional reasonable and appropriate conditions and safeguards to protect the public health and safety, the value of neighborhood properties, and the health and safety of neighboring residents. Among other things, the Board of Adjustment may include in the permit conditions or restrictions to insure that the permitted expansion will not result in a change from the existing nonconforming use to another nonconforming use. If the Board of Adjustment denies the application for the issuance of a special use permit, it shall enter the reasons for the denial in the minutes of the meeting at which the action was taken.

(G) FAILURE TO COMPLY

Any special use permit issued pursuant to the provisions of this section shall become void as specified in Section 5-2.3(H) below for failure to comply with any conditions or restrictions which are incorporated in or made a part of the permit.

(H) PERMITTED TIME

Any special use permit issued pursuant to the provisions of this section shall become void two (2) years from the date of issuance.

5-2.4 CONVERSION OF CERTAIN NONCONFORMING USES PERMITTED

(A) SPECIAL USE PERMIT REQUIRED

A special use permit from the Board of Adjustment is required for conversion of nonconforming uses. Application shall be made in accordance with the requirements of Section 6-1.4.

(B) CONVERSION OF NONCONFORMING USE TO ANOTHER USE

The Board of Adjustment may authorize the conversion of a nonconforming use to another use which, in the judgment of the Board of Adjustment, is less intensive in character or is essentially of the same character as the original nonconforming use, except that no nonconforming use shall be changed to any of the following uses:

(1) Motor Vehicle Dismantling and Wrecking Yard;

(2) Building Materials Supply;
(3) Implement Sales and Service;
(4) Storage and Salvage Yard; or,
(5) Signs.

5-2.5 APPLICATION PROCEDURE

(A) SITE PLAN REQUIREMENTS

Each application for a special use permit to expand or convert a nonconforming use according to the provisions of this Ordinance shall be accompanied by a legible site plan in fifteen (15) copies at a reasonable scale satisfactory to the Board of Adjustment and shall illustrate all existing conditions of the site and all proposed improvements to be made on the site, including:

(1) Parking Spaces;
(2) Loading Areas;
(3) Screening and Landscaping;
(4) Driveways, Walkways, Courts;
(5) Buildings and Additions;
(6) Easements or Rights-of-Way;
(7) Adjacent Property Lines and Ownership; and,
(8) Zoning of All Adjacent Properties.

(B) SITE PLAN REVIEW

Copies of each site plan shall be reviewed by the Community Development staff and other personnel as determined by the Zoning Administrator for recommendation before any action is taken by the Board of Adjustment.

5-2.6 REQUIRED ALTERATIONS OR REMODELING

In the interest of the public safety and health, structural alterations or remodeling required by any public law, and so ordered by a public officer in authority, shall be permitted. This shall not be construed to permit any structural alterations that will increase the floor area or cubicle content of the structure.

5-2.7 RECONSTRUCTION AFTER DEMOLITION OR DESTRUCTION

(A) RECONSTRUCTION PERMITTED

Any structure maintained as a nonconforming use may be reconstructed on the same lot, provided the certificate of occupancy for such reconstruction shall be issued:

(1) **Permit**. Within two (2) years of demolition or destruction of the building pursuant to a validly issued permit;

(2) **Area.** Without any increase in the cubical content or floor area, except that an increase in the cubical content or floor area not to exceed twenty-five percent (25%) may be permitted with issuance of a special use permit by the Board of Adjustment, and if the one time twenty-five percent (25%) expansion has not previously been permitted; and,

(3) **Location**. Without any change in location except to provide greater front, side, or rear yard areas.

(B) NO CONVERSION OF NONCONFORMING USE PERMITTED

The use to which a structure is put after reconstruction may not result in a change from the nonconforming use which existed immediately prior to reconstruction, except to conform to current zoning.

(C) FINDINGS

No such permit shall be issued unless the Board of Adjustment shall find that the proposed expansion of the nonconforming use:

(1) Will not materially adversely affect the use, enjoyment, or value or surrounding properties.
(2) Will not create undue traffic congestion;
(3) Will not result in any significant increase in lighting, offensive odors, noise, vibration, smoke, dust, or fumes;
(4) Will not violate or result in the violation of any dimensional requirements, off-street parking requirements, sign regulations or any other applicable provisions of the *Zoning Ordinance*.

5-2.8 DISCONTINUANCE

(A) APPLICABILITY

Any nonconforming use which has been discontinued shall not thereafter be reestablished. Any structure or land formerly devoted to a nonconforming use, which has been discontinued, shall not again be devoted to any use other than those uses permitted in the applicable district.

(B) DEFINITION

The term *discontinuance* shall mean the voluntary termination or cessation of a use. Any one of the following shall constitute conclusive evidence of discontinuance:

(1) Any positive act indicating such discontinuance;
(2) Failure to take all necessary steps to resume the nonconforming use with reasonable dispatch in the circumstances, including failure to advertise the property for sale or lease;
(3) Regardless of intent, discontinuance of any nonconforming use of a building or of land for a period of one hundred eighty (180) days shall constitute an abandonment of such use.
(4) In the case of land but not of a building, discontinuance of the nonconforming use for a period of thirty (30) successive days.

5-2.9 AMORTIZATION OF NONCONFORMING USES

See Section 3-2.1(H) for the amortization schedule of nonconforming signs.

5-3 NONCONFORMING VACANT LOTS

5-3.1 DEFINITION

Any vacant lot is considered nonconforming if:

(A) NOT MEET DIMENSIONAL REQUIREMENTS.
The lot does not meet all the dimensional requirements of the zoning district in which it is located; and,

(B) EXISTED AS OF EFFECTIVE DATE.
The lot existed on May 1, 1968; the lot legally existed as of the effective date of this Ordinance; or the lot legally existed as of the effective date of subsequent amendments.

5-3.2 COMBINATION OF NONCONFORMING VACANT LOTS AND NONCONFORMING VACANT LOTS APPROVED PRIOR TO DECEMBER 31, 1994

(A) COMBINATION OF NONCONFORMING LOTS
This section shall not be construed as prohibiting the erection of a use on a lot which was in existence on May 1, 1968; and even though the lot is nonconforming, provided that:

(1) **Same Ownership**. Such lot does not abut upon one or more unoccupied lots in the same ownership with which it could be combined; and,

(2) **Water and Sewage Disposal**. Water supply and sewage disposal facilities for such lot are approved in accordance with Section 3-10 of this Ordinance.

(B) NONCONFORMING LOTS APPROVED PRIOR TO DECEMBER 31, 1994
Notwithstanding the provisions of Section 5-3.2(A) above, the following categories of nonconforming vacant lots may be issued a zoning permit in accordance with the uses permitted in the zoning district:

(1) **Final Plat Approval.** Any lot which has received final plat approval as of December 31, 1994, under the major subdivision process contained in the Subdivision Regulations;

(2) **Approval Pursuant to Chapter D, Section 4.(E)(2) of the Subdivision Regulations**. Any lot which has received final plat approval pursuant to a subdivision granted preliminary approval prior to December 31, 1994, according to the provisions of Chapter D, Section 4.(E)(2) of the Subdivision Regulations; or,

(3) **Minor Subdivision**. Any lot legally created by deed or a minor subdivision process after May 1, 1968 and prior to December 31, 1994, which met the standards of the Zoning Ordinance in effect at the time of its creation.

(C) NONCONFORMING LOTS IN THE AG AND YR DISTRICTS.
Any nonconforming lot meeting the requirements of Section 5-3.2(B) above and located in the AG District must meet the minimum setback requirements of the RS20 Zoning District.

5-3.3 H DISTRICT

In any H District, the provisions of this section shall not apply. Regulations governing nonconforming vacant lots in the H District are contained in Article IV of this Ordinance.

5-4 NONCONFORMING STRUCTURES AND IMPROVEMENTS

5-4.1 APPLICABILITY

(A) DEFINITION

Any structure or improvement to real property is considered nonconforming if:

(1) **Violates Dimensional Requirements**. The location of any structure or improvement on the lot results in a violation of the dimensional requirements of this Ordinance; or,

(2) **Not Meet Other Standards**. The structure or improvement does not meet one or more of the other applicable requirements of this Ordinance; and,

(3) **Existed as of Effective Date**. The structures or improvements existed on May 8, 1968 and continue to exist, the structures or improvements legally existed as of the effective date of this Ordinance, or the structures or improvements legally existed as of the effective date of subsequent amendments thereto.

(B) H DISTRICT

In any H District, the provisions of this section shall not apply. Regulations governing nonconforming structures or improvements in the H District are contained in Article IV of this Ordinance.

5-4.2 CONTINUATION

Nonconforming structures and improvements devoted to a use permitted in the zoning district in which it is located may continue to be used and occupied in compliance with this section.

5-4.3 MAINTENANCE, RENOVATION, EXPANSION AND RECONSTRUCTION

(A) MAINTENANCE

Normal repair and maintenance may be performed to allow the continuation of nonconforming structures or improvements.

(B) RENOVATION

Renovation of nonconforming structures or improvements is permitted if the renovation does not increase the floor area or cubical content of the structure or the area of any improvement.

(C) EXPANSION

Expansion of nonconforming structures or improvements is permitted under the following provisions:

(1) **Expansion Complies With Ordinance**. The proposed expansion of the nonconforming structure or improvement conforms to the dimensional requirements and other standards of this Ordinance; and,

(2) **Other**. The proposed expansion of the nonconforming structure or improvement conforms to the parking requirements of Section 3-3, the bufferyard requirements of Section 3-5, and the TO District provisions of Section 2-1.6(B). The bufferyard standards shall apply to the entire zoning lot, not to remaining vacant land existing as of the effective date of this Ordinance.

(D) RECONSTRUCTION

Any nonconforming structure or improvement which is demolished or destroyed may be reconstructed on the same lot, provided such reconstruction shall be accomplished:

(1) **Permit**. Pursuant to a validly issued permit within two (2) years of demolition or destruction of the structure or improvement;

(2) **Area.** Without any increase in the cubical content or floor area;

(3) **Location**. Without any change in location except to provide greater front, side, or rear yard areas; and,

(4) **Time**. Within two (2) years from issuance of a building permit.

5-4.4 REQUIRED IMPROVEMENTS FOR CERTAIN NONCONFORMING STRUCTURES AND IMPROVEMENTS

If the structures and improvements devoted to the following uses are or become nonconforming with respect to one or more development standards by virtue of adoption of this Ordinance or subsequent amendment, the nonconforming structure and improvements shall meet the development standards and time periods for compliance contained in the sections of this Ordinance specified below:

(A) Land Clearing and Inert Debris Landfills. Section 2-5.37.
(B) Manufactured Housing Developments. Section 2-5.45.
(C) Motor Vehicle Dismantling and Wrecking Yard. Section 2-5.49.
(D) Motor Vehicle Storage Yards. Section 2-5.51.
(E) Storage and Salvage Yards. Section 2-5.69.

CHAPTER B - *ZONING ORDINANCE*
ARTICLE VI - ADMINISTRATION AND AMENDMENTS

6-1 ADMINISTRATION

To accomplish the purposes of this Ordinance and to insure compliance with these regulations, the following administrative responsibilities are assigned:

6-1.1 GENERAL RESPONSIBILITIES

The Community Development Director and the Planning Board are responsible for making recommendations to the Elected Body regarding zoning and land use matters as required by this Ordinance. The Zoning Administrator shall enforce and administer the regulations of this Ordinance, under the general direction of the manager of the adopting jurisdiction, and shall serve as secretary to the Board of Adjustment. The Board of Adjustment or the Zoning Administrator may seek needed legal advice of the attorney for the adopting jurisdiction.

6-1.2 ZONING ADMINISTRATOR

To ensure compliance with the provisions of this Ordinance, the Zoning Administrator shall:

(A) ISSUE PERMITS

Issue the following documents:

(1) Zoning Permit

(a) **When Required**. A zoning permit shall be obtained from the Zoning Administrator prior to the following:

(i) **Building or Structure**. The construction, reconstruction, erection, enlargement, relocation, or structural alteration of any building or structure or part thereof, including any principal use permitted in Permitted Uses 2.6, Accessory Uses (Section 2-6), Sign Regulations (Section 3-2), or any other use or improvement which requires a permit.

(ii) **Change of Use**. Any change of use of any building or land.

(b) **Application**. An application for a zoning permit shall be made to the Zoning Administrator by the landowner, a lessee or person holding an option or contract to purchase or lease land, or an authorized agent of the landowner. An easement holder may also apply for approval for such development as is authorized by the easement. Zoning permit applications shall include a statement as to the intended use of the building or land. Any such application shall be accompanied by a plan so dimensioned or annotated as to show the proposed building and existing buildings, if any, in exact relation to lot lines.

(c) **Building Permit Serves as Zoning Permit**. A building permit issued in accordance with the State Building Code shall serve also as a zoning permit, and in such cases the cost of the building permit shall be the only fee charged. A minimum fee as specified in Article VIII shall be charged for any zoning permit issued that does not require a building permit.

(d) **Action Within One Year**. Pursuant to G.S. 160D-403(c), zoning permit approvals expire one year after issuance unless work has substantially commenced. Expiration of a local development approval does not affect the duration of a vested right established as a site-specific vesting plan, a multiphase development plan, a development agreement, or vested rights established under common law.

(e) **Withholding Permits**. A zoning permit may not be withheld, nor a certificate of occupancy withheld, in order to compel compliance with a permit or ordinance on another

property.

(2) Use & Occupancy Permit

(a) When Required. A Use & Occupancy permit shall be obtained from the Zoning Administrator prior to the opening of a new business or when an existing business is moving to a new location if said business makes no alterations to the commercial space. Businesses making alterations to the commercial space require a Building Permit.

(b) Purpose. The purpose of a Use & Occupancy permit is to ensure the commercial space of new and relocating businesses comply with all building, fire, and zoning regulations prior to opening to protect the health, safety, and welfare of future occupants.

(c) Application. An application for a Use & Occupancy permit shall be made to the Zoning Administrator by the landowner, a lessee or person holding an option or contract to purchase or lease a commercial building or space, or an authorized agent of the landowner. Use & Occupancy permit applications shall include a statement as to the intended use of the building or land.

(d) Use & Occupancy Permit Serves as Zoning Permit. A Use & Occupancy permit issued in accordance with this article shall serve also as a zoning permit, and in such cases the cost of the Use & Occupancy permit shall be the only fee charged.

(e) Action Within One Year. Pursuant to G.S. 160D-403, no Use & Occupancy permit shall be valid unless acted upon within one year of issuance or renewed after written application.

(f) Withholding Permits. A Use & Occupancy permit may not be withheld, nor a certificate of occupancy withheld, in order to compel compliance with a permit or ordinance on another property.

(3) Certificate of Compliance. A certificate of compliance shall be issued by the Zoning Administrator upon final approval of any building or other structure, or approval of other preparations for site occupancy, if the requirements of this Ordinance and other applicable laws or codes are complied with. Occupancy of such building or site prior to the issuance of the certificate of compliance is a violation subject to the provisions of Article IX of this Ordinance.

(4) Permits Requiring Site Plan Review by the Planning Board. Whenever the Planning Board approves a use requiring site plan review pursuant to Section 6-1.3, the Zoning Administrator shall issue any necessary building permit and certificate of occupancy in accordance with the terms of such approval. All other conditions are to be met prior to the issuance of building permits, certificates of occupancy, or other period of time as determined by the Zoning Administrator.

(5) Special Use Permits, Variances and Conditional Zoning District. Whenever the authorized board approves an application for a special use permit or a variance pursuant to Section 6-1.4 or 6-1.5, or as a conditional zoning district pursuant to Section 6-2.2, the Zoning Administrator shall issue any necessary building permit and certificate of occupancy in accordance with the terms of such approval. All other conditions are to be met prior to the issuance of building permits, certificates of occupancy, or other period of time as determined by the Zoning Administrator.

(6) Temporary Use Permits. Temporary use permits shall be issued or renewed by the Zoning Administrator in compliance with Section 2-7, provided that such permits are issued only upon written agreement by the owner to remove the structures or uses upon expiration of the permit.

(a) Application. All applications for temporary use permits shall be made to the Zoning Administrator by the owner or his authorized agent;

(b) **Requirements**. Before the issuance of a temporary use permit, the Zoning Administrator shall determine that all other pertinent regulations which may apply to such proposed use are complied with.

(B) APPROVALS

Pursuant to G.S. 160D-104 and 160D-403, any approval for a permit issued by the Zoning Administrator shall be in writing and may be issued in print or electronic form. Any approval issued exclusively in electronic form shall be protected from further editing once issued. Unless provided otherwise by law, all rights, privileges, benefits, burdens, and obligations created by zoning permit approvals attach to and run with the land.

(C) REVOCABILITY

Any permit or document issued by the Zoning Administrator shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable local development regulation or any State law delegated to the Town of Kernersville for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in securing the approval. Any development approval mistakenly issued in violation of an applicable State or local law may also be revoked. The Zoning Administrator must notify the holder in writing stating the reason for the revocation and shall follow the same review and approval process required for issuance of the approval, including any required notice or hearing, in the review and approval of any revocation of that approval. The revocation of a permit approval by the Zoning Administrator may be appealed pursuant to G.S. 160D-405. If an appeal is filed regarding a development regulation adopted by The Town of Kernersville pursuant to this Chapter, the provisions of G.S. 160D-405(e) regarding stays apply.

(D) MAINTAIN RECORDS

Make and maintain records of all applications for permits submitted to the Zoning Administrator, and records of all permits and plans submitted, which shall be available for inspection at reasonable times by any interested person.

(E) INSPECT AND ENFORCE

Conduct inspections of premises and take other lawful action to obtain compliance with the provisions of this Ordinance as authorized in Article IX of this Ordinance. In exercising this power, the Zoning Administrator is authorized to enter any premises within the jurisdiction of the Town of Kernersville at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials; provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.

6-1.3 PLANNING BOARD

(A) SITE PLAN REVIEW

The Planning Board shall review all requests for permits requiring site plan review, as designated in Permitted Uses 2.6 to assure that the Use Conditions (Section 2-5) and other provisions of this Ordinance are met.

(1) **Approval and Conditions**. The Planning Board shall approve any requests for permits which meet all the requirements of this Ordinance, and deny any such requests which do not meet all the requirements of this Ordinance. The Planning Board may, as part of its approval, require the following conditions to reduce impacts associated with the project:

(a) Public right-of-way dedication to meet projected needs for roads shown on the *Transportation Plan*, or for other roads as determined by the Town of Kernersville or North Carolina Department of Transportation.

(b) Road and/or sidewalk improvements as recommended by the Town of Kernersville or North Carolina Department of Transportation.

(c) Access control, including the location, number, and dimensions of driveways; and combining driveways with and providing connections to adjacent properties, as recommended by Community Development staff or other appropriate agencies.

(d) Reorientation of parking areas or building access to insure on-site traffic flow and pedestrian safety.

(e) Dedication or granting of easements for greenways identified on the adopted *Greenway Plan*.

(f) Screening and location of dumpsters, loading areas, on-site utilities, or other visually obtrusive features as determined by the Planning Board.

(g) Space for public transit vehicle maneuvering and/or public transit shelter if determined necessary by the Winston-Salem Transit Authority.

(h) Storm water management plans as recommended by Community Development staff and appropriate agencies.

(i) Location and screening of improvements or activities which may generate substantial noise.

(j) Compliance with recommendations of the Town of Kernersville, or State of North Carolina or other governmental departments reviewing the projects.

(k) Compliance with all applicable conditions previously approved for the property in question.

(2) Conditional Zoning District. No separate site plan review by the Planning Board is required for a use which is permitted as a part of a conditional zoning district adopted by the Elected Body and which meets the requirements of this Ordinance.

(3) Staff Changes. Minor modifications in Conditional Use District conditions and standards and Planning Board Review conditions and standards that do not involve a change in uses permitted or the density of overall development permitted may be reviewed and approved administratively. Any other modification of the conditions and standards in a Conditional Use District or Planning Board Review shall follow the same process for approval as are applicable to zoning map amendments or Planning Board Review. If multiple parcels of land are subject to a Conditional Use District or Planning Board Review, the owners of individual parcels may apply for modification of the conditions and standards so long as the modification would not result in other properties failing to meet the terms of the conditions and standards. Any modifications approved shall only be applicable to those properties whose owners petition for the modification. Minor changes include:

(a) Location of building, fences, walls, plantings and outside lighting.
(b) Orientation of buildings.
(c) Building unit offsets.
(d) Parking layout, including number of parking spaces, provided proposal meets the parking requirements of the UDO.
(e) Internal driveway and street configuration.
(f) Number of units per building and number of buildings so long as housing density and/or intensity of site development is not increased.
(g) Type of recreation facilities so long as there is no reduction in site area devoted to recreation.
(h) Location of all signs.
(i) Buffer strips and screen plantings, provided proposal meets the landscape and bufferyard

requirements of the UDO.

(j) Buildings, other than multiple-story buildings, may be moved closer to public streets, provided the proposal meets the setback requirements of the UDO, and setbacks mandated by the adopted Thoroughfare Plan.

The following changes are not allowed as a minor staff change:

(a) Basic concept of the site plan.

(b) Number or location of access points to public streets unless proposed changes access point(s) improve public safety.

The Community Development Director or his or her assignee and Town Manager shall both review and act on requested minor changes.

(B) SPECIAL USE PERMITS APPROVED BY THE BOARD OF ADJUSTMENT OR THE ELECTED BODY

The Planning Board shall review and make recommendations concerning the site plans submitted in conjunction with requests for special use permits issued by the Board of Adjustment or the Elected Body in accordance with this Article VI, unless the applications are otherwise exempted in Section 6-1.4(A)(2).

(C) AMENDMENTS TO THE *ZONING ORDINANCE* AND THE *OFFICIAL ZONING MAPS*

The Planning Board shall review all requests for amendments to the *Zoning Ordinance* and the *Official Zoning Maps* and make recommendations to the Elected Body, in accordance with Section 6-2.

(D) APPLICATION PROCEDURES

Application and fees for all permits requiring review by the Planning Board shall meet the application submittal procedures, requirements, and fee schedule of Articles VII and VIII.

6-1.4 BOARD OF ADJUSTMENT

(A) SPECIAL USE PERMITS AUTHORIZED BY THE BOARD OF ADJUSTMENT

(1) Board of Adjustment Review. The Board of Adjustment shall review all requests for permits as designated in Permitted Uses 2.6 and Section 2-5.

(2) Required Findings. The Board of Adjustment shall issue a special use permit only when the Board of Adjustment makes an affirmative finding as follows:

(a) That the use will not materially endanger the public health or safety if located where proposed and developed according to the application and plan as submitted and approved;

(b) That the use meets all required conditions and specifications;

(c) That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and,

(d) That the location and character of the use, if developed according to the application and plan submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the *Kernersville Development Plan.*

Except with regard to the conversion of nonconforming uses in Section 5-2, no provision of this Ordinance shall be interpreted as conferring upon the Board of Adjustment the authority to approve an application for a special use permit for any use unless authorized in Permitted Uses 2.6. In approving an application for the issuance of a special use permit, the Board of Adjustment may

impose additional reasonable and appropriate conditions and safeguards to protect the public health and safety, and the value of neighboring properties, and the health and safety of neighboring residents. If the Board of Adjustment denies the application for the issuance of a special use permit, it shall enter the reasons for denial in the minutes of the meeting at which the action was taken.

(3) **Extension of Permit**. A letter requesting an extension of time and indicating the reason for such request, submitted prior to the termination date and duly approved by the Board of Adjustment, shall extend the validity of such permit for a period of six (6) months. No other extension of time shall be granted.

(4) **Review of Request for Extension**. In considering such extension, the Board of Adjustment may make such changes in the conditions under which the permit was granted as may be indicated by any new information relating to the property or to the use proposed thereon, provided the extension or changes still comply with the affirmative finding set forth above.

(5) **Conditional Zoning District**. No separate special use permit is required for a use which is permitted as a part of a conditional zoning district adopted by the Elected Body and which meets the requirements of this Ordinance.

(6) **Staff Changes.** Minor modifications to Special Use Permits that do not involve a change in uses permitted or the density of overall development permitted may be reviewed and approved administratively. Any other modification or revocation of a Special Use Permit shall follow the same process for approval as is applicable to the approval of a Special Use Permits. If multiple parcels of land are subject to a Special Use Permit, the owners of individual parcels may apply for permit modification so long as the modification would not result in other properties failing to meet the terms of the Special Use Permit or regulations. Any modifications approved shall only be applicable to those properties whose owners apply for the modification. Minor changes include:

(a) Location of building, fences, walls, plantings and outside lighting.
(b) Orientation of buildings.
(c) Building unit offsets.
(d) Parking layout, including number of parking spaces, provided proposal meets the parking requirements of the UDO.
(e) Internal driveway and street configuration.
(f) Number of units per building and number of buildings so long as housing density and/or intensity of site development is not increased.
(g) Type of recreation facilities so long as there is no reduction in site area devoted to recreation.
(h) Location of all signs.
(i) Buffer strips and screen plantings, provided proposal meets the landscape and bufferyard requirements of the UDO.
(j) Buildings, other than multiple-story buildings, may be moved closer to public streets, provided the proposal meets the setback requirements of the UDO, and setbacks mandated by the adopted Thoroughfare Plan.

The following changes are not allowed as a minor staff change:

(a) Basic concept of the site plan.
(b) Number or location of access points to public streets unless proposed changes access point(s) improve public safety.

The Community Development Director or his or her assignee and Town Manager shall both review and act on requested minor changes.

(7) **Recording.** The Board of Adjustment may require that Special Use Permits be recorded with the

Register of Deeds.

(B) VARIANCES

(1) **Authority**. No provision of this Ordinance shall be interpreted as conferring upon the Board of Adjustment the authority to approve an application for a variance of the conditions of a permitted use except with respect to the specific waiving of requirements as to:

(a) General Dimensions Requirements for Zoning Districts listed in Sections 2-1.2, 2-1.3, 2-1.4 and 2-1.5 of this Ordinance and shall only include minimum zoning lot area and width, minimum setbacks, maximum impervious surface cover, or maximum height;

(b) Floodplain reconstruction as specified in Chapter C of the *Unified Development Ordinances*;

(c) Vehicular use landscaping requirements as specified in Section 3-4;

(d) Bufferyard requirements as specified in Section 3-5;

(e) Setback and landscaping requirements of the TO District as specified in Section 2-1.6(B).

(f) Width of private access easements where such easement is for single family residential uses and where said private access easement was established prior to April 17, 1978; and

(g) Delay of building permits within designated *Transportation Plan* corridors as specified in Section 3-7.1.

(2) **Limitations**. The Board of Adjustment shall not grant a variance to permit a use not permitted in the applicable zoning district, nor shall it grant a variance for a site plan feature or condition adopted in conjunction with a conditional zoning district.

(3) **Public Hearing**. Applications for variances may be approved by the Board of Adjustment after such Board of Adjustment holds a duly advertised public hearing in each case.

(4) **Hardship**. When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:

(a) The unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of a variance, no reasonable use can be made of the property;

(b) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance;

(c) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship; and

(d) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

(5) **Review of Applications**. Any such variance shall observe the spirit and purpose of this Ordinance

and shall be granted only with reference to conditions and circumstances peculiar to the property involved. If the Board of Adjustment denies the application for a variance, it shall enter the reasons for the denial in the minutes of the meeting at which the action was taken.

(6) **Conditions.** Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance.

(7) **Voting on Variance Requests.** The concurring vote of four-fifths (4/5) of the board shall be necessary to grant a variance. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternatives to take the place of such members.

(C) QUASI-JUDICIAL PROCEDURES TO BE USED IN PROCESSING SPECIAL USE PERMIT, VARIANCE REQUESTS, BY THE BOARD OF ADJUSTMENT

(1) **Evidentiary Hearings.** The Board of Adjustment shall follow quasi-judicial procedures in determining appeals of administrative decisions, Special Use Permits, variances, or any other quasi-judicial decision. The purpose of the evidentiary hearing is to gather competent, material, and substantial evidence to establish the facts of the case, leading to written findings of fact and conclusions of law. Testimony must be given under oath.

The Board of Adjustment Chair must rule at the evidentiary hearing on objections to inclusion or exclusion of administrative material. The Chair's ruling may be appealed to the full board. Parties with standing may participate fully in the evidentiary hearing, including presenting evidence, cross-examining witnesses, objecting to evidence, and making legal arguments. Non-parties may present competent, material, and substantial evidence if it is non-repetitive to testimony provided by participating parties.

(2) **Application**. Applications for special use permits or variances to be considered in any month by the Board of Adjustment shall be made by the property owner or the owner's authorized agent to the Zoning Administrator not less than twenty-four (24) days prior to the established meeting date of that month. Each petition shall be accompanied by a fee as authorized in Article VIII.

(3) **Notice of Hearing.** Meetings of the Board of Adjustment shall be noticed by a posted notice of hearing and a mailed notice of hearing.

Posted Notice of Hearing. The applicant shall post on the property a notice of public hearing at least fifteen (15) days but no more than twenty-five (25) days prior to the date of the hearing before the Board of Adjustment. Such notice shall be of sufficient size to contain, and shall contain, heavy black lettering not less than three (3) inches high on a white background and shall be posted in a conspicuous place on the premises. Where such posting is not clearly visible from the nearest public right-of-way, a second directional sign which is clearly visible from the nearest public right-of-way shall be posted. A sign shall be provided by the Zoning Administrator consistent with these requirements. Such sign structure shall be removed by the applicant within thirty (30) days after said public hearing.

Mailed Notice of Hearing. Notice of hearings shall be mailed to the person or entity whose appeal, application or request is the subject of the public hearing; to the owner of the property that is subject to the public hearing, if different from the applicant; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other person entitled to receive notice as otherwise provided in the Unified Development Ordinances. The County Tax listing shall be utilized to determine the owners entitled to receive mailed notice. The notice must be deposited in the mail at least ten (10), but not more than twenty-five (25) days, prior to the date of the hearing.

Continued hearings. An evidentiary hearing may be continued without additional notice if the time,

date, and place of the continued hearing is announced at a duly noticed hearing that has been convened. If quorum is not present at a meeting, the evidentiary hearing is automatically continued to the next regular meeting of the Board of Adjustment with no additional notice.

(4) **Voting on Special Use Permits and Variance Requests.** The concurring vote of four-fifths (4/5) of the board shall be necessary to grant a variance. A majority of the members shall be required to issue a Special Use Permit. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternatives to take the place of such members.

(5) **Quasi-Judicial Decisions.** The board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing and reflect the board's determination of contested facts and their application to the applicable standards. The written decision shall be signed by the chair. A quasi-judicial decision is effective upon filing the written decision with the clerk to the board. The decision of the board shall be delivered by personal delivery, electronic mail, or by first class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made. When a written decision or notice of determination is sent by mail, it must be presumed to have been received on the third business day after it is sent. If the Board of Adjustment applies conditions to an approval, the applicant's and landowner's written consent to conditions to ensure enforceability.

(6) **Subpoena Power.** The board of adjustment through the chair, or in the chair's absence, any one acting as chair, may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, a person with standing under G.S. 160D-406(d) may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas he/she determines to be relevant, reasonable in nature and scope, and not oppressive. Decisions regarding subpoenas made by the chair may be appealed to the full Board of Adjustment. If a person fails or refuses to obey a subpoena issued pursuant to the subsection, the Board of Adjustment or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed.

(7) **Voting on All Other Matters.** All other matters coming before the Board of Adjustment, such as the approval of minutes or decision regarding rehearing requests, etc. shall be decided based on majority vote. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternatives to take the place of such members.

(D) APPEALS AND INTERPRETATIONS

(1) General. The Board of Adjustment shall hear and pass upon appeals from and shall review any decision made by the Zoning Administrator or his/her designee. The Board of Adjustment shall also hear and pass upon all other matters upon which it is required to act under this Ordinance. The appeal request is subject to the following:

(a) Only written decisions or determinations shall be appealed. A decision includes any final and binding order, requirement or determination. The Zoning Administrator or his or her designee shall give written notice to the owner of the property that is subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail or by first class mail.

(b) The owner or other party receiving the written notice shall have thirty (30) days from

receipt of the written notice, decision or determination to file an appeal. Any other person or party with standing to appeal shall have thirty (30) days from receipt of any source of actual or constructive notice of the decision or determination to file an appeal. It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date the landowner or applicant posts a sign on the property using six inch (6 ") letters with the words "ZONING DECISION" or "SUBDIVISION DECISION" along with information identifying the means to contact an official for information about the decision in a prominent location on the property for at least ten (10) days. Posting of such signs is not the only form of constructive notice. Verification of the posting shall be provided by the owner or applicant to the official who made the decision.

(c) The Zoning Administrator or his/her designee shall transmit to the Board of Adjustment all documents and exhibits constituting the record upon which the action appealed from is taken. The Zoning Administrator or his/her designee shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.

(d) An appeal of a notice of violation or other enforcement action stays enforcement of the action appealed from unless the official who made the decision certified to the Board of Adjustment after notice of appeal has been filed that because facts stated in the affidavit, a stay would cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the ordinance. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within fifteen (15) days after such request is filed. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with the ordinance shall not stay the further review of an application for permits or permissions to use such property; in these situations the appellant may request and the Board of Adjustment may grant a stay of a final decision of permit applications or building permits affected by the issue being appealed. Otherwise, the Board of Adjustment shall hear and decide the appeal within a reasonable time.

(e) The official who made the decision, or their successor, shall be present at the hearing as a witness. The appellant may not be limited at the hearing to matters stated in the notice of appeal. If any party or the town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the Board of Adjustment shall continue the hearing.

(f) Procedure to be Used in Processing Appeals and Interpretations of Decisions of the Zoning Administrator or His/Her Designee Authorized by the Board of Adjustment.

(i) Applications for appeals of decisions, determinations or interpretations of the Zoning Administrator or his/her designee to be considered in any month by the Board of Adjustment shall be made by the Board of Adjustment shall be made by the property owner or the owner's authorized agent or any other party with standing to the Town Clerk not less than twenty (20) days prior to the established meeting date of that month. Each petition shall be accompanied by:

- A fee as authorized in Section B.8.
- The written decision of the Zoning Administrator or his/her designee that is the subject of the requested appeal or interpretation.

(ii) Public notice shall be made in the manner outlined in Section B.6-4.1(A)(3)

(2) Board of Adjustment Authority. Upon appeal, the Board of Adjustment shall have the following

powers:

(a) To hear and decide appeals based on alleged error in any order, requirement or decision made by the Zoning Administrator or his/her designee in the enforcement of this Ordinance;

(b) To hear and decide requests for special exceptions or for the interpretation of the *Official Zoning Maps* or for decisions upon other special questions upon which the Board of Adjustment is authorized to pass.

(c) The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision or determination that ought to be made. The Board of Adjustment shall have all the powers of the official who made the decision.

(d) When hearing an appeal pursuant to G.S. 160D-947(e) or any other appeal in the nature of certiorari, the hearing shall be based on the record and the scope of review shall be as provided in G.S. 160D-406(k).

(3) Voting on Appeals/Interpretations. A majority of the members shall be required to overturn a decision of the Zoning Administrator or his/her designee. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternatives to take the place of such members.

6-1.5 BOARD OF ALDERMEN

(A) SPECIAL USE PERMITS AND CONDITIONAL USE DISTRICTS

(1) Staff Changes. Minor modifications in Special Use Permits or Conditional Use District conditions and standards that do not involve a change in uses permitted or the density of overall development permitted may be reviewed and approved administratively. Any other modification of the conditions and standards in a Special Use Permits or Conditional Use District shall follow the same process for approval as are applicable to zoning map amendments or Special Use Permit. If multiple parcels of land are subject to a Special Use Permits or Conditional Use District, the owners of individual parcels may apply for modification of the conditions and standards so long as the modification would not result in other properties failing to meet the terms of the conditions. Any modifications approved shall only be applicable to those properties whose owners petition for the modification. Minor changes included:

(a) Location of building, fences, walls, plantings and outside lighting.
(b) Orientation of buildings.
(c) Building unit offsets.
(d) Parking layout, including number of parking spaces, provided proposal meets the parking requirements of the UDO.
(e) Internal driveway and street configuration.
(f) Number of units per building and number of buildings so long as housing density and/or intensity of site development is not increased.
(g) Type of recreation facilities so long as there is no reduction in site area devoted to recreation.
(h) Location of all signs.
(i) Buffer strips and screen plantings, provided proposal meets the landscape and bufferyard requirements of the UDO.
(j) Buildings, other than multiple-story buildings, may be moved closer to public streets, provided the proposal meets the setback requirements of the UDO, and setbacks mandated

by the adopted Thoroughfare Plan.

The following changers are not allowed as a minor staff change:

(a) Basic concept of the site plan.
(b) Number or location of access points to public streets unless proposed changes access point(s) improve public safety.

The Community Development Director or his or her assignee and Town Manager shall both review and act on requested minor changes.

6-2 ORDINANCE AMENDMENTS: ZONING TEXT AND OFFICIAL ZONING MAPS

6-2.1 GENERAL USE DISTRICTS

(A) GENERAL PROCEDURES

Proposals to amend, supplement, change, modify, or repeal any of the regulations or the district boundaries established by this Ordinance, or hereafter established, may be initiated by the Elected Body, by the Planning Board, or by petition of any interested person.

(1) **Petition Submitted**. A petition by an interested person to amend or change the regulations or district boundaries shall be submitted to the Elected Body through and reviewed by the Planning Board which shall consider its merit and make a recommendation to the Elected Body.

(2) **Public Hearing**. In no case shall final action by the Elected Body be taken amending, changing, supplementing, modifying, or repealing the regulations established by this Ordinance, or changing the district boundaries hereby established until a public hearing has been held by the Elected Body at which parties in interest and citizens shall have an opportunity to be heard.

(3) **Notice**. A notice of each public hearing shall be given once a week for two (2) successive calendar weeks in a newspaper of general circulation in the adopting jurisdiction, the first publication of said notice being not less than ten (10) days prior to the date fixed for the hearing.

(B) NO REFERRAL TO USE

If the petitioner elects to petition for rezoning to any general use district, the petitioner may not refer, either in the petition or at any hearing related to the petition, to the use intended for the property if rezoning is granted.

(C) SUBMITTAL TO PLANNING BOARD

The petition of any interested person to amend the district boundaries or regulations established by this Ordinance shall be submitted to the Elected Body through the Community Development Department. Petitions shall be considered by the Planning Board at its next regular monthly meeting, provided the petitions have been filed at least twenty-eight (28) calendar days before the next regular monthly meeting and include a completed application form, other required information, and fees in accordance with Article VIII; otherwise consideration may be deferred until the following monthly meeting.

(D) APPLICATION AND FEE

Each petition shall be accompanied by a completed application form and a fee as specified by the Planning Board. Proposals to change the zoning of property to more than one new zoning district may be processed as a single application, including the application and fee requirements of this Section 6-2.1(D), if all proposed zoning districts are contiguous and together constitute a unified development proposal. For amendments to the zoning text, the sections of the Ordinance to be amended and the new or revised language of the Ordinance proposed shall be submitted.

All rezoning applicants must submit a copy of the application and all supplemental information in a digital format. Acceptable formats include WORD (.doc) for text information; PDF and JPEG for site plans, elevations, and aerials; and CAD (.dwg) for legal descriptions which must use the North American Datum (NAD_1983_HARN_StatePlane_North_Carolina_FIPS_3200_feet) so that the file displays in the correct location within the Town of Kernersville. A text version of the legal description is also required. Files should be placed on a storage device and will not be returned to the applicant. If there are changes in a rezoning application where the change alters the legal description or zoning boundaries in any way, a new electronic file must be submitted immediately. Any delay in submitting the changes may result in a delay in processing the application.

(E) WAIVER OF FEES

The fee for a text amendment submitted by a private individual which, in the opinion of the Community Development Director, is of public benefit, would introduce a beneficial change in the *Zoning Ordinance*

with application throughout the jurisdiction, and is not designed primarily to benefit a single property or specific situation, may be waived by the Planning Board upon recommendation of the Community Development Director. Said waiver must be approved prior to formal consideration of the text amendment by the Planning Board.

(F) NOTICE TO NONPETITIONING OWNERS FOR A PLANNING BOARD PUBLIC HEARING

No amendment to zoning regulations or a zoning map that down-zones property shall be initiated nor shall it be enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the Town of Kernersville. For purposes of this section, "down-zoning" means a zoning ordinance that affects land in one of the following ways:

(1) By decreasing the development density of the land to be less dense than was allowed under its previous usage.

(2) By reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.

(G) NOTIFICATION TO PROPERTY OWNERS AND ADJACENT PROPERTY OWNERS FOR AN ELECTED BODY PUBLIC HEARING

Notification to property owners and adjacent property owners shall be handled as follows:

(1) Letters shall be sent via first class mail to all property owners within and adjacent to the property and across the street, railroad, and other transportation corridors for which the zoning map amendment is requested, in accordance with State law, except as exempted under subsection (2) of this section. Except for a town initiated zoning map amendment, when an application is filed to request a zoning map amendment and that application is not made by the landowner or authorized agent, the applicant shall certify to the Elected Body that the owner of the parcel(s) of land as shown on the county tax listing has received actual notice of the proposed amendment and a copy of the notice of the hearing. The person or persons required to provide notice shall certify to the Elected Body that proper notice has been provided in fact, and such certificate shall be deemed conclusive in the absence of fraud.

(2) The first-class mail notice required under subsection (1) above shall not be required if the zoning map amendment proposes to change the zoning designation of more than fifty (50) properties, owned by at least fifty (50) different property owners, and the governing unit uses the expanded published notice provided for in this subsection. In this instance, the Town of Kernersville may choose to send a mailed notice provided for in subsection (1) of this section or, as an alternative, elect to publish notice of the hearing as required in G.S. 160D-601, provided that each advertisement shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper that publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property shall be notified according to the provisions of subsection (1) of the section. Actual notice shall be provided in any manner permitted under G.S. 1A-1, Rule 4(j). If notice cannot with due diligence be achieved by personal delivery, certified mail, or by a designated delivery service authorized pursuant to 26 U.S.C. 7502(f)(2), notice may be given by publication consistent with G.S. 1A-1 Rule 4(j)(1). The person or persons required to provide notice shall certify to the town actual notice has been provided, and such certification shall be deemed conclusive in the absence of fraud.

(3) In all cases of petitions to amend a zoning classification, the property shall be posted with a notice of public hearing by the Town of Kernersville at least fifteen (15) days but no more than twenty-five (25) days prior to the date of said hearing. Said notice shall consist of a sign(s) posted on the property at a conspicuous location(s) or on an adjacent public street or highway right-of-way, which sign shall be legible from the nearest public road. Location(s) which are not conspicuous or require additional notification to the public will be required to have a directional sign(s) posted. The signs

are and shall remain the property of the Town of Kernersville which provided them, and shall be prepared, posted, and reclaimed by it. When multiple parcels are included within a proposed amendment, a posting on each individual parcel is not required, but there shall be sufficient signs posted to provide reasonable notice to interested persons.

(H) FEES FOR NOTIFICATION

In addition to filing and sign posting fees, a fee to be determined by the Elected Body for each owner indicated above will be charged to the petitioner to defray the costs of the research, preparation, and mailing of a notice of the pending zoning classification action to each.

(I) ADVERTISING AND POSTING FOR A PLANNING BOARD PUBLIC HEARING

(1) Whenever a petition to amend this Ordinance is submitted to the Planning Board, the Planning Board shall schedule a public hearing. Notice of the Planning Board public hearing shall be advertised once in a newspaper of general circulation in the adopting jurisdiction, said notice being not less than ten (10) days prior to the date fixed for the hearing. Notice shall contain a location map identifying the location of said rezoning, a north arrow, and show the intersection of at least two (2) public streets nearest to the property.

(2) In all cases of petitions to amend a zoning classification, the property shall be posted with a notice of public hearing by the Planning Board at least fifteen (15) days prior to the date of said public hearing. Said notice shall consist of a sign(s) posted on the property at a conspicuous location(s) or on an adjacent public street or highway right-of-way, which sign shall be legible from the nearest public road. Location(s) which are not conspicuous or require additional notification to the public will be required to have a directional sign(s) posted. Each sign(s) or each directional sign(s) will have an additional charge to be determined by the Planning Board to the petitioner. The signs are and shall remain the property of the governmental agency which provided them, and shall be prepared, posted, and reclaimed by it. When multiple parcels are included within a proposed amendment, a posting on each individual parcel is not required, but there shall be sufficient signs posted to provide reasonable notice to interested persons.

(J) WITHDRAWAL

A zoning petition may not be withdrawn by the applicant after publication, or scheduled publication which cannot be cancelled, of notice of public hearing except by permission of the appointed body before which the petition is pending for action or consideration. Once the appointed body has acted to forward a recommendation on the zoning petition to the appropriate elected body, the petition may not be withdrawn by the applicant except with permission of the Elected Body. A public hearing is not required to consider a request to withdraw. The filing fees are not refundable, except that the Community Development Director may authorize refund of the fees if no notice expenses related to the petition have been incurred.

(K) PROPERTY DESCRIPTION

A description of the property for which rezoning is requested shall be included with the petition. Such description shall be by reference to the latest available parcel identifier as maintained in the Forsyth County Tax Assessor's GIS database, and shall include reference to a recorded plat, if available. If a portion of a lot(s) is included in the petition, a written metes or bounds description from a field survey or computed description no older than 5 years from the date of submittal shall be submitted; said description shall be based on 1983 North American Datum (NAD) and shall define a closed polygon. A copy of the most current deed of the property to be rezoned shall also be submitted.

(L) ILLEGAL SPOT ZONE

If a petition appears to be a request for an illegal spot zone, the Community Development staff shall consult the attorney for the adopting jurisdiction. If the Attorney submits an opinion that the petition is a request for a spot zone, the petitioner shall be so informed and offered the option to withdraw the petition and recover the filing fee, less any advertising cost.

(M) PLANNING BOARD REVIEW

The Planning Board shall submit a report and recommendations to the Elected Body in writing within one hundred and twenty (120) days after receipt by the Planning Board of a complete petition, including compliance with Section 6-2.1(F) above, unless such period is extended by the Elected Body. Failure to submit a report and recommendation shall not be deemed to constitute either approval or disapproval of the petition by the Planning Board.

In the report, the Planning Board shall advise and comment on whether the proposed amendment is consistent with the *Kernersville Development Plan* and any other officially adopted plan that is applicable. The Planning Board shall provide a written recommendation to the Elected Body that addresses plan consistency and whether the proposed amendment is reasonable and in the public interest. A statement by the Planning Board that a proposed amendment is inconsistent with the *Kernersville Development Plan* shall not preclude consideration or approval of the amendment by the Elected Body.

The Planning Board shall, at the same time, mail or deliver to the petitioner and also to the opponent(s), if any, a copy of the same report and recommendations sent to the Elected Body. In case there is more than one petitioner for or opponent to the proposed change, it shall be sufficient to mail or deliver a copy of the report and notice of any subsequent hearing before the Elected Body to the one petitioner designated by the petitioners to receive same and to any such opponent who requests receipt of such report in writing at the public hearing. Furthermore, in any case where any of the parties are represented by an attorney named in the petition, the mailing or delivery of a copy of the report and notice of any hearing to the attorney shall be the equivalent of mailing or delivering the same to the party or parties represented by the attorney.

(N) ELECTED BODY PUBLIC HEARING

A public hearing shall be held by the Elected Body on each proposed amendment to the *Zoning Ordinance*, after publication of notice, as hereinabove provided. Said proposed amendment shall be placed on the agenda of a regularly scheduled public hearing of the Elected Body within sixty (60) days of receipt of the report and recommendations of the Planning Board.

A member of the Elected Body shall not vote on any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

(O) CITIZEN COMMENTS

If any resident or property owner in the Town submits a written statement regarding a proposed amendment, modification, or repeal to a zoning ordinance to the clerk to the board at least two business days prior to the proposed vote on such change, the clerk to the board shall deliver such written statement to the Board of Aldermen. If the proposed change is the subject of a quasi-judicial proceeding under G.S. 160D-705, the clerk shall provide only the names and addresses of the individuals providing written comment, and the provision of such names and addresses to all members of the board shall not disqualify any member of the board from voting.

(P) LIMITS ON RESUBMITTAL

(1) **Previous Denial**. In the event that a petition to amend the text or the zoning maps is denied by the Elected Body, a period of two (2) years must elapse before another petition for the same kind of change in the regulations or for the same zoning classification of land previously involved may be submitted. Further, a period of one year must elapse before a new petition for any change in zoning classification of land previously involved may be submitted. Such one year or two (2) year period shall be measured from the date of acceptance of the previous petition by the Planning Board for the change in regulations or in the classification of the land. The limitations on the filing of new petitions in this subparagraph shall not preclude the filing by a property owner or the acceptance of a new petition from a property owner within the one year or two (2) year waiting periods following the filing of a petition by a petitioner other than the owner of the property affected, if the owner of such property opposed rezoning at a public hearing before the Planning Board or expressed opposition to the proposed rezoning in writing to the Planning Board prior to such public hearing.

(2) **Elected Body Authority**. Nothing in this section shall constitute a limitation upon the authority of the Elected Body or the Planning Board to consider or reconsider, upon their own motion, any changes to the regulations or district boundaries of the *Zoning Ordinance*, or any zoning or rezoning of property. Further, nothing in this chapter shall affect the validity or effectiveness of any recommendation made by the Planning Board prior to the effective date of this amendment, and the Elected Body may lawfully act on such recommendation as if it had been made by the Planning Board subsequent to the effective date of this amendment. Any such consideration, reconsideration or act by the Elected Body shall comply with the notice requirements for ordinance amendments contained in this Ordinance.

(Q) CONSIDERATION

In deliberating each petition for amendment of the *Official Zoning Maps*, the Elected Body may consider such information and assertions as are presented in the petition as well as evidence presented and arguments made at the public hearing. Additional considerations by the Elected Body may include, but shall not be limited to the following:

(1) Whether the proposal is consistent with the purpose statements of the requested zoning districts;
(2) Whether the uses permitted under the proposed classification would be compatible with uses permitted on other property in the vicinity;
(3) Whether changing conditions have substantially affected the area included in the petition; and
(4) Prior to adopting or rejecting any zoning amendment, the Elected Body shall adopt a statement describing whether its action is consistent with the *Kernersville Development Plan* and explaining why the Elected Body considers the action taken to be reasonable and in the public interest.

(R) INCONSISTENT WITH LAND USE PLAN

If the amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land use map in the approved plan and no additional request or application for a plan amendment shall be required.

(S) CONCURRENT PLAN AND ZONING AMENDMENTS

A plan amendment and a zoning amendment may be considered concurrently. No additional application or fee for plan amendment shall be required.

6-2.2 CONDITIONAL ZONING DISTRICT

(A) REQUIREMENTS

All requirements of general use zoning shall be met. If the petitioner elects to petition for conditional zoning district, the petition must specify the actual use(s) intended, one or more of the permitted uses listed in Permitted Uses 2.6 for the entire tract or any part or parts thereof, for the property specified in the petition, and the proposed use(s) must be a use(s) permitted in the corresponding general use district. If the petitioner petitions for two (2) or more conditional zoning districts, the petitioner shall submit a separate petition for each district. The Elected Body, in considering whether to approve or disapprove each conditional use district petition, shall do so on the basis of the specific use(s) requested.

(B) COMPLIANCE WITH GENERAL USE PROVISIONS

Any petition to amend district boundaries to create a conditional zoning district shall comply with procedures for general use district amendments set out in this Article.

(C) ONE AND TWO-PHASE PETITIONS

The petitioner may elect to submit a conditional zoning district zoning petition either as a one-phase petition or as a two-phase petition.

(1) **Site Plan Submittal**. Site plan(s) shall be submitted for the one-phase or the first phase of a two-phase petition pursuant to Article VII of this Ordinance.

(2) **Second Phase Acceptance**. The second phase of a two-phase petition shall not be accepted until the first phase has been approved by the Elected Body.

(3) **Final Development Plan**. The final development plan required for the second phase of a two-phase rezoning approval shall be submitted pursuant to Article VII of this Ordinance.

(D) SITE PLAN PRE -REVIEW

Community Development Staff shall be provided copies of the proposed site plan and application by the applicant at least ten (10) working days prior to the filing deadline to determine if the required information is included and to offer other design comments prior to the formal filing deadline. Staff shall return the site plan and application with comments to the applicant or his agent at least three (3) working days prior to the formal submittal deadline for site plan submittal.

(E) PLANNING BOARD ACTION

(1) **One-Phase and First Phase of Two-Phase Petition**. The Planning Board may take one of the following actions on the one-phase or the first phase of a two-phase petition:

(a) **Recommend Approval**. Recommend approval of the petition as submitted.

(b) **Recommend Approval with Conditions**. Recommend approval of the petition with additional reasonable conditions as provided in Section 6-1.3(A)(1). The Planning Board may also consider the following conditions:

(i) Preservation of unique natural or constructed features, including retention of existing vegetation;
(ii) Consolidation of signage for shopping centers or multiple use projects;
(iii) Reduction in overall density for residential projects;
(iv) Reduction or limitation in the uses requested; and,
(v) Other reasonable requirements to insure public health, safety, and welfare.

(c) **Recommend Denial**. Recommend denial of the petition, with reasons stated.

(2) **Second Phase of Two-Phase Petition**. The Planning Board may take one of the following actions on the final development plan submitted for the second phase of a two-phase petition:

(a) **Approve**. Approve the petition as submitted.
(b) **Approve with Conditions**. Approve the petition with additional reasonable conditions as provided in Section 6-2.2(D)(1)(b).
(c) **Deny**. Deny the final development plan, with reasons stated.

(F) CONDITIONS FOR A TWO-PHASE PETITION

In a two-phase petition, documentation shall be provided in the form of a statement on the face of the site plan or attached to the petition as to any condition which, in the opinion of either the applicant or the Community Development staff, is not adequately addressed during the first phase review. Any condition not expressly addressed in phase one or which is stated to be addressed in phase two shall be addressed during review of the final development plan in the second phase by the Planning Board.

(G) DECISION REGARDING ONE-PHASE PETITION

If the Elected Body finds that a one-phase petition for conditional zoning district should be granted, the Elected Body shall rezone the property and issue a conditional zoning district permit. If the Elected Body finds that the proposed conditional zoning district should not be created, the Elected Body shall deny the petition.

(H) DECISION REGARDING TWO-PHASE PETITION

If the petition is a two-phase petition, and the Elected Body finds that it would grant the conditional zoning district if an acceptable final development plan were submitted, the Elected Body shall approve the petition in concept, subject to the submission of an acceptable final development plan. If the Elected Body finds that the proposed conditional zoning district should not be created, the Elected Body shall deny the petition.

(I) CONDITIONS OF APPROVAL

In rezoning for a conditional zoning district, the Elected Body may impose additional reasonable conditions as provided in Section 6-2.2(D)(1)(b). All requirements and conditions consented to by the petitioner in writing may be incorporated into the conditional zoning district permit. Unless consented to by the petitioner in writing, in the exercise of the authority granted by this section, including the establishment of the conditional zoning district, the town may not require, enforce, or incorporate into the conditional zoning permit requirements any condition or requirement not authorized by otherwise applicable law, including, without limitation, taxes, impact fees, building design elements within the scope of G.S 160A-381(h), driveway-related improvements in excess of those allowed in G.S 136-18(29) and G.S. 160A-307, or other unauthorized limitations on the development or use of land. The Elected Body shall rezone the property and issue a conditional zoning district permit, attaching thereto and incorporating therein the conditions mentioned immediately above. Otherwise the petition shall be denied.

(J) PERMIT ISSUANCE

No zoning permit or other governmental entitlement for the use, development, or division of land zoned to a conditional zoning district shall be issued prior to the issuance of a conditional zoning district permit by the Elected Body.

(K) EFFECT OF CONDITIONAL ZONING DISTRICT PERMIT

Once a conditional zoning district permit has been issued by the Elected Body, it shall be binding upon the property included in such permit, unless subsequently changed or amended by the Elected Body as provided for in this ordinance. All conditions approved by the Elected Body shall be attached to and incorporated in the conditional zoning district permit and shall become a part thereof.

(L) AMENDMENT

The Elected Body may change or amend any conditional zoning district permit, only after public notice and hearing, upon recommendation of the Planning Board, and subject to the same procedures provided in this ordinance for granting conditional zoning district.

(M) STAFF CHANGES

Each Elected Body may, by resolution, allow the Community Development staff to grant staff changes to site plans and conditions after the site plans and conditions have been approved by an Elected Body. Such resolution shall include authority for staff to make changes as consistent with law and the intent of the original site plan or conditions.

(N) ENFORCEMENT OF CONDITIONS OF CONDITIONAL ZONING DISTRICT PERMIT

Any violation of a condition of a conditional zoning district permit shall be a violation of this Ordinance and subject to the enforcement provisions of Article IX.

(O) INCONSISTENT WITH LAND USE PLAN

If the amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land use map in the approved plan and no additional request or application for a plan amendment shall be required.

(P) CONCURRENT PLAN AND ZONING AMENDMENTS

A plan amendment and a zoning amendment may be considered concurrently. No additional application or fee for plan amendment shall be required.

6-2.3 RECORDS

After the adoption of any amendment to the *Zoning Ordinance*, the responsible official of the adopting jurisdiction shall send to the Planning Board and to the office of the Register of Deeds official notification of such adoption. It shall be the duty of the Planning Board and the office of the Register of Deeds to maintain systematic records of such ordinances and to make said records accessible to the public for inspection at reasonable times.

6-2.4 NOTICE TO NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

Pursuant to State law, written notice of any industrial rezoning within six hundred and sixty (660) feet of the right-of-way of freeways/expressways in the Interstate System shall be provided to the North Carolina Department of Transportation.

CHAPTER B - *ZONING ORDINANCE*
ARTICLE VII - SITE PLAN REQUIREMENTS

7-1 PURPOSE

The intent of this Article is to protect the public interest in the safe and efficient movement of traffic, to lessen congestion in the streets, and to avert blight through public review of proposed site plans for projects as required in this Article.

7-2 APPLICABILITY

7-2.1 PLANNING BOARD AND ELECTED BODY REVIEW

The provisions of this Article apply to site plans required to be submitted for review and recommendation or approval by the Planning Board and/or the Elected Body, as identified in Article VI of this Ordinance. Site plan and application requirements for other approvals or permits are determined by the Zoning Administrator.

7-2.2 SITE PLAN APPROVAL REQUIRED FOR PERMIT

No building permit shall be issued on a lot until the site plan requirements of this Article are met.

7-2.3 USES AND ACTIVITIES REQUIRING SITE PLANS

A site plan shall be submitted in conjunction with the following:

(A) SITE SPECIFIC DEVELOPMENT PLANS

Site specific development plans pursuant to establishing vested rights, as identified in Section 1-5.2 of this Ordinance;

(B) USES REQUIRING REVIEW OR PERMIT

Uses identified in Permitted Uses 2.6 which require:

(1) Planning Board Review;
(2) Special Use Permit from the Board of Adjustment; or,
(3) Special Use Permit from the Elected Body.

(C) REQUEST FOR CONDITIONAL ZONING DISTRICT ZONING

Request for conditional zoning district zoning pursuant to Section 6-2.2 of this Ordinance, including:

(1) One-phase requests; and,
(2) Two-phase requests, including the first phase site plan submittal and the second phase final development plan.

(D) USES IN CERTAIN DISTRICTS

Any use requested within the NO, NB, NSB, C, MU-C, NCO, TO, H, and HO zoning districts;

(E) OLDER NEIGHBORHOODS

Any use requested under the Supplementary Standards for Older Neighborhoods of Section 3-8 of this Ordinance.

7-3 GENERAL SUBMITTAL REQUIREMENTS

All site plans required by this Ordinance shall contain the following information:

7-3.1 NUMBER REQUIRED

Twenty (20) copies of the site plan shall be provided. The copies shall be folded to 9" X 12" page size with the title block showing. (Fifteen (15) copies for a Final Development Plan).

7-3.2 SCALE

All site plans shall be submitted at the appropriate scale as follows:

(A) Site plans for developments less than twenty-five (25) acres shall be submitted at a scale no smaller than one inch represents fifty (50) feet (1" to 50').

(B) Site plans for developments twenty-five (25) or more acres shall be submitted at a scale no smaller than one inch represents one hundred (100) feet (1" to 100').

(C) Site plans for very large developments may be submitted at a scale of one inch represents two hundred (200) feet (1" to 200') with approval of Community Development staff.

7-3.3 LOCATION MAP

A location map shall be included on the site plan. The location map shall contain a north arrow and shall show the intersection of at least two (2) public streets nearest to the property.

7-3.4 TITLE BLOCK

A title block shall appear in the lower right hand corner of the site plan, showing:

(A) The development name;

(B) The name and address of the owner and petitioner;

(C) The name and address of the architect, land planner, landscape architect, engineer or surveyor who prepared the map, and his/her registration seal, except that only the name and address of the site plan preparer is required for applications for a single manufactured home on one and one-half (1.5) acres or less;

(D) The date the survey was made, if applicable, except that a survey is not required for the first phase site plan submittal of a two-phase conditional zoning district petition; and,

(E) The scale, date and north arrow.

7-3.5 PROPERTY BOUNDARIES

The boundaries of the property, including bearings and distances, shall be shown on the site plan.

7-3.6 ADJACENT PROPERTY

The location, ownership, and zoning of all adjacent properties shall be shown on the site plan.

7.3.7 ELECTRONIC FILES

- Site Plan (pdf & jpg)
- Legal Description – if “part-of” a parcel/PIN # (doc)
- Building Elevations (pdf & jpg) if applicable
- CAD – geocoded (dwg)
- Other

7-4 SPECIFIC SUBMITTAL REQUIREMENTS

The additional specific site plan submittal information required for different types of applications shall be determined from Table 7.1. The additional submittal requirements for each application form shall be as provided in this section.

Table 7.1
Submittal Requirements

Type of Application	Submittal Requirements
Permitted Uses 2.6 - Use Requiring Planning Board Review	Form 1
Permitted Uses 2.6 - Use Requiring Special Use Permit from Board of Adjustment	Form 1
Permitted Uses 2.6 - Use Requiring Special Use Permit from Elected Body	Form 1
Conditional Zoning District	
One-Phase	Form 1
Except Manufactured Home on Individual Lot (on # 1 1/2 acre)	Form 3
Two-Phase	
First Phase Site Plan	Form 2
Second Phase Final Development Plan	Form 1
Use in NSB and C Districts	Form 1
Use in MU-C Districts	Form 1 or 2
Use in H and HO Districts	Article IV of this Ordinance

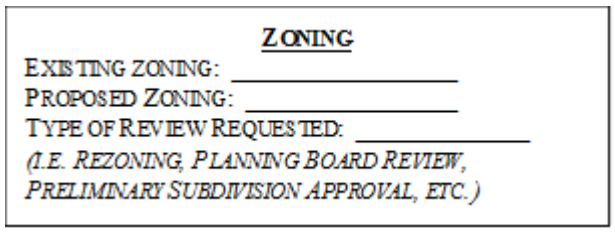
7-4.1 FORM 1 SUBMITTAL REQUIREMENTS

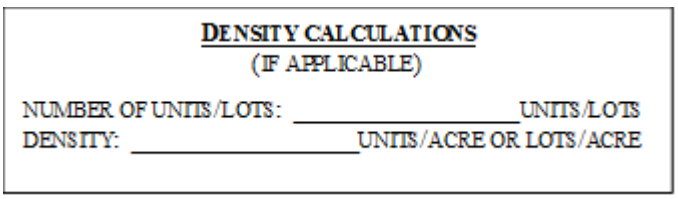
Applications for conditional zoning district rezonings other than a single manufactured home on one and one-half (1.5) acres or less; final development plans for the second phase of two-phase conditional zoning district rezoning, including uses in MU-C; special use permits issued by the Elected Body and the Board of Adjustment which require Planning Board review; uses requiring site plan review by the Planning Board; and users in the NSB and C Districts shall contain the following information.

(A) SITE PLAN INFORMATION BLOCKS

Detailed information blocks pertaining to:

(1) If petition is for residential zoning - maximum number of dwelling units by type and density;
(2) If nonresidential petition, type of use(s) and proposed maximum square footage of land and building in nonresidential uses;
(3) Total acreage;
(4) Approximate percent of building coverage to land;
(5) Approximate percent of paved or graveled surface to land;
(6) Approximate percent of open space to land;
(7) Acreage in common open area used for active recreational uses, indicating purposes and uses (common open space as computed shall not include streets, drives, parking or loading areas); and,
(8) Total number of parking spaces, and information necessary to calculate needed parking.





INFRASTRUCTURE

WATER: _____PUBLIC_____PRIVATE
SEWER: _____PUBLIC_____PRIVATE
STREETS: _____PUBLIC_____PRIVATE

BUFFERYARDS
(IF APPLICABLE)

ADJOINING ZONING: _____
TYPE REQUIRED: _____
WIDTH PROVIDED: _____
FENCE OPTIONS: _____

SITE SIZE AND COVERAGE

TOTAL ACREAGE: _____
SITE COVERAGE:
BUILDING TO LAND _____%
PAVEMENT TO LAND _____%
OPEN SPACE _____%
TOTAL (100%)
BUILDING SQUARE FOOTAGE: _____SF.
BUILDING HEIGHT: _____FT. OR STORIES

OFF STREET LOADING
(if applicable)

REQUIRED LOADING/UNLOADING SPACES: _____
LOADING/UNLOADING SPACES PROVED: _____
SIZE: _____FT. X _____FT.

OTHER INFORMATION OR NOTES
(I.E. USE CONDITION COMPLIANCE INFORMATION OR OTHER SPECIAL NOTES)

_____
_____
_____
_____

OFF STREET PARKING
(IF APPLICABLE)

PROPOSED USE(S): _____
PARKING CALCULATION: _____SPACES: _____
(MAY BE MORE THAN ONE CALCULATION REQUIRED)
REQUIRED PARKING: _____SPACES
PARKING PROVIDED: _____SPACES

WATERSHED SITE DATA
(IF APPLICABLE)

A. Total Site Area	_____(sq.ft.)
B. Proposed Disturbed Area	_____(sq.ft.)
C. Existing Impervious Surface Area	_____(sq.ft.)
D. Existing Impervious Surface Area Built Before 1993	_____(sq.ft.)
E. Total Regulated Undeveloped Site Area (A-D)	_____(sq.ft.)
F. Total Proposed Impervious Surface Area	_____(sq.ft.)
G. Regulated Impervious Surface Area (F-D)	_____(sq.ft.)
H. Proposed Impervious Surface Area Percentage: (F/A)*100	_____%
I. Regulated Impervious Surface Area Percentage (G/E)*100	_____%
J. (If Residential) Units Per Acre	_____

B) NATURAL FEATURES

Natural features - existing and proposed:

(1) Streams and stream buffers, drainageways, floodway and floodway fringe boundaries and elevations;
(2) Wooded areas and other natural features;
(3) Topography at four (4) foot intervals and two (2) foot intervals when available (distinction between existing and proposed topography lines to be shown according to the following: (existing - light dashed lines; proposed - thin solid lines);
(4) Natural features to be left undisturbed. Any existing trees to be retained shall be preserved during

construction in accordance with Section 3-4.2(H)(3) and,

(5) Slopes at twenty percent (20%) or greater grade, if bonus density is requested for a planned residential development under Section 2-5.56(G).

(C) CONSTRUCTED FEATURES

Constructed features - existing and proposed:

(1) Buildings with setbacks from property lines and maximum height indicated;
(2) Other structures, fences, walls, signs, plantings, etc.;
(3) Rights-of-way and easements with type and widths indicated and an indication of whether public or private (access drives and parking areas to be shaded in);
(4) Private and public drives including pavement widths, curbcuts, names, and an indication of whether public or private;
(5) All other easements, parklands, playgrounds and other common or public areas;
(6) Sidewalks, greenways, and other pedestrian ways;
(7) Parking and loading areas with typical dimensions for spaces and lots;
(8) Solid waste disposal facilities;
(9) Utility lines over and under the site including storm drainage system;
(10) Finished elevation on all center lines of new streets and any stub streets, both on site and at connection with adjacent property(s);
(11) All streets, driveways, etc. (including pavement and right-of-way) within one hundred (100) feet of the project site; and,
(12) Public/private water system.

(D) OTHER REQUIREMENTS OF THIS ORDINANCE

Other requirements of this Ordinance which are applicable to the proposed use shall be reflected in the site plan.

7-4.2 FORM 2 SUBMITTAL REQUIREMENTS

Applications for the first phase of a two-phase conditional zoning district rezoning, including uses in the MU-C District, shall contain the following information.

(A) LEGEND

Legend (on right hand side of map) indicating:

(1) If petition is for residential zoning - maximum number of dwelling units by type and density;
(2) If nonresidential petition, type of use(s) and proposed maximum square footage of land and building in nonresidential uses;
(3) Total acreage; and,
(4) Preliminary development schedule.

(B) NATURAL FEATURES

Natural features - existing and proposed:

(1) Streams and stream buffers, drainageways, floodway and floodway fringe boundaries and elevations;
(2) Wooded areas and other natural features;
(3) Topography at four (4) foot intervals and two (2) foot intervals when available (distinction between existing and proposed topography lines to be shown according to the following: (existing - light dashed lines; proposed - thin solid lines); and,
(4) Natural features to be left undisturbed. Any existing tree to be retained shall be preserved during construction in accordance with Section 3-4.2(H)(3).

(C) CONSTRUCTED FEATURES

Constructed features - existing and proposed:

(1) Rights-of-way and easements with type and widths indicated and an indication of whether public or private (access drives and parking areas to be shaded in);
(2) Private and public drives including pavement widths, curbcuts, names, and an indication of whether public or private;
(3) All other easements, parklands, playgrounds and other common or public areas;
(4) Sidewalks, greenways, and other pedestrian ways;
(5) Utility lines over and under the site including storm drainage system;
(6) Proposed driveways;
(7) All streets, driveways, etc. (including pavement and right-of-way) within one hundred (100) feet of the project site; and,
(8) Public/private water system.

(D) OTHER REQUIREMENTS OF THIS ORDINANCE
Other requirements of this Ordinance which are applicable to the proposed use, shall be reflected in the site plan.

7-4.3 FORM 3 SUBMITTAL REQUIREMENTS
Applications for conditional zoning district rezoning for a single manufactured home on one and one-half (1.5) acres or less shall contain the following information.

(A) NATURAL FEATURES
Natural features - existing and proposed:

(1) Streams and stream buffers, drainageways, floodway and floodway fringe boundaries and elevations; and,
(2) Wooded areas and other natural features.

(B) CONSTRUCTED FEATURES
Constructed features - existing and proposed:

(1) Buildings with setbacks from property lines and maximum height indicated;
(2) Other structures, fences, walls, signs, plantings, etc.;
(3) Rights-of-way and easements with type and widths indicated and an indication of whether public or private (access drives and parking areas to be shaded in);
(4) Private and public drives including pavement widths, curbcuts, names, and an indication of whether public or private;
(5) Utility lines over and under the site and storm drainage system;
(6) All streets, driveways, etc. (including pavement and right-of-way) within one hundred (100) feet of the project site; and,
(7) Public/private water system.

(C) OTHER REQUIREMENTS
Evidence of compliance with the use conditions for manufactured homes in Section 2-5, and other applicable provisions of this Ordinance shall be provided.

7-5 SITE PLAN REVIEW PROCEDURES

7-5.1 INITIATION
An application for site plan approval may only be submitted by the owner, or any other person having a contractual interest in the land, or their authorized agent.

7-5.2 SUBMITTAL OF APPLICATION

(A) Site Plan. Site plan applications shall be submitted to the Planning Board.

(B) **Public Notice.** A notice of the public meeting shall be posted on the property at least ten (10) days prior to the date of the meeting of the Planning Board. A sign is required on the property at a conspicuous location(s). Location(s) which are not conspicuous or require additional notification to the public will be required to have directional sign(s) posted. Each sign(s) or each directional sign(s) will have a charge as determined by the Town Fee Schedule. The signs are, and shall remain, the property of the governmental agency which provided them, and shall be prepared, posted and reclaimed by it.

7-5.3 OTHER

In addition to the requirements of this Ordinance, all site plans shall comply with the following standards:

(A) **Consistency with the *Kernersville Development Plan***. The site plan shall be consistent with the purposes, goals, objectives and policies of the *Kernersville Development Plan*.

(B) ***Environmental Ordinance***. The site plan shall comply with the *Environmental Ordinance*.

(C) **Subdivision**. The site plan shall comply with all applicable provisions of the *Subdivision Ordinance*.

(D) **Other Relevant Standards**. The site plan shall comply with the fire and building standards and all other relevant and applicable provisions of this Ordinance.

7-5.4 EFFECT OF SITE PLAN APPROVAL

Approval of a site plan shall be deemed to authorize the Zoning Administrator to approve an application for a building permit if other relevant portions of this Ordinance and the building code are complied with by the applicant.

7-5.5 STAFF CHANGES

The Elected Body may, by resolution, allow the Community Development Staff to grant staff changes to site plans and conditions after the site plans and conditions have been approved by an Elected Body. Such resolution shall include authority for staff to make such changes as consistent with law, the intent of the original site plan or conditions, and which were not the subject of controversy during any public hearing or meeting.

7-5.6 SITE PLAN AMENDMENT

Any change to a site plan not approved as a staff change shall be approved only pursuant to the procedures and standards established for its original approval.

7-5.7 COMMUNITY DEVELOPMENT STAFF REVIEW

In addition to the site plan requirements stated elsewhere in this Article VII, Community Development staff shall, at the request of the Zoning Administrator, provide assistance on any site plan review matter, including, but not limited to, bufferyard requirements (Section 3-5 of this Ordinance) and the *Environmental Ordinance*.

CHAPTER B - *ZONING ORDINANCE*
ARTICLE VIII - FEES

8-1 GENERAL

To defray a portion of the cost of advertising, as required by law, and of technical services necessitated by petitions for changes to the zoning regulations or *Official Zoning Maps*, and requests for special use permits, variances, plan review, certificates of appropriateness or permits, fees shall be charged. Said fees shall be established and modified by the Elected Body. Lists of said fees applicable to the Planning Board and the Permit & Enforcement Division shall be maintained on file and available to the public in the respective offices. In accordance with NCGS 160D-402, all fees collected for the support, administration, and implementation of development regulation shall be used for such purposes only.

8-2 READVERTISING, CONTINUANCES, OR PETITIONS REMANDED TO THE PLANNING BOARD BY THE ELECTED BODY

When a request for rezoning, zoning text amendment or special use permit authorized by the Elected Body is requested for continuance by the petitioner; or must be continued due to deficient information filed with the petition; or must be continued due to the petition being remanded to the Planning Board by the Elected Body at the applicant's request; and does not require readvertising and a new public hearing held, the fee shall be one-half the original zoning fee. If a case is continued or remanded to allow the applicant to file for a different zone change or permit and must be readvertised and a new public hearing held by the Planning Board, the case will be considered a new petition and be subject to the fees set forth in this section.

8-3 REFUND OF FEES

Fees filed in conjunction with applications submitted to the Planning Board for rezoning requests, zoning text amendments or special use permits are not refundable except in accordance with the following. An applicant may request before the Planning Board a partial or full refund of fees if the petition is requested to be withdrawn prior to the deadline for advertising the petition to the newspaper and the request is based upon a hardship. A hardship, to be considered by the Planning Board, must consist of an unforeseen set of circumstances beyond the applicant's control which provide sufficient cause for the applicant to not pursue the rezoning, text amendment or permit. In this case, the decision to grant a refund as well as the amount of any refund is the responsibility of the Planning Board.

8-4 PENALTIES FOR VIOLATIONS OF THIS ORDINANCE

Penalties for violations of the provisions of this Ordinance are specified in Article IX.

CHAPTER B - *ZONING ORDINANCE*
ARTICLE IX - ENFORCEMENT

9-1 VIOLATIONS AND PENALTIES

The following enforcement procedures may be undertaken by the Zoning Administrator to enforce provisions of this Ordinance.

9-1.1 CRIMINAL PENALTIES

Any person, firm, or corporation violating any provisions of this Ordinance shall be guilty of a misdemeanor. Upon conviction thereof, such violator shall be subjected to a fine not to exceed five hundred dollars ($500) or imprisoned for not more than thirty (30) days, except that no such violation shall be punishable until the expiration of ten (10) days after notice shall have been issued by the Zoning Administrator and served upon such violator. Each and every day beyond the initial ten (10) day notice period during which such violation continues shall be deemed a separate offense.

9-1.2 CIVIL PENALTIES

(A) ASSESSMENT OF CIVIL PENALTIES

In addition to any other civil and/or criminal penalties prescribed within the Town of Kernersville Ordinances and/or permitted by law, any person, firm, or corporation violating any provision of this Ordinance shall be subject to a civil penalty of one hundred dollars ($100.00) per day to be recovered by the Town of Kernersville in a civil action in the nature of a debt. No civil penalty shall be assessed until the person, firm, or corporation alleged to be in violation of the Ordinance has been issued a written Notice Of Violation by the zoning officer. The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first-class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The Notice Of Violation may be posted on the property. The person providing the Notice Of Violation shall certify to the local government that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud. Failure to correct the violation within ten (10) days of the date of service upon the person, firm, or corporation in violation, or by the end of any period of any extension granted in writing by the zoning officer for good cause shown, shall subject the violating party to the aforementioned civil penalty. A civil citation may then be issued by the zoning officer. Subject civil citation shall set forth the violation, the fact that the violation has not been corrected and/or abated within the time allowed in the Notice Of Violation, and the civil penalty amount assessed for each day until collective action and/or abatement is completed. Each day of any continuing violation shall constitute a separate violation. Civil penalties shall accrue until the violation is corrected or abated. Regardless of any subsequent cure of violation by collective action(s) and/or abatement, the violating party shall be liable for all civil penalties accrued to the date of collective action and/or abatement.

(B) COLLECTION OF CIVIL PENALTIES

Payment of civil penalties prescribed herein shall be payable to the Town of Kernersville by or on behalf of the violating party. Failure to pay assessed civil penalties, as set forth herein shall subject the violating part to, in addition to all other remedies at law, a civil action for collection by the Town of Kernersville.

9-1.3 INJUNCTIVE OR OTHER RELIEF

(A) REFERRAL TO ATTORNEY

In addition to other remedies provided by law, whenever the Zoning Administrator has reasonable cause to believe that any person is violating or threatening to violate this Ordinance, the Zoning Administrator may refer the matter to the jurisdiction's Attorney.

(B) OTHER APPROPRIATE ACTION

The jurisdiction's Attorney, on behalf of the jurisdiction, may in addition to other remedies provided by law, institute injunction, mandamus, abatement, or any other appropriate action or actions, proceeding or proceedings to prevent, enjoin, abate, or remove such unlawful erection, construction, reconstruction, alteration, maintenance, or use.

9-2 CONDITIONAL ZONING DISTRICT PERMIT

Any violation of a condition or other provision shown on the face of a site plan adopted as part of a conditional zoning district permit issued by the Elected Body shall be a violation of this Ordinance. Where the Zoning Administrator determines that any term or condition of a conditional zoning district permit is not adhered to, he shall notify the petitioner or successor in interest of his findings in writing. The petitioner shall have ten (10) days unless the Zoning Administrator determines that a longer period of time is reasonably necessary to correct the violation. In the event that any violation is not corrected or abated within the ten (10) days or the specified period, all development shall cease and all government permits granted pursuant thereto, such as but not necessarily limited to, a building permit, shall be revoked. The Community Development Director shall determine the proper procedure to amend the site plan, including a formal site plan amendment or a staff change pursuant to Section 6-2.

9-3 SUBDIVISION REGULATIONS

Any person who, being the owner or agent of the owner of any land subject to the Subdivision Regulations of Forsyth County and the Town of Kernersville, thereafter subdivides his or her land in violation of the Subdivision Regulations or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under such Regulations and recorded in the Register of Deeds, shall be guilty of a Class 1 misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The respective unit of government may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with the Subdivision Regulations. Building permits may be denied for lots that have been illegally subdivided. In addition to other remedies, the unit of government may institute any appropriate action or proceedings to prevent the unlawful subdivision of land, to restrain, correct, or abate the violation, or to prevent any illegal act or conduct.

CHAPTER B - *ZONING ORDINANCE*
ARTICLE X - APPOINTED BOARDS

10-1 BOARD OF ADJUSTMENT

10-1.1 ESTABLISHMENT AND MEMBERSHIP

(A) CREATION

The Kernersville Board of Adjustment, consisting of ten (10) members with four (4) alternate members, appointed by the Elected Body (Board of Aldermen), has been created and is hereby continued.

(B) MEMBERSHIP

(1) **Tenure**. The members are to serve for terms of three (3) years.

(2) **Vacancies.** Any vacancy on the Board of Adjustment is to be filled by the Elected Body for the remainder of the unexpired term; provided, however, that a vacancy in a position filled by appointment of the Board of County Commissioners is to be filled by the Board of County Commissioners.

(3) **Removal for Cause.** Any member of the Board of Adjustment may be removed for cause by the Elected Body upon written charges and after a public hearing.

(4) **Alternate Members.** There shall be two (2) alternates appointed from the townspeople and two (2) representing the extraterritorial area. The alternates shall serve in the absence of a regular member of the Board of Adjustment from their respective areas and shall have all the rights, privileges, and duties of the regular member he or she is replacing. In the absence or temporary disqualification of any regular member at a regular or special meeting of the Board of Adjustment, an alternate member or members may sit on the Board of Adjustment and serve in replacement while attending the regular or special meeting, and shall have and exercise all the powers and duties of a regular member for that meeting.

(5) **Composition**. There shall be proportional representation allotted to residents of the extraterritorial area. The proportion shall be determined by first combining the population of the Town with the population of the extraterritorial area, based on the most recent decennial census. The population of the extraterritorial area shall then be divided by the combined population to determine the proportion of the ten (10) members to be appointed from the extraterritorial area. Not less than one resident from the extraterritorial area shall be appointed, regardless of the proportion. The Town shall review the proportion and make any necessary adjustments within one hundred eighty (180) days of (1) receiving the results of the most recent decennial census, (2) being granted additional extraterritorial jurisdiction by any county, or (3) the effective date of any annexation of populated land. Members representing the extraterritorial area shall be appointed by the appropriate Board of County Commissioners in accordance with NCGS Section 160D-307.

(C) FOUR-FIFTHS (4/5) VOTE REQUIRED

The concurring vote of four-fifths (4/5) of the members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator or to decide in favor of the applicant on any matter upon which the Board of Adjustment is required to pass judgment or to grant a variance from the provisions of this Ordinance. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite supermajority if there are no qualified alternates available to take the place of such members.

(D) COMPENSATION

The per diem compensation of the members of the Board of Adjustment shall be fixed by the Elected Body.

(E) RULES AND PROCEDURES

A member of the Board of Adjustment shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible

conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

The Board of Adjustment shall adopt other rules and procedures as it deems necessary, as long as they do not conflict with the rules and procedures established in this section.

10-2 PLANNING BOARD

10-2.1 TOWN OF KERNERSVILLE

(A) CREATION AND DESIGNATION

Pursuant to the authority conferred by the General Statutes of the State of North Carolina, the Board of Aldermen of the Town of Kernersville has created and established and continues a planning board for the Town of Kernersville, to be known as the Kernersville Planning Board.

(B) COMPOSITION; TERM OF MEMBERS; COMPENSATION

The Kernersville Planning Board shall be comprised of ten (10) members, five (5) of which are citizens of the Town of Kernersville and five (5) of which are residents of that area over which the Town of Kernersville exercises Extra Territorial Zoning Jurisdiction. Each member serves three (3) year terms as provided for in Sections 2-142 and 2-201 of the Code of Ordinances of the Town of Kernersville. Members of the Kernersville Planning Board may be removed by the Board of Aldermen for failure to attend three (3) consecutive properly called meetings in accordance with Section 2-202 of the Code of Ordinances of the Town of Kernersville. Members of the Planning Board shall serve without compensation.

(C) POWERS AND DUTIES

The Kernersville Planning Board shall have all such powers and perform all such duties as are granted and conferred by the General Statutes of the State of North Carolina including but not limited to those contained in NCGS §160D-604. All such powers and duties shall be exercised in accordance with the rules and regulations adopted by the Kernersville Planning Board for its organization and operation.

(D) CONFLICT OF INTEREST

Planning Board members shall not vote on items decided by the Planning Board or on zoning map and text amendment recommendations forwarded to the Elected Body where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member(s).

CHAPTER B - *ZONING ORDINANCE*
ARTICLE XI – CONFLICTS OF INTEREST

11-1 CONFLICTS OF INTEREST

11-1.1 NORTH CAROLINA STATE STATUTE 160D-109

(A) **GOVERNING BOARD**. A governing board member shall not vote on any legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A governing board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

(B) **APPOINTED BOARDS.** Members of appointed boards shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

(C) **ADMINISTRATIVE STAFF.** No staff member shall make a final decision on an administrative decision required by this Chapter if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance. No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this Chapter unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with a city local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government.

(D) **QUASI-JUDICIAL DECISIONS.** A member of any board exercising quasi-judicial functions pursuant to this Chapter shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.

(E) **RESOLUTION OF OBJECTION.** If an objection is raised to a board member's participation at or prior to the hearing or vote on that matter and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection.

(F) **FAMILIAL RELATIONSHIP.** For purposes of this section, a close familial relationship means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

CHAPTER C - ENVIRONMENTAL ORDINANCE
ARTICLE I - PURPOSE AND AUTHORITY

1-1 SHORT TITLE

This Ordinance shall be known and may be cited as the *Environmental Ordinance*, except as referred to herein, where it shall be known as *this Ordinance*.

1-2 PURPOSE

The purpose of this Ordinance is to promote the health, safety, and general welfare of the residents within Kernersville through the stated regulations of this Ordinance. An additional purpose of this Ordinance is to implement the goals, objectives, and policies of the Kernersville *Land Use Plan* as amended, including any specifically related land use plans, development guides, and the *Transportation Plan*.

1-3 JURISDICTION

The provisions of this Ordinance shall apply to the Town of Kernersville, North Carolina. If a parcel of land lies within the planning and development regulation jurisdiction of more than one local government, the local governments may by mutual agreement, pursuant and with the written consent of the landowner, assign exclusive planning and development regulation jurisdiction for the entire parcel to any one of those local governments. Such a mutual agreement pursuant to G.S.160D-203 shall only be applicable to development regulations and shall not affect taxation or other non-regulatory matters. The mutual agreement shall be evidenced by a resolution formally adopted by each governing board and recorded with the register of deeds in the county where the property is located within 14 days of the adoption of the last required resolution.

1-4 AUTHORITY

1-4.1 STATE LAW

This Ordinance is adopted pursuant to the *Environmental Policy Act of 1971*, the *Water Supply Watershed Protection Act of 1989*, and the *North Carolina Sedimentation Pollution Control Act of 1973*, as amended.

1-4.2 INTENT

The intent of the adopting jurisdiction is to exercise its available power as authorized in the statutes cited in Section 1-4.1 to the maximum extent possible, as more fully set forth herein.

1-4.3 AMENDMENTS

This Ordinance may be amended in accordance with the provisions of this Ordinance as required in Section 10-2 or allowed by subsequent legislative enactments.

1-5 COMPLIANCE

1-5.1 COMPLIANCE WITH PROVISIONS

No building, premises, or structure shall be used, constructed, erected, modified, altered, converted, occupied, placed, maintained, removed or moved, and no land use shall be commenced, maintained, or modified except in compliance with the provisions, restrictions, and procedures set forth herein.

1-5.2 VESTED RIGHTS

Development rights perfected prior to the effective date of this Ordinance shall be subject to the legal requirements under which the rights were perfected, unless and until such vested rights are withdrawn or expire in accordance with law.

1-5.3 MULTIPLE USES

In cases of two (2) or more principal uses on the same zoning lot, the regulations for each use shall apply to that portion of the structure or land so used.

1-5.4 MINIMUM REQUIREMENTS

The requirements contained in this Ordinance shall be the minimum requirements for administration, enforcement, procedures, restrictions, standards, uses, variances, and all other areas addressed by this Ordinance; and, if any other existing ordinance or regulation allows lesser regulation, this Ordinance shall govern, so that in all cases, the more restrictive limitation or requirement shall govern.

1-6 SEVERABILITY

1-6.1 INVALIDATION OF PORTIONS OF ORDINANCE

Should any section, sentence, clause, phrase, or word of this Ordinance be held invalid or unconstitutional by a court of competent jurisdiction of either the State of North Carolina or of the United States, such decision shall not affect, impair, or invalidate the remaining parts of this Ordinance. The remaining parts shall remain in effect without the invalid provision, and to that extent they are severable.

1-6.2 INVALIDATION OF APPLICATION

This invalidation of the application of any provision of this Ordinance to any particular property or structure, or to any particular properties or structures, by any court of competent jurisdiction, shall not affect the application of such provision to any other property or structure not specifically included in such invalidation.

1-6.3 PRESUMPTION

When an administration officer or board authorizes regulatory action, it shall be conclusively presumed that such officer or board would not have authorized such action except in the belief that such action was lawful.

1-7 CONFLICTING PROVISIONS

1-7.1 CONFLICT WITHIN ORDINANCE

Where a conflict exists between any limitations or requirements in this Ordinance, the more restrictive limitation or requirements shall prevail.

1-7.2 CONFLICT WITH OTHER ORDINANCE OR LAW

Where a conflict exists between the provisions of this Ordinance and any other ordinance or law, or where the provisions of this Ordinance impose overlapping or contradictory regulations, the most restrictive provision or the one which imposes the highest standards or requirements shall prevail.

1-8 DEFINITIONS

The definitions contained in the individual sections and in the *Definitions Ordinance* shall apply to this Ordinance. Words and phrases not so defined shall have their common meaning.

1-9 ILLUSTRATIONS

Illustrations are provided for purposes of describing, clarifying, or providing examples of portions of the text, and do not replace or limit the text unless so stated in the text.

1-10 CUMULATIVE REQUIREMENTS

The requirements of this Ordinance are cumulative.

CHAPTER C - ENVIRONMENTAL ORDINANCE
ARTICLE II - FLOODWAY AND FLOODWAY FRINGE REGULATIONS

2-1 GENERAL

2-1.1 FINDINGS OF FACT

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

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

2-1.2 STATEMENT OF PURPOSE

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

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

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

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

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

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

2-1.3 OBJECTIVES

The objectives of this chapter are:

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

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

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

(D) Minimize prolonged business losses and interruptions;

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

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

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

2-1.4 DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in Chapter A, Article II (Definitions) or in common usage, and to give this ordinance its most reasonable application. In the event of conflict with Chapter A, Article II (Definitions), the definitions below shall control.

Accessory Structure (Appurtenant Structure) means a structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

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

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

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

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

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

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

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

Building see Structure.

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

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

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

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

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

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

Flood or **Flooding** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters; and/or

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

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

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

Flood Insurance means the insurance coverage provided under the National Flood Insurance Program.

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

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

Flood Prone Area see Floodplain

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

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

Floodplain Administrator is the individual appointed to administer and enforce the floodplain management regulations.

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

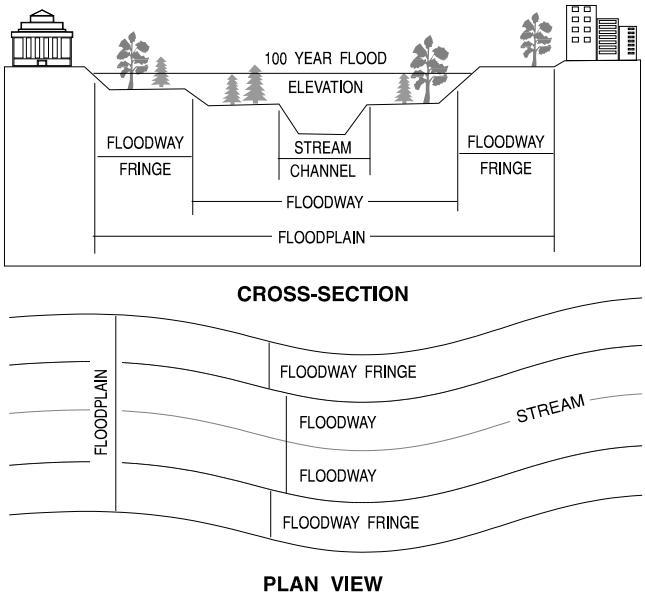
Floodplain Management means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain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

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

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

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

Floodway Fringe means an area lying outside the floodway, but within the floodplain.



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

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

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

Historic Structure means any structure that is:

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

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

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

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

the structure in violation of the applicable non-elevation design requirements of this ordinance.

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

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

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

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

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

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

One Hundred Year Flood see **Special Flood Hazard Area (SFHA)**

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

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

Principally Above Ground means that at least 51% of the actual cash value of the structure is above ground.

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

Recreational Vehicle (RV) means a vehicle, which is:

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

Reference Level is the top of the lowest floor for structures within Special Flood Hazard Areas designated as Zone A1-A30, AE, A, A99 or AO.

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

Remedy a Violation means to bring the structure or other development into compliance with State and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages,

implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

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

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

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

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

Special Flood Hazard Area (SFHA) means the land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year, as determined in Section C.2-1.6 of this ordinance. The Special Flood Hazard Area can also be referred to as the one hundred year flood.

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

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

Substantial Damage means damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of substantial improvement. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

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

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

(B) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Variance is a grant of relief from the requirements of this ordinance.

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Sections C.2-2 and C.2-3 is presumed to be in violation until such time as

that documentation is provided.

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

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

2-1.5 LANDS TO WHICH THIS CHAPTER APPLIES

This ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction of Forsyth County and within the jurisdiction of any other community whose governing body agrees, by resolution, to such applicability.

2-1.6 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) and its accompanying Flood Insurance Rate Maps (FIRM), for Forsyth County dated January 2, 2009, which are adopted by reference and declared to be a part of this ordinance.

The initial Flood Insurance Rate Maps are as follows for the jurisdictional areas at the initial date:
Forsyth County Unincorporated Area, dated September 1, 1972; the Town of Kernersville dated October 20, 1998, the City of Winston-Salem, dated August 31, 1972; the Town of Bethania, dated October 20, 1998; the Town of Rural Hall, dated September 1, 1972; and the Village of Tobaccoville, dated September 1, 1972.

2-1.7 ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of Section C.2-1.6.

2-1.8 COMPLIANCE

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

2-1.9 ABROGATION AND GREATER RESTRICTIONS

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

2-1.10 INTERPRETATION

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

(A) Considered as minimum requirements;
(B) Liberally construed in favor of the Elected Body; and,
(C) Deemed neither to limit nor repeal any other powers granted under State statutes.

2-1.11 WARNING AND DISCLAIMER OF LIABILITY

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

2-1.12 PENALTIES FOR VIOLATION

Penalties for violation of any provision of this Article shall be as set out in the *Zoning Ordinance* of the *Unified Development Ordinances*.

2-2 ADMINISTRATION

2-2.1 DESIGNATION OF FLOODPLAIN ADMINISTRATOR

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

2-2.2 APPLICATION REQUIREMENTS

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

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

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

(2) The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Section C.2-1.6, or a statement that the entire lot is within the Special Flood Hazard Area;

(3) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Section C.2-1.6;

(4) The boundary of the floodway(s) or non-encroachment area(s) as determined in Section C.2-1.6;

(5) The Base Flood Elevation (BFE) where provided as set forth in Section C.2-1.6; Article 4, Section C.2-2.5; or Section C.2-3.4;

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

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

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

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

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

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

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

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

(2) Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with

Section C.2-3.2(E)(3) when solid foundation perimeter walls are used in Zones A, AO, AE, and A1-30.

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

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

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

(H) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Sections C.2-3.2(G) and C.2-3.2(H) are met.

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

2-2.3 PERMIT REQUIREMENTS

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

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

(B) The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Section C.2-1.6.

(C) The Regulatory Flood Protection Elevation required for the reference level and all attendant utilities.

(D) The Regulatory Flood Protection Elevation required for the protection of all public utilities.

(E) All certification submittal requirements with timelines.

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

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

2-2.4 CERTIFICATION REQUIREMENTS

(A) Elevation Certificates

(1) An Elevation Certificate (FEMA Form 81-31) is required after the reference level is established. Within twenty-one (21) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to mean sea level. Any work done within the twenty-one (21) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.

(2) A final as-built Elevation Certificate (FEMA Form 81-31) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit

holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

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

(C) If a manufactured home is placed within Zone A, AO, AE, or A1-30 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of Section C.2-3.2(D)(2).

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

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

(1) Recreational Vehicles meeting requirements of Section C.2-3.2(G)(1);

(2) Temporary Structures meeting requirements of Section C.2-3.2(H); and

(3) Accessory Structures less than 150 square feet meeting requirements of Section C.2-3.2(I).

2-2.5 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

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

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

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

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

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

(E) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Section C.2-3.6 are met.

(F) Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of Section C.2-2.4.

(G) Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Section C.2-2.4.

(H) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of Section C.2-2.4.

(I) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Section C.2-2.4 and Section C.2-3.2(C).

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

(K) When Base Flood Elevation (BFE) data has not been provided in accordance with the provisions of Section C.2-1.6, obtain, review, and reasonably utilize any BFE data, along with floodway data or non-encroachment area data available from a Federal, State, or other source, including data developed pursuant to Section C.2-3.4(B)(2), in order to administer the provisions of this ordinance.

(L) When Base Flood Elevation (BFE) data is provided but no floodway or non-encroachment area data has been provided in accordance with the provisions of Section C.2-1.6, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of this ordinance.

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

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

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

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

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

mistakenly issued in violation of an applicable State or local law may also be revoked.

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

(S) Follow through with corrective procedures of Section C.2-2.6.

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

(U) Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and other official flood maps and studies adopted in accordance with the provisions of Section C.2-1.6 of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.

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

2-2.6 CORRECTIVE PROCEDURES

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

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

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

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

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

(C) Order to Take Corrective Action: If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than one-hundred and eighty (180) calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.

(D) Appeal: Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

(E) Failure to Comply with Order: If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a misdemeanor and shall be punished at the discretion of

the court.

2-2.7 VARIANCE PROCEDURES

(A) The Town of Kernersville Zoning Board of Adjustment as established by the Town of Kernersville Board of Aldermen, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this ordinance for their respective jurisdictions.

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

(C) Variances may be issued for:

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

(2) Functionally dependent facilities if determined to meet the definition as stated in Section C.2-1.4 of this ordinance, provided provisions of Sections C.2-2.7(I)(2), (3), and (5) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or

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

(D) In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

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

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

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

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

(5) The necessity to the facility of a waterfront location as defined under Section C.2-1.4 of this ordinance as a functionally dependent facility, where applicable;

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

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

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

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

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

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

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

(F) Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this ordinance.

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

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

(I) Conditions for Variances:

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

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

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

(4) Variances shall only be issued prior to development permit approval.

(5) Variances shall only be issued upon:

(a) A showing of good and sufficient cause;

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

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

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

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

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

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

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

(5) Town of Kernersville has notified the Secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

2-3 STANDARDS FOR FLOOD DAMAGE REDUCTION

2-3.1 GENERAL STANDARDS

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

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

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

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

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

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

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

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

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

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

(J) New solid waste disposal facilities and sites, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in Section C.2-2.7(J). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the Regulatory Flood Protection Elevation and certified in accordance with the provisions of Section C.2-2.4.

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

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

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

(N) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404

of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

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

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

2-3.2 SPECIFIC STANDARDS

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Section C.2-1.6 or Section C.2-3.4, the following provisions, in addition to the provisions of Section C.2-3.1, are required:

(A) Limits of Encroachment

The area of encroachment may not include more than fifty percent (50%) of the area of the floodway fringe on the zoning lot where it is located. The area of encroachment may not extend toward the stream channel more than one-half the distance between the outer edge of the floodway fringe and the outer edge of the floodway at any point, unless a certified engineering study demonstrates that any encroachments result in no more than a one-half foot rise in flood elevation. Measurement of the fifty percent (50%) area and one-half distance of encroachment are calculated from each outside edge of the floodway fringe.

(B) Residential Construction

New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Section C.2-1.4 of this ordinance.

(C) Non-Residential Construction

New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Section C.2-1.4 of this ordinance. Structures located in A, AE, AO, and A1-30 Zones may be floodproofed to the Regulatory Flood Protection Elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Regulatory Flood Protection Elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with Section C.2-3.7(B). A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Section C.2-2.4, along with the operational plan and the inspection and maintenance plan.

(D) Manufactured Homes

(1) New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the Regulatory Flood Protection Elevation, as defined in Section C.2-1.4 of this ordinance.

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

(3) All enclosures or skirting below the lowest floor shall meet the requirements of Section C.2-3.2(E).

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

(E) Elevated Buildings

Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:

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

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

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

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

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

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

(d) The bottom of all required flood openings shall be no higher than one (1) foot above the adjacent grade;

(e) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and

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

(F) Additions/Improvements

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

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

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

(2) Additions to post-FIRM structures with no modifications to the existing structure other than a

standard door in the common wall shall require only the addition to comply with the standards for new construction.

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

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

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

(G) Recreational Vehicles

Recreational vehicles shall either:

(1) Be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or

(2) Meet all the requirements for new construction.

(H) Temporary Non-Residential Structures

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

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

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

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

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

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

(I) Accessory Structures

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

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

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

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

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

(5) Accessory structures shall be firmly anchored in accordance with the provisions of Section C.2-

3.1(C);

(6) All service facilities such as electrical shall be installed in accordance with the provisions of Section C.2-3.1(D); and

(7) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Regulatory Flood Protection Elevation in conformance with the provisions of Section C.2-3.2(E)(3).

An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with Section C.2-2.4.

2-3.3 RESERVED

2-3.4 STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Section C.2-1.6, where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of Section C.2-3.1, shall apply:

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

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

(1) When Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in Sections C.2-3.1 and C.2-3.2.

(2) When floodway or non-encroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of Sections C.2-3.2 and C.2-3.6.

(3) All subdivision, manufactured home park and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference in accordance with Section C.2-1.6 and utilized in implementing this ordinance.

(4) When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Section C.2-1.4. All other applicable provisions of Section C.2-3.2 shall also apply.

2-3.5 STANDARDS FOR RIVERINE FLOODPLAINS WITH BASE FLOOD ELEVATIONS BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS

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

(A) Standards of Sections C.2-3.1 and C.2-3.2; and

(B) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new

construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one-half (.5) foot at any point within the community.

2-3.6 FLOODWAYS AND NON-ENCROACHMENT AREAS

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Section C.2-1.6. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Sections C.2-3.1 and C.2-3.2, shall apply to all development within such areas:

(A) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:

(1) It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit, or

(2) A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.

(B) If Section C.2-3.6(A) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.

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

(1) The anchoring and the elevation standards of Section C.2-3.2(D); and

(2) The no encroachment standard of Section C.2-3.6(A).

2-3.7 STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AO)

Located within the Special Flood Hazard Areas established in Section C.2-1.6, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Sections C.2-3.1 and C.2-3.2, all new construction and substantial improvements shall meet the following requirements:

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

(B) Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Section C.2-3.7(A) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with Section C.2-2.4 and Section C.2-3.2(C).

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

CHAPTER C - ENVIRONMENTAL ORDINANCE
ARTICLE III - WATERSHED PROTECTION

3-1 GENERAL PROVISIONS

3-1.1 TITLE
This Ordinance shall be known and may be cited as the *Watershed Protection Ordinance*, except as referred to herein, where it shall be known as *this Ordinance*.

3-1.2 PURPOSE
The purpose of this Ordinance is to promote the health, safety and general welfare of the citizens and residents of the State of North Carolina, including residents of the Town of Kernersville, residents who live within the extra territorial zoning jurisdiction of the Town of Kernersville, and residents who live within public water supply watersheds, as established by the North Carolina Environmental Management Commission. This Ordinance is adopted after public hearing and due notice thereof given the general public by publication once a week for two (2) successive calendar weeks published the first time not less than ten (10) days nor more than twenty-five (25) days prior to the date of public hearing in a newspaper having general circulation within the area specified herein.

3-1.3 JURISDICTION
The provisions of this Ordinance shall apply to that area which is both:

(A) Within an area designated as a public water supply watershed by the North Carolina Environmental Management Commission; and,

(B) Within either the corporate limits of the Town of Kernersville or within the extra territorial zoning jurisdiction of the Town of Kernersville. If a parcel of land lies within the planning and development regulation jurisdiction of more than one local government, the local governments may by mutual agreement, pursuant and with the written consent of the landowner assign, exclusive planning and development regulation jurisdiction for the entire parcel to any one of those local governments. Such a mutual agreement pursuant to G.S.160D-203 shall only be applicable to development regulations and shall not affect taxation or other non-regulatory matters. The mutual agreement shall be evidenced by a resolution formally adopted by each governing board and recorded with the register of deeds in the county where the property is located within 14 days of the adoption of the last required resolution.

This area shall be defined and established on a map entitled *Watershed Protection Map of Kernersville, North Carolina*, herein after referred to as *Watershed Map*, which is adopted simultaneously herewith. The *Watershed Map*, and all explanatory matter set out thereon, is hereby made a part of this Ordinance. This Ordinance shall be permanently kept on file in the Office of the Town Clerk, the Kernersville Community Development Department, and the City-County Planning Board in Winston-Salem.

3-1.4 AUTHORITY
This Ordinance is adopted pursuant to Chapter 160D, Article 2, Section 201 and Chapter 143, Article 21, and session laws applicable to the Town of Kernersville.

3-1.5 INTENT
The intent of the Town of Kernersville is to exercise its available power as authorized in the Statutes cited in Section 103 to the maximum extent possible as more fully set forth herein.

3-1.6 AMENDMENT
This Ordinance may be amended in accordance with the provisions of this Ordinance or as required by subsequent legislative enactments. Before adopting or amending this Ordinance, the Kernersville Board of Aldermen shall hold a public hearing. A notice of the public hearing shall be given once a week for two (2) successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published for the first time not less than ten (10) nor more than twenty-five (25) days before the date established for the hearing.

3-1.7 COMPLIANCE WITH PROVISIONS

No building, premises, or structure shall be used, constructed, erected, modified, altered, converted, occupied, placed, maintained, removed or moved, and no land use shall be commenced, maintained, or modified except in compliance with the provisions, restrictions, and procedures set forth herein.

3-1.8 EXCEPTION TO APPLICABILITY

In All Watersheds. No subdivision of land shall be approved nor erosion control, building, or other development permit issued for any development or land disturbing activities in a designated water supply watershed unless certified to be in conformance with the provisions of this Ordinance by the Watershed Administrator, with the following exemptions:

(A) **Existing Residential Lots**. Construction or expansion of an individual single family residential building or placement of a manufactured home on a lot which was a lot of record or which had received final approval pursuant to the *Subdivision Regulations* as of July 1, 1993.

(B) **Existing Development**. Existing development is not subject to the requirements of this Ordinance. Except for expansions to individual single family homes or manufactured homes, only expansions to structures and other built-upon areas classified as existing development must meet the requirements of this Ordinance. The built-upon area of the existing development is not required to be included in the built-upon area calculations.

3-1.9 SEVERABILITY - INVALIDATION OF PORTIONS OF ORDINANCE

(A) Should any section, sentence, clause, phrase, or word of this Ordinance be held invalid or unconstitutional by a court of competent jurisdiction of either the State of North Carolina or of the United States, such decision shall not affect, impair, nor invalidate the remaining parts of this Ordinance. The remaining parts shall remain in effect without the invalid provision, and to that extent they are severable.

(B) The invalidation of the application of any provision of this Ordinance to any particular property or structure, or to any particular properties or structures, by any court of competent jurisdiction, shall not affect the application of such provision to any other property or structure not specifically included in such invalidation.

3-1.10 PRESUMPTION OF LAWFUL ACTION

When an administration officer or board authorizes regulatory action, it shall be conclusively presumed that such officer or board would not have authorized such action except in the belief that such action was lawful.

3-1.11 CONFLICTS

(A) Where a conflict exists between any limitations or requirements in this Ordinance, the more restrictive limitation(s) or requirement(s) shall prevail.

(B) Where a conflict exists between the provisions of this Ordinance and any other ordinance or law, or where the provisions of this Ordinance impose overlapping or contradictory regulations, the most restrictive provision of the one which imposes the highest standard(s) or requirement(s) shall prevail.

3-1.12 ILLUSTRATIONS

Illustrations are provided for purposes of describing, clarifying or providing examples of portions of the text, and do not replace or limit the text unless so stated in the text.

3-1.13 CUMULATIVE REQUIREMENTS

The requirements of this Ordinance are cumulative.

3-1.14 DEFINITIONS

Unless otherwise expressly stated, or unless the context clearly indicates a different meaning, the words and phrases in the following list of definitions shall, for the purposes of the *Unified Development Ordinances*, have the meanings indicated. All words and phrases not defined in this Article shall have their common meaning. When used in this

Ordinance, the present tense includes the future, the singular includes the plural, and words of one gender include the other, as may be applicable. The word *shall* is mandatory, not directory. The word *use* includes designed for use.

AGRICULTURAL USE. The use of waters for stock watering, irrigation, and other farm purposes.

ANIMAL UNIT. A unit of measurement developed by the United States Environmental Protection Agency that is used to compare different types of animal operations.

APPLICANT. One who applies for approval under this Ordinance.

BALANCE OF WATERSHED (BW). That portion of a water supply watershed beyond the critical area of a water supply reservoir.

BEST MANAGEMENT PRACTICES (BMP). A structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source pollution to receiving waters in order to achieve water quality protection goals.

BOARD OF ADJUSTMENT. The Kernersville Board of Adjustment, as established by Section 10-1.1 of the *Zoning Ordinance.*

BUFFER. An area of natural or planted vegetation through which storm water runoff flows in a diffuse manner, the flow does not become channelized, and which provides for infiltration of the water and filtering of pollutants. The buffer is measured landward from the normal pool elevation of lakes and ponds, and from the bank of each side of streams or rivers.

BUILDING. Any structure having a roof supported by columns or by walls, and intended for shelter, housing or enclosure of persons, animals or property. The connection of two (2) buildings by means of an open porch, breezeway, passageway, carport or other such open structure, with or without a roof, shall not be deemed to make them one building.

BUILT-UPN AREA. "built-upon area" means impervious surface and partially impervious surface to the extent that the partially impervious surface does not allow water to infiltrate through the surface and into the subsoil. "Built-upon area" does not include a slatted deck; the water area of a swimming pool; a surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least four inches thick over a geotextile fabric; or a trail as defined in G.S. 113A-85 that is either unpaved or paved as long as the pavement is porous with a hydraulic conductivity greater than 0.001 centimeters per second (1.41 inches per hour)."

CLUSTER DEVELOPMENT. The grouping of buildings in order to conserve land resources and provide for innovation in the design of the project. This term includes nonresidential development as well as single family residential subdivisions and multifamily developments.

COMPOSTING FACILITY. A facility in which only stumps, limbs, leaves, grass and untreated wood collected from land clearing or landscaping operations is deposited.

CONTRACTUAL LIEN. A lien, subordinate to a first deed of trust, granted by the owner to the Town of Kernersville guaranteeing that the storm water control structure shall be maintained, repaired, and reconstructed as required by this Ordinance.

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 extends either one-half mile from the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed (whichever comes first); or one-half mile upstream from the intake located directly in the stream or river (run-of-the-river), or the ridge line of the watershed (whichever comes first). Major landmarks such as highways or property lines may be used to delineate the outer boundary of the critical area if these landmarks are immediately adjacent to the appropriate outer boundary of one-half mile.

CUSTOMARY HOME OCCUPATIONS. Any use conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof. Home occupations shall meet all standards imposed by the *Zoning Ordinance*, Section 2-6.4(D).

DEVELOPMENT. Any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.

DISCHARGING LANDFILL. A facility with liners, monitoring equipment and other measures to detect and/or prevent leachate from entering the environment and in which the leachate is treated on site and discharged to a receiving stream.

DWELLING UNIT. A building, or portion thereof, providing complete and permanent living facilities for one family.

ENGINEER. A person licensed to practice engineering in the State of North Carolina.

EXCEPTION, MINOR. Permission to use property granted by the Watershed Review Committee, involving the relaxation of a watershed management requirement by a factor of less than ten percent (10%).

EXCEPTION, MAJOR. Permission to develop or use property reviewed by the Watershed Review Committee, after approval by the North Carolina Environmental Management Commission that results in any one or more of the following:

(A) The complete waiver of a management requirement;

(B) The relaxation, by a factor of more than ten percent (10%), of any management requirement expressed in the form of a numerical standard; or,

(C) The relaxation of any management requirement that applies to a development proposal intended to qualify under the high density option.

EXISTING DEVELOPMENT.

(A) Those projects that, as of July 1, 1993, have been built or for which there has been obtained preliminary approval for residentially developed subdivisions, or those projects that have been established as having a vested right under North Carolina zoning law as of the effective date of this Ordinance based on at least one of the following criteria:

(1) Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project;
(2) Having an outstanding valid building permit as authorized by the General Statutes (160D-108); or,
(3) Having expended substantial resources (time, labor, money) and having an approved preliminary plat, site specific or phased development plan as authorized by the General Statutes (160D-108).

(B) Should any property owner, agent, or anyone or entity acting on behalf of a property owner, destroy, remove, alter, or otherwise modify evidence of an "existing development" prior to an on -site inspection, and written acknowledgment, by the Watershed Administrator, said property, or portion thereof, so destroyed, removed, altered or otherwise modified, shall be excluded from consideration as an "existing development" by the Watershed Administrator.

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.

FAMILY. One or more persons occupying a single dwelling unit, related by blood, marriage or adoption, living together as a single housekeeping unit, as defined by Chapter A, Article II of the *Unified Development Ordinances*.

FERTILIZER. Fertilizer means any substance containing nitrogen or phosphorus which is used primarily for its plant food content.

FINAL WATERSHED INSPECTION. An inspection of property made by the Watershed Administrator prior to the issuance of a certificate of occupancy by the Town of Kernersville Permit & Enforcement Division, certifying that the requirements of this Ordinance have been met.

FOREST VEGETATION. Forest vegetation means the plants of an area which grow together in disturbed or undisturbed conditions in various wooded plant communities in any combination of trees, saplings, shrubs, vines and herbaceous plants. This includes mature and successional forests as well as cutover stands.

GEOTEXTILE FABRIC. Getextile fabric means a permeable geosynthetic comprised solely of non-biodegradable textiles.

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).

IMPERVIOUS AREA. Any surface which does not permit the rapid infiltration of surface water. Examples include building roofs, sidewalks, areas paved with asphalt, concrete, brick, compacted stone, or tile, or any similar surface as interpreted by the Watershed Administrator. The total gross contiguous acreage of the project shall be used when computing the permitted impervious areas.

INDUSTRIAL DEVELOPMENT. Any nonresidential development that requires an NPDES permit for an industrial discharge and/or requires the use or storage of any hazardous material for the purpose of manufacturing, assembling, finishing, cleaning or developing any product or commodity.

LANDFILL. A facility for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 130A Article 9 of the North Carolina General Statutes. For the purpose of this Ordinance, this term does not include composting facilities.

LANDSCAPE ARCHITECT. A professional licensed to practice in the State of North Carolina, as established by North Carolina General Statutes Chapter 89A.

LAND USE PLAN. The officially adopted Land Use Plan of the Town of Kernersville.

LAND SURVEYOR. A professional licensed to practice in the State of North Carolina, as established by North Carolina General Statutes Chapter 89(C)-3(7).

LOT, PARCEL, TRACT. A parcel of land designated by a number or other symbol as part of a legally approved and recorded subdivision, or as described by metes and bounds.

NONRESIDENTIAL DEVELOPMENT. All development other than residential development, agriculture and silviculture.

OPERATION AND MAINTENANCE PLAN. A document prepared by the applicant and submitted to the Watershed Administrator specifying all operation and maintenance work necessary to keep all storm water control structures in conformance with the design specifications required by this Ordinance.

OWNER. The record title owner of property in accordance with the Register of Deeds or the Tax Office.

PAVEMENT, POROUS. Those pavements, designed by a Registered Professional Engineer, composed of open-graded asphalt or concrete, which absorb and store rainwater within the structure of the subgrade upon which the

pavement rests. Such pavements shall be designed using most recent technical information and shall be certified by the engineer as meeting the storm water retention requirements of this Ordinance.

PERENNIAL WATERS. A watercourse, including rivers, streams, lakes, and ponds, that flows year-round and is indicated as a solid blue line on the most recent version of the USGS 7.5 minute series (1:24,000 scale) topographic maps.

PERFORMANCE BOND. A guarantee against loss or damage from one's failure to perform, and a tangible guarantee of performance or the fulfillment of an obligation. The following must be included in any Performance Bond accepted by the Town of Kernersville and considered as such within this ordinance.

(A) Entity issuing the Performance Surety must be licensed to do business in the State of North Carolina and state its preferred correspondence address within the Performance Surety.

(B) The Performance Surety must be issued in favor of the Town of Kernersville (obligee) for a specified amount.

(C) The Performance Surety shall clearly indicate the obligation within the document.

(D) The Performance Surety shall clearly indicate principal's full intent to perform.

(E) The Performance Surety shall state the surety shall stay in full force and effect until obligee notifies principal that all obligations stated within the Performance Surety have been satisfied in their entirety.

PERFORMANCE SURETY. A guarantee against loss or damage from one's failure to perform and a physical or financial guarantee for the fulfillment of an obligation. Performance Sureties may be in the form of Standby Letters of Credit, Performance Bonds, and Cash.

PLAT. A map or plan of a parcel of land which is to be, or has been subdivided.

PROTECTED AREA. The area adjoining and upstream of the critical area in a WS-IV water supply in which protection measures are required. The boundaries of the protected areas extend five (5) miles upstream and draining to water supply reservoirs (measured from the normal pool and draining to the intake located directly in the stream or river (run of the river), or to the ridge line of the watershed (whichever comes first).

RESIDENTIAL DEVELOPMENT. Buildings for residence such as attached and detached single-family dwellings, apartment complexes, condominiums, townhouses, cottages, etc. and their associated outbuildings such as garages, storage buildings, gazebos, etc. and customary home occupations.

RIPARIAN AREA. Riparian area means an area that is adjacent to a body of water.

SINGLE FAMILY RESIDENTIAL. Any development where:

(A) No building contains more than one dwelling unit;

(B) Every dwelling unit is on a separate lot; and,

(C) Where no lot contains more than one dwelling unit.

SITE PLAN, WATERSHED. Plans of a development proposal, prepared to scale which detail all proposed development, impervious areas, and other site features and which comply with all development regulations and specifications established by the *Watershed Ordinance* of the Town of Kernersville.

SPECIAL INTENSIVE DEVELOPMENT ALLOCATION (SIDA). Nonresidential uses and residential uses within the Central Kernersville Overlay, excluding the areas south of Tanyard Lane along South Cherry Street and South Main Street; area along Oakhurst Street; area along Salisbury Street; the area west of Oakland Street along West

Mountain, of land permitted by the Board of Aldermen which have more impervious area than the Ordinance otherwise allows. Not more than ten percent (10%) of the WS-III watershed area, within the Town of Kernersville planning jurisdiction and outside the critical area may be permitted for development with a maximum of seventy percent (70%) built-upon area, as set forth in Section 3-4.2 of this Ordinance.

STANDBY LETTER OF CREDIT (SBLC). An irrevocable obligation to the beneficiary indicating payment to the beneficiary in the event of default by the account party and/or failure to perform an obligation. The following must be included in any SBLC accepted by the Town of Kernersville to be considered as such within this ordinance.

(A) Entity issuing the SBLC must be licensed to do business in the State of North Carolina and state its preferred correspondence address within the SBLC.

(B) The SBLC must be issued in favor of the Town of Kernersville (beneficiary) for a specified amount and state the customer (account party).

(C) The SBLC must clearly state it is an irrevocable Standby Letter of Credit.

(D) The SBLC shall clearly indicate the obligation within the SBLC is for the payment of money in lieu of performance.

(E) The SBLC must state the beneficiary has the right to draw on the SBLC from time to time upon written demand by the beneficiary indicating account parties failure to meet their obligations.

(F) The SBLC shall state draws will be processed within a reasonable time period once beneficiary demands a draw.

(G) The SBLC shall state the original amount may be reduced from time to time only upon written notice by the beneficiary to do so.

(H) The SBLC shall state the obligation shall be in full effect up to 5:00 pm on the date of expiration as indicated within the SBLC and if said date falls on a holiday, weekend, or other day in which the beneficiary or issuer are closed for business, the expiration day shall be the following day that both beneficiary and issuer are open for business.

(I) The SBLC shall state the SBLC shall be automatically extended, without any formal amendment or notice to the effect, from year to year, for successive periods of one (1) year each from the present or any future expiration date hereof, unless the issuer notifies the beneficiary 60-days prior to such expiration date in writing, via certified mail, return receipt requested that issuer has elected not to renew the SBLC and beneficiary has until 5:00 pm on or before the expiration date to draw the full amount hereunder.

STREET (ROAD). A right-of-way for vehicular traffic which affords the principal means of access to abutting properties.

STRUCTURE. Anything constructed or erected, located above grade, which requires location on the land or attachment to something having permanent location on the land, as defined by Chapter A, Article II of the *Unified Development Ordinances.*

SUBDIVIDER. Any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

SUBDIVISION. All divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all division of land involving the dedication of a new street or a change in existing streets; provided however, that the following shall not be included within this definition nor be subject to the regulations authorized by this Ordinance:

(A) The combination or recombination of portions of previously platted and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of this Ordinance;

(B) The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved;

(C) The public acquisition by purchase of strips of land for the widening or opening of streets;

(D) The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of this Ordinance; or,

(E) The division of a tract into plots or lots used as a cemetery.

SUBDIVISION ORDINANCE. The *Subdivision Ordinance* as adopted by the Town of Kernersville.

TOXIC SUBSTANCE. Any substance or combination of substances (including disease causing agents), which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth) or physical deformities in such organisms or their offspring or other adverse health effects.

WATER DEPENDENT STRUCTURE. Any structure for which the use requires access to or proximity to or citing within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not water dependent structures.

WATERSHED. The entire land area contributing surface drainage to a specific point (e.g. the water supply intake.)

WATERSHED ADMINISTRATOR. An official or designated person of the Town of Kernersville responsible for administration and enforcement of this Ordinance.

WATERSHED PERMIT. A permit issued by the Watershed Administrator, certifying that the requirements of this Ordinance, as they effect a particular low or high density project, have been met.

WATERSHED REVIEW COMMITTEE. A staff level review group appointed by the Town Manager, consisting of the Watershed Administrator, Public Services Director, Engineer Division Manager, Community Development Director, Stormwater Division Manager and other representatives as may be deemed appropriate by the Board of Aldermen and the Town Manager.

WET DETENTION PONDS. A storm water control structure designed for removal of pollutants, with a permanent pool depth of at least three (3) feet.

***ZONING ORDINANCE*.** The *Zoning Ordinance* of the Town of Kernersville.

3-1.15 CRIMINAL PENALTIES

Any person violating any provisions of this Ordinance shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance with North Carolina General Statute 14-4. The maximum fine for each offense shall not exceed five hundred dollars ($500.00). Each day that the violation continues shall constitute a separate offense.

3-1.16 CIVIL PENALTIES AND REMEDIES

(A) **In addition to any criminal penalties** provided herein this Ordinance, any person, firm, or corporation violating any provisions of this Ordinance shall be subject to a civil penalty of one thousand dollars ($1,000), to be recovered by the Town of Kernersville in a civil action in the nature of a debt. No civil penalty shall

be assessed until the person, firm, or corporation alleged to be in violation has been notified of the violation by the Watershed Administrator. Failure to correct the violation within thirty (30) days of the date of service of the notice, or the end of any extension period allowed, will result in the assessment of a civil penalty or the enforcement action. For good cause shown, the Watershed Administrator may extend the correction period. Each day of violation, and any continuing violation, shall constitute a separate offense.

(B) **In addition to other remedies** provided by this Ordinance and by law, the Town of Kernersville may institute injunction, maintenance, abatement, or any other appropriate action or actions or proceedings to prevent, enjoin, abate, or remove any unlawful erection, construction, reconstruction, alternation, maintenance or use.

(C) **In addition to other remedies** provided by this Ordinance, the North Carolina Environmental Management Commission shall have all power and authority to enforce this Ordinance as provided for under North Carolina General Statute 143-215.6(a).

3-1.17 EFFECTIVE DATE

The effective date of this Ordinance is July 1, 1993 and the same shall take and be in full force and effect thereon and thereafter.

3-2 *SUBDIVISION ORDINANCE*

3-2.1 PLATS

(A) **No new subdivision plat or an expansion** of a previously recorded subdivision of land within the public water supply watershed shall be filed or recorded in the Office of the Register of Deeds until it has been approved in accordance with the provisions of this Article.

(B) **The approval of a plat** for the purposes of this Ordinance does not constitute the acceptance by the Town of Kernersville, or the public, of the dedication of any street easement, right-of-way, public utility line, or other public facility shown on such plat.

(C) **All subdivisions** shall conform with the mapping requirements as set forth in North Carolina General Statute 47-30.

(D) **Any person, firm, or corporation** proposing a subdivision of land or an expansion of an existing subdivision within the jurisdiction encompassed by this Ordinance after the effective date of this Ordinance shall cause a plat of the same to be prepared, approved, and recorded pursuant to this Ordinance.

3-2.2 SUBDIVISION APPLICATION AND REVIEW PROCEDURES

(A) **All proposed subdivisions** shall be reviewed, prior to recording with the Register of Deeds, by submitting a vicinity map to the Watershed Administrator to determine whether or not the property is located within a designated public water supply watershed. Subdivisions that are not within a designated watershed area shall not be subject to the provisions of this Ordinance and may be recorded, provided the Watershed Administrator indicates the same and initials the vicinity map. Subdivisions within a designated watershed area shall comply with the provisions of this Chapter and all other State and local requirements that may apply.

(B) **Subdivision applications** shall be filed with the Kernersville Community Development Department in accordance with the *Subdivision Ordinance* of the Town of Kernersville. The application shall include a completed application form, thirty-five (35) copies of the plat, and supporting documentation as required for the application process.

(C) **The Watershed Review Committee** shall review the completed application and shall either approve, approve conditionally, or disapprove the application by a majority vote of the members present and voting. The committee shall take final action within sixty (60) days of its first consideration. The Watershed Administrator or the committee may provide public agencies an opportunity to review and make recommendations. Failure of any agencies to submit comments and recommendations shall not delay the Watershed Review Committee's action within the prescribed time limit. Said public agencies may include, but are not limited to, the following:

(1) The District Highway Engineer;
(2) The Director of the Health Department;
(3) The North Carolina Division of Environmental Management, proposed sewer systems normally approved by the Division, engineered storm water controls or storm water management in general; and,
(4) Any other agency or official designated by the Watershed Administrator, Development Review Committee, or Town Manager.

(D) **If the Watershed Review Committee** approves the application, such approval shall be indicated on all copies of the final plat by the following certificate and signed by the Watershed Administrator.

Certificate of Approval for Recording

I certify that the plat shown hereon has been approved by the Review Officer, of the Town of Kernersville and is approved for recording in the Office of the Register of Deeds.

_____ _____

Date Signature, Watershed Administrator

NOTICE: THIS PROPERTY IS LOCATED WITHIN A PUBLIC WATER SUPPLY WATERSHED - DEVELOPMENT RESTRICTIONS MAY APPLY.

(E) **The Planning Board** shall not consider any plat for a new or expanded subdivision until the Watershed Administrator approves the watershed permit.

(F) **Should the Watershed Review Committee disapprove**, or approve conditionally, the application, the reason(s) for such action shall be stated in writing for the applicant and entered in the minutes of the Watershed Review Committee. The applicant may make changes and submit a revised plan which shall constitute a separate request for the purpose of review.

(G) **All subdivision plats** shall comply with all requirements of recording of the Register of Deeds of the County within which such property is situated.

(H) **The applicant** shall, within five (5) working days after recordation, provide the Kernersville Community Development Department with evidence that the plat has been recorded with the Register of Deeds of the appropriate county.

3-2.3 SUBDIVISION STANDARDS AND REQUIRED IMPROVEMENTS

(A) **All lots approved under this Ordinance** shall meet all provisions of the *Subdivision Ordinance* of the Town of Kernersville.

(B) **For the purpose of calculating the impervious area**, total project area shall include the contiguous gross total acreage in the tract upon which the project is to be developed.

(C) **Storm Water Drainage Facilities**. The application shall be accompanied by a description of the proposed method of providing storm water drainage. The applicant shall provide for a drainage system that diverts storm water runoff away from surface waters and incorporates best management practices to minimize water quality impacts.

(D) **Erosion and Sedimentation Control.** Where required by the *Erosion and Sedimentation Control Ordinance* of the Town of Kernersville, a sedimentation and erosion control plan shall be submitted to and approved in accordance with such Ordinance.

(E) **Roads constructed in critical areas**, and watershed buffer areas shall be designed and constructed so to minimize their impact on water quality using best management practices.

3-2.4 CONSTRUCTION PROCEDURES

No construction nor installation of improvements shall commence in a proposed subdivision until a preliminary subdivision plat has been approved under the provisions of the *Subdivision Ordinance* of the Town of Kernersville.

3-2.5 PENALTIES FOR TRANSFERRING LOTS IN UNAPPROVED SUBDIVISIONS

The owner or agent of an owner who transfers, sells, or agrees to sell any parcel of real property in an unapproved subdivision by any means, including but not limited to the use of a metes and bounds description, or by reference to any map, plat, survey, or other instrument, shall be guilty of a misdemeanor as defined by Section 1. (F) of the *Subdivision Ordinance*.

3-3 DEVELOPMENT REGULATIONS

3-3.1 CLUSTER DEVELOPMENT

Clustering of development shall only be developed as permitted by the *Kernersville Zoning and Subdivision Ordinances*.

3-3.2 BUFFER AREAS REQUIRED

(A) **Under the high density option**, as defined herein by this Ordinance, a minimum one hundred (100) foot vegetative buffer along all perennial waters is required for all new development activity. Under the low density option, as defined herein by this Ordinance, a minimum thirty (30) foot vegetative buffer for all new development activities is required along all perennial waters. For the purposes of this Ordinance, perennial waters shall be a watercourse, including rivers, streams, lakes, and ponds, that flows year-round and is indicated as a solid blue line on the most recent version of the USGS 7.5 minute series (1:24,000 scale) topographic maps. These maps shall be on file at the Kernersville Community Development Department. Artificial streambank or shoreline stabilization is permitted.

(B) **Road crossings and public projects**, including but not limited to greenways, are permitted where no practical alternative exists. Construction shall minimize built-upon surface area, direct runoff away from surface waters, and maximize the utilization of storm water best management practices. No other development is permitted in the buffer areas.

(C) **DEEP RIVER WATERSHED RIPARIAN AREAS (RANDLEMAN LAKE WATERSUPPLY WATERSHED PROTECTION RULES)**

(1) Riparian areas shall be protected and maintained in accordance with this Ordinance on all sides of surface waters in the Deep River watershed such as intermittent streams, perennial streams, lakes, and ponds, as indicated on the most recent version of the United States Geological Survey 1:24,000 scale (7.5 minute quadrangle) topographic maps, or the Soil Survey Maps developed by USDA-Natural Resource Conservation Service except as provided in section 3-3.2 (C)(2)(b) of this Ordinance, or other site-specific evidence that indicates to the Division of Water Quality the presence of jurisdictional waters not shown on either of these two maps.

(2) **The following water bodies and land uses** are exempt from the riparian area protection requirements:

(a) **Ditches and manmade conveyances**, other than modified natural streams, which under normal conditions do not receive drainage from any tributary ditches, canals, or streams, unless the ditch or manmade conveyance delivers runoff directly to waters classified in accordance with 15A NCAC 2B .0100;

(b) **Areas mapped as** intermittent streams, perennial streams, lakes, ponds, or estuaries on the most recent versions of United States Geological Survey 1:24,000 scale (7.5 minute quadrangle) topographic maps or soil survey maps where no perennial water body, intermittent water body, lake, pond or estuary actually exists on the ground;

(c) **Ponds and lakes** created for animal watering, irrigation, or other agricultural uses that are not part of a natural drainage way that is classified in accordance with 15A NCAC 2B .0100;

(d) **Water dependent structures** as defined in 15A NCAC 2B .0202, provided that they are located, designed, constructed and maintained to provide maximum nutrient removal, to have the least adverse effects on aquatic life and habitat and to protect water quality;

(e) **The following uses where no practical alternative exists**. A lack of practical alternatives

may be shown by demonstrating that, considering the potential for a reduction in size, configuration or density of the proposed activity and all alternative designs, the basic project purpose cannot be practically accomplished in a manner which would avoid or result in less adverse impact to surface waters. Also, these structures shall be located, designed, constructed, and maintained to have minimal disturbance, to provide maximum nutrient removal and erosion protection, to have the least adverse effects on aquatic life and habitat, and to protect water quality to the maximum extent practical through the use of best management practices:

(i) Road crossings, railroad crossings, bridges, airport facilities, and utility crossings if conditions specified in Section 3-3.2(C)(2)(e) of this Ordinance are met.

(ii) Storm water management facilities and ponds, and utility construction and maintenance corridors for utilities such as water, sewer or gas, in Zone 2 of the riparian area as long as the conditions specified in Section 3-3.2(C)(2)(e) of this Ordinance are met and they are located at least 30 feet from the top of bank or mean high water line. Additional requirements for utility construction and maintenance corridors are listed in Section 3-3.2(C)(2)(f) of this Ordinance;

(f) **A corridor** for the construction and maintenance of utility lines, such as water, sewer or gas, (including access roads and stockpiling of materials) running parallel to the stream and located within Zone 2 of the riparian area, as long as no practical alternative exists, as defined in Section 3-3.2(C)(2)(e) of this Ordinance, and best management practices are installed to minimize runoff and maximize water quality protection to the maximum extent practicable. Permanent, maintained access corridors shall be restricted to the minimum width practicable and shall not exceed 10 feet in width except at manhole locations. A 10 feet by 10 feet perpendicular vehicle turnaround shall be allowed provided they are spaced at least 500 feet apart along the riparian area;

(g) **Stream restoration projects**, scientific studies, stream gauging, water wells, passive recreation facilities such as boardwalks, trails, pathways, historic preservation and archaeological activities, provided that they are located in Zone 2 and are at least 30 feet from the top of bank or mean high water line and are designed, constructed and maintained to provide the maximum nutrient removal and erosion protection, to have the least adverse effects on aquatic life and habitat, and to protect water quality to the maximum extent practical through the use of best management practices. Activities that must cross the stream or be located within Zone 1, are allowed as long as all other requirements of this Item are met; and

(h) **Stream crossings**, associated with timber harvesting, if performed in accordance with the Forest Practices Guidelines Related to Water Quality (15A NCAC 1J .0201-.0209).

(3) **The protected riparian area shall have two zones as follows:**

(a) **Zone 1** is intended to be an undisturbed area of vegetation.

(i) **Location of Zone 1**: Zone 1 begins at the top of bank for intermittent streams and perennial streams and extends landward a distance of 30 feet on all sides of the waterbody, measured horizontally on a line perpendicular to the waterbody. For all other waterbodies, Zone 1 begins at the top of bank or mean high water line and extends landward a distance of 30 feet, measured horizontally on a line perpendicular to the waterbody.

(ii) **The following practices and activities** are allowed in Zone 1:

[A] Natural regeneration of forest vegetation and planting vegetation to enhance the riparian area if disturbance is minimized, provided that any planting shall primarily consist of locally native trees and shrubs;

[B] Selective cutting of individual trees in Zone 1, where forest vegetation as defined in Section 3-1.14 of this Ordinance exists, as long as the following conditions are met every 100 feet on each side of the stream;

[1] Of existing trees 12-inches and greater diameter breast high (dbh), a minimum of five trees must remain uncut;

[2] Trees 12-inches and greater dbh may be harvested based on the following equation: Number of Trees harvested = (Total number of trees greater than 12-inches dbh - 5 / 2;

[3] No trees less than 12-inches dbh may be harvested unless exceptions provided in this Ordinance are met;

[4] Trees may not be harvested more frequently than every 10 years; and

[5] No tracked or wheeled equipment are allowed;

[C] Horticulture or silvicultural practices to maintain the health of individual trees;

[D] Removal of individual trees which are in danger of causing damage to dwellings, other structures or the stream channel;

[E] Removal of dead trees and other timber cutting techniques necessary to prevent extensive pest or disease infestation if recommended by the Director, Division of Forest Resources and approved by the Director, Division of Water Quality; and

[F] Ongoing agricultural operations provided that existing forest vegetation is protected.

(iii) **The following practices and activities** are not allowed in Zone 1:

[A] Land-disturbing activities and placement of fill and other materials, other than those allowed in Section 3-3.2(C)(2) and Section 3-3.2(C)(3)(a)(ii) of this Ordinance;

[B] New development, except as provided in Section 3-3.2(C)(2)(d), (2)(e) and (2)(f) of this Ordinance;

[C] New on-site sanitary sewage systems which use ground absorption;

[D] The application of fertilizer; and

[E] Any activity that threatens the health and function of the vegetation including, but not limited to, application of chemicals in amounts exceeding the manufacturer's recommended rate, uncontrolled sediment sources on adjacent lands, and the creation of any areas with bare soil.

(b) **Zone 2** is intended to provide protection through a vegetated riparian zone, which provides for diffusion and infiltration of runoff and filtering of pollutants.

(i) **Location of Zone 2**: Zone 2 begins at the outer edge of Zone 1 and extends landward a minimum of 20 feet as measured horizontally on a line perpendicular to the waterbody. The combined minimum width of Zones 1 and 2 shall be 50 feet on all sides of the waterbody.

(ii) **The following practices and activities** are allowed in Zone 2 in addition to those allowed in Zone 1:

[A] Periodic mowing and removal of plant products such as timber, nuts, and fruit is allowed provided the intended purpose of the riparian area is not compromised by harvesting, disturbance, or loss of forest or herbaceous ground cover; and

[B] Grading and timber harvesting provided that vegetated ground cover be established immediately following completion of the land-disturbing activity.

(iii) **The following practices and activities** are not allowed in Zone 2:

[A] New development, except as provided in Section 3-3.2(C)(2)(e) and (2)(f) of this Ordinance;

[B] New on-site sanitary sewage systems which use ground adsorption;

[C] Any activity that threatens the health and function of the vegetation including, but not limited to, application of chemicals in amounts exceeding the manufacturer's recommended rate, uncontrolled sediment sources on adjacent lands, and the creation of any areas with bare soil.

(4) **Timber removal and skidding of trees** shall be directed away from the water course or water body. Skidding shall be done in a manner to prevent the creation of ephemeral channels perpendicular to the water body. Any tree removal must be performed in a manner that does not compromise the intended purpose of the riparian area and is in accordance with the Forest Practices Guidelines Related to Water Quality (15A NCAC 1J .0201-.0209).

(5) **Maintenance of sheet flow** in Zones 1 and 2 is required in accordance with this Item.

(i) **Sheet flow** must be maintained to the maximum extent practical through dispersing concentrated flow and re-establishment of vegetation to maintain the effectiveness of the riparian area.

(ii) **Concentrated runoff** from new ditches or manmade conveyances must be dispersed into sheet flow before the runoff enters Zone 2 of the riparian area. Existing ditches and manmade conveyances, as specified in Section 3-3.2(C)(2)(a) of this Ordinance, are exempt from this requirement; however, care shall be taken to minimize pollutant loading through these existing ditches and manmade conveyances from fertilizer application or erosion.

(iii) **Periodic corrective action** to restore sheet flow shall be taken by the

landowner if necessary to impede the formation of erosion gullies which allow concentrated flow to bypass treatment in the riparian area.

(6) **Periodic maintenance** of modified natural streams such as canals is allowed provided that disturbance is minimized and the structure and function of the riparian area is not compromised. A grass travelway is allowed on one side of the waterbody when alternative forms of maintenance access are not practical. The width and specifications of the travelway shall be only that needed for equipment access and operation. The travelway shall be located to maximize stream shading.

(7) **Where the standards and management requirements** for riparian areas are in conflict with other laws, regulations, and permits regarding streams, steep slopes, erodible soils, wetlands, flood plains, forest harvesting, surface mining, land disturbance activities, or other environmental protection areas, the more protective shall apply.

(8) **The buffer requirement** in Section 3-3.2(A) of this Ordinance which stipulates a one hundred (100) foot vegetated buffer, adjacent to perennial streams, for all new development activities which utilize the high density option, applies to the entire Deep River watershed. The first fifty (50) feet of these riparian areas on either side of these waters must also be protected in accordance with all the requirements of this section.

(9) **Plats** recorded for properties in the Deep River watershed shall include a delineation of riparian areas as defined in this Ordinance.

(D) LOWER ABBOTT'S CREEK SEWER SERVICE AREA WATERSHED PROTECTION RULES

(1) The watershed protection rules as setout in Section 3-3.2(C) "Deep River Watershed Riparian Areas" shall also apply to that portion of the Lower Abbott's Creek Basin under the planning jurisdiction of the Town of Kernersville that can be served by the extended sewer service area as illustrated in the 201 Facilities Plan Amendment dated February 2002 for all tracts of land greater than 5-acres or multiple tracts of the same development project which exceed a cumulative total of 5-acres, except nonresidential and non-civil/institutional land uses which shall adhere to this ordinance if they are greater than 2-acres, with the following modifications:

(a) Zone 1 of the protected riparian area shall average 30-feet in width on all sides of the water body. Those areas where Zone 1 is allowed to be less than 30-feet shall be for recreational, utility/roadway crossings and other public purposes. Zone 1 shall begin at the top of the waterbody bank and extends landward on all sides of the waterbody and perpendicular to the waterbody.

(b) Zone 2 shall begin at the outer edge of Zone 1where Zone 1 is 50-feet or less and shall terminate at a point 50-feet from the top of the waterbody bank. The 100-foot vegetative buffer requirements for the high-density option as defined in this ordinance shall also apply.

(c) Where practical, connectivity of undisturbed and revegetated areas shall be incorporated into land planning and final land use designs.

(d) Stormwater control devices shall not be placed in the 100-Year floodplain unless no practical alternative exist and fill material shall not encroach more than that allowed in the Unified Development Ordinance.

(2) In accordance with the definition of riparian buffers in Section 3-3.2(C)(1) above, the developer

and/or property owner shall provide an accurate delineation of all existing riparian buffers on the submitted site plan.

(3) Where it is impractical or it is deemed unfeasible by the Watershed Administrator to maintain Zone 1 at an average of 30-feet, other mitigation measures may be considered in order to offset the buffer loss. Approved mitigation measures include but are not limited to: installation of Structural BMP's, stream restoration, stream preservation, wetland restoration, bottom land hardwood preservation, and open space preservation.

3-3.3 INTERPRETATION OF WATERSHED AREA BOUNDARIES

For purposes of this Ordinance, the categorization of watersheds is as follows:

WS-III-BW	Balance of Watershed
WS-IV-CA	Critical Area
WS-IV-BW	Balance of Watershed

In the interpretation of boundaries of watershed areas and properties within the same as shown on the *Watershed Map* made a part of this Ordinance:

(A) Where area boundaries are indicated as approximately following either street, alley, railroad or highway lines or centerlines thereof, such lines shall be construed to be said boundaries;

(B) Where area boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be said boundaries. However, a surveyed plat prepared by a registered land surveyor may be submitted to the Town of Kernersville as evidence that one or more properties along these boundaries do not lie within the watershed area;

(C) Where the watershed area boundaries lie at a scaled distance more than twenty-five (25) feet from any parallel lot line, the location of watershed area boundaries shall be determined by use of the scale appearing on the watershed map;

(D) Where the watershed area boundaries lie at a scaled distance of twenty-five (25) feet or less from any parallel lot line, the location of watershed area boundaries shall be construed to be the lot line; and,

(E) Where other uncertainty exists, the Watershed Administrator shall interpret the *Watershed Map* as to location of such boundaries.

3-3.4 APPLICATION OF REGULATIONS

(A) No building shall be constructed, nor land used, nor development take place, except in conformity with the regulations herein specified for the watershed area in which it is located.

(B) For purposes of calculating the built-upon areas, no area shall be included in the area required for more than one building, nor shall any noncontiguous areas be included in the calculations.

(C) No residential structure shall hereafter be erected, moved, or structurally altered unless the same shall be located upon a lot which conforms to the regulations herein specified.

3-3.5 EXISTING DEVELOPMENT

Existing development, as defined in this Ordinance, may be continued and maintained subject to the provisions provided herein. Expansions to structures classified as existing development must meet the requirements of this Ordinance; however, the impervious area of existing development shall not be included in the impervious calculations.

(A) **Single Family Vacant Residential Lots**. Vacant residential lots of record for which plats or deeds have

been recorded in the Office of the Register of Deeds. Lots may be used for any permitted uses in the watershed area in which it is located, subject to the following: Where the lot area of a residential single family lot of record does not meet the minimum lot size specified by this Ordinance, the Watershed Administrator nevertheless shall issue a watershed permit. This exemption is not applicable to multiple lots under single ownership.

(B) **Any single family residence** existing at the time this Ordinance was adopted which has been damaged or destroyed may be repaired, reconstructed, or enlarged.

(C) **Residential construction**, other than single-family residential, existing at the time this Ordinance was adopted which has been damaged or destroyed may be repaired, reconstructed, re-designed, or enlarged in accordance with the provisions of this Ordinance.

(D) **Preexisting nonresidential buildings**, for which reconstruction is desired. Existing buildings may be repaired and/or reconstructed, or redesigned, provided the total amount of space devoted to impervious area shall not be increased unless in conformity with this Ordinance.

(E) **Maintaining impervious surface area coverage rights on existing development.**

(1) **Reconstruction after removal of impervious surface area due to catastrophe.**

(a) **Applicability**

If impervious surfaces are removed as a result of fire, explosion, or other catastrophe, and no government investigation determines that the damage resulted from the owner's intentional conduct or gross negligence the owner of the property has two (2) years to reestablish the impervious surface area to maintain or preserve the existing impervious rights for that property.

(b) **Approval Process**

The owner can reestablish the impervious surface area conditions by covering the same area with any type of impervious cover including building, pavement, or compacted gravel as long as a valid permit has been issued for the work.

Alternatively, the owner of the property may submit a request for a time extension to the Watershed Review Committee. In order for the Committee to approve the extension, the owner must document that there are future development intentions for the property and that continued efforts have been made to redevelop the property during the two (2) year period for reestablishment of the impervious surface area. The Watershed Review Committee will be responsible for reviewing documentation submitted by the property owner to verify the redevelopment efforts and to make a determination if a time extension will be granted, as well as the duration of the extension.

An application to request an extension shall be filed no later than one (1) month in advance of the end of two (2) year period for reestablishment of the impervious surface area.

(c) **Appeals**

Appeals of any order, requirement, decision or determination made by the Watershed Review Committee may be made to, and decided by, the Board of Adjustment as set forth in Section 3-7.7 of this Ordinance.

(2) **Voluntary Demolition of impervious surface area.**

(a) **Applicability**

If impervious surfaces are removed as a result of voluntary actions of the owner of the property has one hundred eighty (180) days to reestablish the impervious surface area to

maintain or preserve the existing impervious rights for that property.

(b) Approval Process

The owner can reestablish the impervious surface area conditions by covering the same area with any type of impervious cover including building, pavement, or compacted gravel as long as a valid permit has been issued for the work.

Alternatively, the owner of the property may submit a request for a time extension to the Watershed Review Committee. In order for the Committee to approve the extension, the owner must document that there are future development intentions for the property and that continued efforts have been made to redevelop the property during the one hundred eighty (180) day period for reestablishment of the impervious surface area. The Watershed Review Committee will be responsible for reviewing documentation submitted by the property owner to verify the redevelopment efforts and to make a determination if a time extension will be granted, as well as the duration of the extension.

An application to request an extension shall be filed no later than one (1) month in advance of the end of the one hundred eighty (180) day period for reestablishment of the impervious surface area.

(c) Appeals

Appeals of any order, requirement, decision or determination made by the Watershed Review Committee may be made to, and decided by, the Board of Adjustment as set forth in Section 3-7.7 of this Ordinance.

(3) Effective Date. The effective date of this section, *Maintaining Impervious Surface Area Coverage Rights on Existing Development,* shall be February 7, 2017.

3-3.6 WATERSHED PERMIT

(A) Permit Required. Except for a single family residence constructed on a lot deeded or platted prior to the effective date of this Ordinance or on a lot approved in conformance with this Ordinance, no building or built-upon area shall be erected or expanded, nor shall any building or zoning permit be issued, until a watershed protection permit has been issued by the Watershed Administrator. No watershed protection permit shall be issued except in conformity with the provisions of this Ordinance.

(B) Watershed permit applications shall be filed with the Watershed Administrator. The application shall include a completed application form and any additional information as required by the Watershed Administrator.

(C) Prior to issuance of a watershed permit, the Watershed Administrator may consult with the Watershed Review Committee or other qualified personnel for assistance to determine if the application meets the requirements of this Ordinance.

(D) A watershed permit shall expire twelve (12) months from the date of issuance unless prior thereto a building permit or final inspection is obtained by the applicant.

3-3.7 BUILDING PERMIT REQUIRED

Except for a single family residence constructed on a lot deeded or platted prior to the effective date of this Ordinance or on a lot approved in conformance with this Ordinance, no permit required under the North Carolina State Building Code shall be issued for any activity for which a watershed protection permit is required until the latter permit has been issued.

3-3.8 FINAL WATERSHED INSPECTION

(A) **Except for a single family residence** constructed on a lot deeded or platted prior to the effective date of this Ordinance or on a lot approved in conformance with this Ordinance, but prior to occupancy or use of any erected, altered, or moved structure, the Watershed Administrator shall have first made a final inspection and certify that all requirements of this Ordinance have been met.

(B) **Before expanding** any impervious area of an existing project, the Watershed Administrator shall first issue a watershed permit certifying that all requirements of this Ordinance have been met.

(C) **If any watershed permit is denied**, the Watershed Administrator shall notify the applicant in writing stating the reasons for denial.

3-3.9 SPECIAL INTENSIVE DEVELOPMENT ALLOCATION (SIDA)

(A) **The Board of Aldermen**, upon recommendation by the Watershed Review Committee, may grant Special Intensive Development Allocation (SIDA), which permit the development, on a project by project basis, of ten percent (10%) of the WS-III watershed land area (outside the critical area) within the Kernersville Planning jurisdiction up to a maximum of seventy (70%) impervious coverage.

(B) **Applicants** who request SIDA's must submit applications which utilize engineered storm water controls to control runoff from the first inch of rainfall, minimize impervious area, direct storm water to detention ponds, and meet other performance criteria as established by Section 3-3.9 of this Ordinance.

(C) **Upon receipt of a SIDA request by an applicant**, the Watershed Administrator shall request review of the proposal by the Watershed Review Committee as established by Section 3-7.2 of this Ordinance. Upon recommendation by the Watershed Review Committee, the Board of Aldermen shall approve or deny the request. If the request is denied, the applicant may redesign and resubmit the request.

(D) **The Watershed Review Committee** shall use the following performance criteria to evaluate requests for SIDA's. Projects must have a point score of at least two hundred (200) to qualify for a SIDA. A public building qualifies for SIDA consideration.

Table 3.1
Performance Standards for Density Bonus Checklist
for Allocation of 10/70 rule in Watershed III BW

Category	Standard	Points
Tax Base (estimated *tax value of the land & building(s) of completed project*) $2,000,000 - $4,999,999 $5,000,000 - $9,999,999 $10,000,000 or more	 50 75 100	
Conformance to Kernersville Development Plan	100	
Downtown District (*original town boundary*)	50	
Revitalization of Existing Development (*reuse of existing developed property*)	50	
Lot of Record That is Less Than 1 Acre	50	
Conditional Zoning Application (excluding Conditional Zoning District - TWO PHASE)	50	
Dedication of Public Right-of-Way and/or Easement (excluding density credit for public right-of-way or easements granted during rezoning or subdivision reviews)	50	

Category	Standard	Points
TOTAL		

(E) **If the request is approved** by the Board of Aldermen, the Watershed Administrator shall issue a SIDA permit. A record of all SIDA permits shall be kept on file in the office of the Watershed Administrator.

(F) **After the approved SIDA project is completed** the developer shall submit an as-built drawing of the site plan certified by a surveyor.

(G) **A SIDA approval** shall expire after three (3) years unless construction of the pond has begun.

3-4 LOW DENSITY DEVELOPMENT REGULATIONS

Low density development must meet the requirements of this Section. Development exceeding these standards must meet the requirements in Section 3-5 High Density Development Regulations, of this Ordinance.

3-4.1 LOW DENSITY DEVELOPMENT STANDARDS

(**A**) Low density single family detached residential developments shall not exceed two (2) dwelling units per gross acre unless permitted using the low-density option.

Single family detached residential developments created, after April 3, 2001, that use the low-density option shall:

(**1**) Not exceed twenty four percent (24%) built upon area.

(**2**) Indicate the allowable built upon area for each lot on the final plat and in the restrictive covenants.

(**3**) Reserve Built Upon Area: Reserve, at minimum, three percent (3%) of the lot area but not less than three hundred (300) sq. ft. built upon area per lot to allow for addition of future impervious areas by homeowner/occupant. The reserve built upon area shall be treated as part of the built upon area for the purposes of determining if the development is a low density or high-density project and for design of stormwater conveyances and control measures.

(**B**) All other residential and non-residential developments shall:

(**1**) Not exceed twenty four percent (24%) built upon area.

(**2**) Indicate the allowable built upon area for each lot on the final plat and in the restrictive covenants, if applicable.

(**C**) When calculating gross acreage and built-upon area, project area shall include total contiguous acreage of the adjacent or adjoining tract(s) on which the project is to be developed, including future rights of way and easements.

3-4.2 LOW DENSITY WATERSHED PERMIT APPLICATION

(A) A low-density watershed permit shall be required for new or expanded development meeting the standards in Section 3-4.1 of this Ordinance.

(B) Applications and supporting documentation for a low-density watershed permit shall be submitted to the Watershed Administrator and shall be submitted in a form and in such numbers as noted Watershed and Stormwater Administrative Manual.

(C) Applications must be accompanied by the required fee amount as established by the Town Fee Schedule.

(D) The Watershed Administrator may provide an opportunity to public agencies affected by the development proposal to review and make recommendations in regard to the application. Failure of the agencies to submit their comments and recommendations shall not delay action within the prescribed time limit.

(E) The Watershed Administrator shall review and approve or disapprove each application for a low-density development permit in accordance with the standards established by this Ordinance and State Law.

(**1**) If the Watershed Administrator approves the application, such approval shall be indicated on the permit and copies of the site plan. A copy of the permit and set of plans shall be kept on file at the Watershed Administrator's office. The original permit and one copy of each set of plans shall be provided to the permittee.

(2) If the Watershed Administrator disapproves the application, the reasons for such action shall be stated in writing and presented in person to the applicant or by registered mail, return receipt requested. The applicant may make changes and submit a revised plan and/or permit application. All revisions shall be submitted, reviewed and acted upon by the Watershed Administrator pursuant to the procedures of this Section.

3-5 HIGH DENSITY DEVELOPMENT REGULATIONS

3-5.1 HIGH DENSITY DEVELOPMENT STANDARDS

(A) New or expanded development exceeding the low-density standards of Section 3-4 shall utilize engineered stormwater control measures to treat runoff as specified in Section 3-5.3 of this Ordinance. Development is limited to the built upon area specified in this Section.

(B) New or expanded development shall indicate the allowable built upon area for each lot on the final plat and in the restrictive covenants, if applicable.

(C) When calculating gross acreage and built-upon area, project area shall include total contiguous acreage of the adjacent or adjoining tract(s) on which the project is to be developed, including future rights of way and easements

(D) WS-III WATERSHED AREAS - BALANCE OF WATERSHED (WS-III-BW).
Development shall not exceed fifty percent (50%) built upon area except as provided herein. Nonresidential uses may be approved for up to seventy percent (70%) built upon area as a Special Intensive Development Allocation (SIDA) as established by Section 3-3.9 of this Ordinance.

(E) WS-IV WATERSHED AREAS - CRITICAL AREA (WS-IV-CA).
Development shall not exceed fifty percent (50%) impervious area.

(F) WS-IV WATERSHED AREAS - BALANCE OF WATERSHED (WS-IV-BW).
Developments requiring a sedimentation/erosion control plan under State law or approved local program shall not exceed seventy percent (70%) impervious area.

(G) Single family detached residential developments created, after April 3, 2001, shall provide Reserve Built Upon Area by reserving, at minimum, three percent (3%) of the lot area but not less than three hundred (300) sq. ft. built upon area per lot to allow for addition of future impervious areas by homeowner/occupant. The reserve built upon area shall be treated as part of the built upon area for the purposes of determining if the development is a low density or high-density project and for design of stormwater conveyances and control measures.

3-5.2 HIGH DENSITY WATERSHED PERMIT APPLICATION

(A) A high-density watershed permit shall be required for new or expanded development exceeding the low-density standards, as established by Section 3-4.1 of this Ordinance.

(B) Applications and supporting documentation for a high-density watershed permit shall:

(**1**) Be submitted to the Watershed Administrator and shall be submitted in a form and in such numbers as noted Watershed and Stormwater Administrative Manual. Additionally,

(**2**) Include a recorded operations and maintenance agreement and plan, recorded Deed of Easement and performance surety as required by Sections 3-5.3, 3-5.4 and 3-5.5 of this Ordinance;

(**3**) Be accompanied by the required fee amount as established by the Town Fee Schedule.

3-5.3 STORM WATER CONTROL STRUCTURES

(A) **New development** under the high density option shall employ engineered storm water controls, or alternatively, storm water management practices (BMP's) consisting of other treatment options of a combination of treatment options approved for this use by the Director of North Carolina Water Quality Division. Wet detention ponds must be employed as the preferred storm water control alternative. All storm water management practices approved pursuant to this Ordinance shall be designed to remove eighty-five percent (85%) of the total suspended solids in the storm water runoff.

(B) **All storm water control structures** and/or storm water systems shall be designed by either a North Carolina registered professional engineer or landscape architect. Land surveyors may design incidental drainage within a subdivision, as provided in North Carolina General Statute 89(C)-3(7). All drawings and specifications as provided for herein shall bear the seal of the professional responsible for the preparation thereof.

(C) **Prior to the issuance of a watershed permit**, the applicant shall convey unto the Town of Kernersville, or its successors or assigns an easement and right-of-way establishing the right of ingress, egress, and regress over the property for the purpose of inspection, repair, or maintenance of the storm water control structure(s). A description of the area containing the storm water control structure(s) within a drainage easement shall be contained within the deed filed with the Register of Deeds together with any dedication necessary for access to and from the storm water control structure(s) and a public street. The detention pond, vegetative filters, all pipes and water control structures, including berms and dikes, and sufficient area to perform inspections, maintenance, repairs and reconstruction together with all easements and rights-of-way applying thereto shall be indicated on the application.

(D) **Pervious areas of the storm water control structure** shall be used when computing total impervious area. The storm water control structure shall be used to compute the percentage of impervious area for only one site.

3-5.4 POSTING OF FINANCIAL SECURITY REQUIRED

(A) **Adequate financial assurance** in the form of a performance surety granted by the applicant unto the Town of Kernersville shall be provided for the purpose of assuring construction, continued maintenance, repairs, or reconstruction necessary for adequate completion and continued maintenance of any storm water control structure(s). The performance surety shall be an amount equal to one hundred percent twenty (120%) of the total cost of the storm water control structure(s).The total cost of the storm water control structure(s) shall include the value of all materials, piping and other structures, seeding and soil stabilization, design and engineering, grading, excavation, fill, and other work. The costs shall be computed upon the assumption of an independent mobilization. The applicant shall submit unit cost information pertaining to all storm water control structures(s) and/or bids from the grading contractor hired to perform the work and any change orders

related thereto as a method to determine the basis for cost of the work. The final cost determination shall be made by the Watershed Administrator, taking into consideration any additional costs as deemed necessary for completion by the Community Development Director, Public Services Director, or Watershed Review Committee.

(B) **Default under the performance surety**. Upon default of the owner to construct, maintain, repair, or reconstruct the storm water control structure(s) in accordance with the operation and/ maintenance agreement, the Board of Aldermen shall obtain and use all or any portion of the performance surety to make necessary improvements based on an engineering estimate or bids. The Board of Aldermen may return any of the deposited cash funds after all expenses of completed construction, continued maintenance, repair, redesign, or reconstruction of the storm water control structure(s) in accordance with the operation and maintenance agreement. The Board of Aldermen may also assess the owners for any additional funds needed to complete said improvements.

(C) **Operation and maintenance agreement**. The applicant shall enter into a binding operation and maintenance agreement with the Town of Kernersville in accordance with the provisions of Section 3-5.5 of this Ordinance. This agreement shall require the owner to maintain, repair, or reconstruct the storm water control structure(s) in accordance with the approved operation and management plan. The applicant shall file the operation and maintenance agreement with the Register of Deeds after approval by the Watershed Review Committee.

3-5.5 MAINTENANCE AND REPAIR OF STORM WATER CONTROL STRUCTURES

(A) **An operation and maintenance plan** shall be provided by the applicant for each storm water control structure proposed. Such plan shall specify all operation and maintenance work necessary for the storm water control structure(s). The plan shall specify methods to be used to maintain or restore a storm water control structure to design specifications in the event of failure. The plan shall include all conditions and specifications imposed by the Town Code and this Ordinance.

(B) **Ongoing maintenance** of any storm water control structure(s) shall be the responsibility of the owner. Vegetation which threatens the integrity of the control structure or interferes with any easement or access to the storm water control structure(s) are prohibited and shall be removed. The owner, upon direction by the Watershed Administrator, shall remove any such vegetation within thirty (30) days of said notification.

(C) **The owner shall notify the Watershed Administrator** before repairing or reconstructing any storm water control structure(s), except that mowing and/or minor seeding of small areas shall not require approval. All repair or reconstruction shall be made only in conformance with the approved plans and specifications of the storm water control structure(s) and the operation and maintenance plan submitted to the Town at the time of application. The Watershed Administrator shall inspect the storm water control structure(s) upon completion and shall notify the owner of any additional work, changes or modifications necessary, which shall be completed within thirty (30) days of notification by the Watershed Administrator, as set forth by Section 3-1.16 of this Ordinance.

(D) **Any amendments** to the plans and specifications of the storm water control structure(s) and/or the operation and maintenance plan shall be approved by the Watershed Review Committee. Any proposed changes shall be prepared by a North Carolina registered professional engineer or landscape architect and submitted to the Watershed Administrator.

(1) **Upon approval of the proposed changes**, one copy of each set of plans shall be kept on file in the Office of the Watershed Administrator.

(2) **If the Watershed Review Committee disapproves the changes**, the proposal may be revised and resubmitted to the Watershed Review Committee.

(E) **The Watershed Review Committee** shall notify the applicant in writing of approval and/or any required

changes. The applicant shall prepare and file copies of the revised plan as an attachment to the deed filed with the Register of Deeds, and the office of the Watershed Administrator.

(F) **Applicant shall cause to be recorded** in the Register of Deeds of the County within which the subject property is located, restrictive covenants running with the title to such property in perpetuity, which shall provide for the ongoing maintenance and upkeep of the storm water control structure, ponds, and devices, in accordance with the storm water operation and maintenance plan as provided for herein. Such restrictive covenants shall provide that the Town of Kernersville has the right to enforce such restrictive covenants against all present and subsequent property owners and shall survive any action of bankruptcy affecting the subject property.

(G) **The applicant shall not sell, convey, nor otherwise transfer ownership interest** of property without requiring restrictive covenants to maintain the storm water control structure(s). The continuous ongoing obligation of all subsequent property owners to operate, maintain, and re-construct the storm water control structure(s) shall be disclosed in all deeds of conveyance. All lots subsequently presented for recording to the Register of Deeds of the County in which the subject property is located shall contain a full disclosure regarding the storm water control structure(s) together with any restrictive covenants and liens pertaining to maintenance of said structure(s). The following statement shall appear on all deeds recorded in high density watershed areas:

3-5.6 APPLICATION AND INSPECTION FEES

(A) **Application and inspection fees** shall be paid in the form of a check or money order made payable to the Town of Kernersville. Applications not accompanied by the required fee shall not be accepted.

(B) **An inspection fee** shall be required when improvements are made to the storm water control structure as required by Section 3-5.5 herein. Application and inspection fees shall be valid for sixty (60) days.

3-5.7 INSPECTIONS AND RELEASE OF THE PERFORMANCE SECURITY

(A) **After a storm water control structure is complete**, an inspection shall be made by the Watershed Administrator, upon notification by the applicant. At this inspection, the applicant shall provide:

(1) **The signed deed**, related easements, restrictive covenants, and a survey plat showing the storm water control structure(s) in completed form for filing with the Register of Deeds; and,

(2) **A certification** bearing the seal and signature of an engineer or landscape architect stating that the storm water control structure(s) is complete and has been constructed in accordance with the approved plans and specifications.

(B) **Upon completion of the storm water control structure(s)**, the owner may request release of fifty percent (50%) of the performance surety. Upon request by the owner, the Watershed Administrator shall inspect the storm water control structure(s) to determine that the storm water control(s) have been constructed and

ENGINEER'S CERTIFICATE - High Density Watershed Permit

I _____, certify that the storm water control structure(s) located on the property described
Name, and professional registration
herein was prepared by me, or under my direct supervision, that the plans and specifications meet all requirements of the Kernersville Watershed Ordinance and North Carolina General Statute 47-30.

Witness my hand and seal this _____ day of _____, A.D., 20___.

_____
Engineer or Landscape Architect

NOTICE: THIS PROPERTY IS LOCATED IN A WATERSHED ___ PUBLIC WATER SUPPLY WATERSHED. DEVELOPMENT RESTRICTIONS APPLY. THIS PROPERTY IS SUBJECT TO RESTRICTIVE COVENANTS REQUIRING MAINTENANCE AND ANNUAL INSPECTION OF A STORM WATER CONTROL STRUCTURE.

maintained as required by this Ordinance. The Watershed Administrator, upon determining that the storm water control(s) have been installed in conformity with the Ordinance and maintained properly, shall release fifty percent (50%) of the performance surety.

(C) **No sooner than one year after the recording date of the deed(s)**, easements and maintenance agreement, the owner may request release of the remainder of the performance surety. Upon request by the owner, the Watershed Administrator shall inspect the storm water control structure(s) to determine that the storm water control(s) are performing as required by this Ordinance. The Watershed Administrator, upon determining that the storm water control(s) are performing as required by this Ordinance, and after any repairs to the storm water control structure(s) are made by the owner, shall release the remaining performance surety.

(D) **A certificate of occupancy** shall not be issued for any structure within the permitted development until the Watershed Administrator has approved the storm water control structure(s), as provided in Section 3-5.7 herein.

(E) **All storm water control structures** shall be inspected at least on an annual basis to determine that the controls are performing as required by this Ordinance. The person responsible for maintenance of any structural BMP installed pursuant to this ordinance shall submit to the Watershed Administrator an annual inspection report from a qualified registered North Carolina professional engineer or landscape architect performing services only in their area of competence. Records of inspection shall be maintained by the Watershed Administrator. Annual inspections shall begin within one year of the recordation of any deed(s) showing storm water control structure(s).

(F) **The Watershed Administrator** shall notify the owner of any repair or reconstruction necessary to meet the requirements of the Ordinance. All repair or reconstruction shall be in accordance with the plans and specifications for the storm water control structure and the operation and maintenance plan and shall be completed within thirty (30) days after notification by the Watershed Administrator as set forth by Section 3-1.16 of this Ordinance. Upon request by the owner, the Watershed Administrator shall inspect and approve the completed repairs.

(G) **Appeals** of any order, requirement, decision or determination made by the Watershed Administrator may be made to, and decided by, the Board of Adjustment as set forth in Section 3-7.7 of this Ordinance.

3-6 PUBLIC HEALTH REGULATIONS

3-6.1 ABATEMENT

(A) **The Watershed Administrator** shall determine violations of this Ordinance and shall notify the property owner of any such violations. The Watershed Administrator shall institute actions or proceedings necessary to restrain, correct or abate the condition and/or violation.

(B) **In the event that the Watershed Administrator** determines that a property owner(s) is in violation of this Ordinance by the failure of the property owner(s) to operate and maintain the storm water control structure(s) in conformance with the operation and maintenance agreement described in Section 3-5.4 and that such violation, if not corrected, may cause the Town of Kernersville to be subject to civil penalties promulgated by the Division of Environmental Management of the Department of Environment and Natural Resources, the Watershed Administrator shall follow the procedure outlined below to abate the violation:

(1) **The Watershed Administrator** shall notify the property owner(s) in writing of all violations of this Ordinance and shall define therein corrective measures required of the property owner;

(2) **The property owner(s)** shall have thirty (30) days from the mailing or delivery of written notice of violation to correct all problems noted by the Watershed Administrator and to bring the storm water control structure(s) into compliance with this Ordinance.

(3) **Upon expiration** of thirty (30) days from the mailing or delivery of written notice of violation, the Watershed Administrator shall inspect the storm water control structure(s) and should all problems not be so corrected and the property owner(s) remains in violation of this Order, the Watershed Administrator shall be authorized to employ the services of a licensed professional engineer to evaluate and develop plans and specifications of the corrective actions necessary, and any costs thereof, to repair the storm water control structure(s) so that the property is brought into compliance with this Ordinance.

(4) **All costs of evaluation and repair**, or estimates of such repair, incurred by the Town of Kernersville for evaluating and repairing defects of the storm water control structure(s) in order to bring the property into compliance with this Ordinance shall be assessed against the property owner(s).

3-7 ADMINISTRATION

3-7.1 WATERSHED ADMINISTRATOR AND DUTIES THEREOF

The Town Manager shall appoint a Watershed Administrator, whose duties shall be the administration and enforcement of this Ordinance as follows:

(A) **The Watershed Administrator** shall issue watershed permits and make watershed inspections as set forth by this Ordinance. A record of all permits shall be kept on file and shall be available for public inspection during regular office hours of the Watershed Administrator.

(B) **The Watershed Administrator** shall serve as Secretary to the Watershed Review Committee.

(C) **The Watershed Administrator** shall keep records of all amendments to the local *Water Supply Watershed Protection Ordinance* and shall provide copies of all amendments upon adoption to the Supervisor of the Classification and Standards Group, Water Quality Section, Division of Environmental Management, North Carolina Department of Environment and Natural Resources.

(D) **The Watershed Administrator** shall keep records of any exemptions approved by the Watershed Review Committee. A record of all exemptions granted by the Town during the previous calendar year shall be submitted to the Division of Environmental Management on or before January 1st of the following year.

(E) **The Watershed Administrator** shall keep records of any SIDA allocation(s). Records for each watershed shall include the total acres of noncritical watershed area, total acres eligible to be developed with SIDA, total acres approved for SIDA, and individual records for each SIDA project including the following information: location, acres, site plan, use, storm water management plan as applicable, and inventory of any hazardous materials as applicable.

(F) **The Watershed Administrator** may enter any building, structure, or premises, as provided by law, to perform any duty imposed upon him by this Ordinance.

3-7.2 WATERSHED REVIEW COMMITTEE

All high density watershed permit applications shall be reviewed and approved by the Watershed Review Committee prior to the issuance of building permits. The Watershed Review Committee shall be appointed by the Town Manager.

(A) **Powers and duties**. The Watershed Review Committee shall review all high density applications for watershed permits to insure compliance with this Ordinance. This review shall involve the exercise of authority only as established by this Ordinance.

(B) **Within thirty (30) days** of receipt of a high density application by the Watershed Administrator, and after staff review of the application, a meeting of the Watershed Review Committee shall be called by the Chairman (Town Manager) to review the application. All meetings of the Committee shall be open to the public, and any party may petition in person or by agent duly authorized to act in his behalf. A majority vote

of the Watershed Review Committee shall be required on all issues considered by the Committee.

(C) **No certificates of occupancy** shall be issued until the applicant has complied with all approved plans and specifications of the watershed permit.

3-7.3 EXCEPTIONS, MINOR

The Watershed Review Committee is empowered to authorize, in certain cases, minor exceptions as defined by this Ordinance. The Watershed Administrator upon receipt of an application for a minor exception, shall notify in writing each local government having jurisdiction in the watershed, and all entities using the water supply for consumption. Such notice shall include a description of the minor exception being requested. Local governments receiving notice of the minor exception request may submit comments to the Watershed Administrator prior to a recommendation by the Watershed Review Committee. Such comments shall become a part of the record of proceedings of the Committee.

(A) **Applications for a minor exception** shall include the following information in addition to that submitted for the watershed permit:

(1) **A site plan**, drawn to a scale of at least one inch represents forty (40) feet (1" to 40'), indicating the property lines of the parcel upon which the use is proposed, any existing or proposed structures, parking areas and other impervious areas, and surface water drainage. The site plan shall be neatly drawn and indicate north point, name and address of person who prepared the plan, date of the original drawing, and an accurate record of any subsequent revisions.

(2) **A complete and detailed description** of the proposed minor exception with any other information necessary for consideration of the application.

(B) **Before the Watershed Review Committee** may grant a minor exception, it shall make the following findings of fact, which shall be contained in any motion for adoption for such minor exception:

(1) **A finding** of practical difficulty or unnecessary hardship(s) to be determined only upon finding that the following conditions exist:

(a) If the applicant explicitly complied with the provisions of the Ordinance, the applicant could not make reasonable use of his property;

(b) The unnecessary hardship(s) results from the application of the Ordinance to the subject property solely and not from an application of this Ordinance to property in general;

(c) The unnecessary hardship is due to the physical nature of the subject property, relating to its size, shape, drainage pattern, topography, physical features, presence of perennial streams, bedrock, soil features, contributing off-site drainage impacting the property, or similar features different from that of neighboring property; and,

(d) The hardship is not the result of any actions of the applicant, nor of the prior owner(s) of the property of record on or after July 1993.

(2) **The minor exception** is in conformance with the general purpose and intent of this Ordinance.

(3) **In the granting of the minor exception**, the public safety and welfare have been assured and substantial justice has been done. The Watershed Review Committee shall not grant a minor exception if it finds that doing so would in any respect impair the public health, safety, or general welfare.

(4) **In granting the minor exception**, the Watershed Review Committee may attach thereto such conditions regarding the location, character, and other features of the proposed building, structure, or use as it may deem advisable in furtherance of the purpose of this Ordinance. If a minor exception

for the construction, alteration or use of property is granted, such construction, alteration or use shall only be made in accordance with the approved site plan.

(5) **The Watershed Review Committee** shall refuse to hear an appeal or an application for a minor exception previously denied if it finds that there have been no substantial changes in conditions or circumstances bearing upon the application.

(6) **A minor exception** issued in accordance with this section shall be considered a watershed permit and shall expire if a building permit or watershed occupancy permit for such use is not obtained by the applicant within six (6) months from the date of approval.

3-7.4 EXCEPTIONS, MAJOR

(A) **The Watershed Administrator** upon receipt of an application for a major exception, shall notify in writing each local government having jurisdiction in the watershed, and all entities using the water supply for consumption. Such notice shall include a description of the major exception being requested. Local governments receiving notice of the major exception request may submit comments to the Watershed Administrator prior to a recommendation by the Watershed Review Committee. Such comments shall become a part of the record of proceedings of the Committee.

(B) **If the application** calls for the granting of a major exception, and if the Watershed Review Committee recommends in favor of granting the major exception, the Committee shall prepare a record of the hearing with all deliberate speed. The record of the hearing shall include:

(1) The major exception application;

(2) The hearing notices;

(3) The evidence presented;

(4) Motions, offers of proof, objections to evidence, and rulings on them;

(5) Proposed findings and exceptions; and,

(6) The proposed decision, including all conditions proposed to be added to the permit.

The record shall be sent to the North Carolina Environmental Management Commission (the Commission) for its review as follows:

(7) If the Commission concludes from the record that the exception qualifies as a major exception and that:

(a) The property owner can make no reasonable use of the property unless the proposed major exception is granted; and,

(b) The exception, if granted, will not result in a serious threat to the water supply.

Then the Commission shall approve the exception as proposed or approve the proposed major exception with conditions as it deems necessary for the general health, safety, and welfare of the citizens of the Town of Kernersville, the watershed area, and the State of North Carolina. The Commission shall prepare a Commission decision and send it to the Watershed Review Committee. If the Commission approves the major exception as proposed, the Watershed Review Committee shall prepare a final decision granting the proposed exception. If the Commission approves the major exception with conditions and stipulations, the Watershed Review Committee shall prepare a final decision, including such conditions and stipulations granting the proposed major exception.

(8) If the Commission concludes from the preliminary record that the exception qualifies as a major exception and that:

(a) The property owner can secure a reasonable return from or make a practical use of the property without the exception; or,

(b) The major exception, if granted, will result in a serious threat to the water supply, then the Commission shall deny approval of the exception as proposed. The Commission shall prepare a decision and send it to the Watershed Review Committee. The Watershed Review Committee shall prepare a final decision denying the major exception as proposed.

3-7.5 APPEAL FROM THE WATERSHED ADMINISTRATOR OR WATERSHED REVIEW COMMITTEE

Any appeal of any administrative order, requirement, decision or determination made by the Watershed Administrator or Watershed Review Committee shall be made to and heard by the Board of Adjustment.

An appeal from a decision of the Watershed Administrator, or Watershed Review Committee must be submitted to the Board of Adjustment within thirty (30) days from the date the order, interpretation, decision or determination is made. All appeals must be made in writing stating the reasons for appeal. Following submission of an appeal, the Watershed Administrator shall transmit to the Board of Adjustment all papers and documents constituting the record upon which the action appealed was taken.

The Board of Adjustment, at its next regularly scheduled meeting shall provide for hearing of the matter on appeal in accordance with its established rules, regulations, and procedures established by the *Zoning Ordinance*, Section 10-1.1.

3-7.6 POWERS AND DUTIES OF THE BOARD OF ADJUSTMENT

For purposes of this Ordinance, the Board of Adjustment shall be empowered to hear all administrative appeals as set forth in Section 3-7.5 of this Ordinance. The Board of Adjustment shall hear and decide appeals from any decision or determination made by the Watershed Administrator or Watershed Review Committee in the enforcement of this Ordinance.

The Board of Adjustment shall hear all such matters in accordance with the rules and procedures established by the *Zoning Ordinance*, Section 10-1.1.

3-7.7 APPEALS FROM THE BOARD OF ADJUSTMENT

Appeals from the Board of Adjustment must be filed by petition for review with the Clerk of Superior Court in which the subject property is located within thirty (30) days from the date of the decision. Every decision of the Board of Adjustment shall be subject to review by the Superior Court by proceedings in the nature of certiorari.

3-7.8 CHANGES AND AMENDMENTS TO THE WATERSHED PROTECTION ORDINANCE

(A) **The Kernersville Board of Aldermen** may, on its own motion or upon petition of an interested party, after public notice and hearing, amend, supplement, change or modify the watershed regulations and requirements as described herein by Ordinance.

(B) **All proposed changes and amendments** to this Ordinance shall be submitted to the Watershed Review Committee for review and recommendations. If no recommendation has been received by the Board of Aldermen from the Watershed Review Committee within forty-five (45) days after submission of the proposal to the Watershed Review Committee, the Board of Aldermen may proceed as though a favorable report had been received.

(C) **Under no circumstances** shall the Board of Aldermen adopt by Ordinance or by amendments, supplements or changes in violation of the Watershed Protection Rules as adopted by the North Carolina Environmental Management Commission. All subsequent Ordinances supplementing, amending, or changing this Ordinance shall be filed with the North Carolina Division of Environmental Management, North Carolina Department of Environment and Natural Resources.

CHAPTER C - ENVIRONMENTAL ORDINANCE
ARTICLE IV - STORM WATER RUNOFF

4-1 GENERAL PROVISIONS

4-1.1 TITLE
This ordinance shall be officially known as "Stormwater Ordinance." It is referred to herein as "this ordinance."

4-1.2 AUTHORITY
The Town of Kernersville Board of Aldermen is authorized to adopt this ordinance pursuant to North Carolina law, including but not limited to Article 14, Section 5 of the Constitution of North Carolina; Section1 of the Revised Charter of the Town of Kernersville; North Carolina General Statutes 143-214.7 and rules promulgated by the Environmental Management Commission thereunder; Session Law 2004-163; Chapter 160D-920; well as 160D-922 (Sedimentation Pollution Control); 160D-923 (Floodway Regulation); and Chapter 160D, Article 2 (Planning and Regulation of Development).

4-1.3 FINDINGS
It is hereby determined that:

Development and *redevelopment* alter the hydrologic response of local *watersheds* and increases *stormwater* runoff rates and volumes, flooding, soil erosion, stream channel erosion, nonpoint and point source pollution, and sediment transport and deposition, as well as reducing groundwater recharge;

These changes in *stormwater* runoff contribute to increased quantities of water-borne *pollutants* and alterations in hydrology which are harmful to public health and safety as well as to the natural environment; and

These effects can be managed and minimized by applying proper design and well-planned controls to manage *stormwater* runoff from *development* sites.

Further, the Federal Water Pollution Control Act of 1972 ("*Clean Water Act*") and federal Phase II Stormwater Rules promulgated under it, as well as rules of the North Carolina Environmental Management Commission promulgated in response to federal Phase II requirements, compel certain urbanized areas, including this jurisdiction, to adopt the minimum *stormwater* controls such as those included in this ordinance.

Therefore, the Town of Kernersville Board of Aldermen establishes this set of water quality and quantity regulations to meet the requirements of state and federal law regarding control of *stormwater* runoff and *discharge*.

4-1.4 PURPOSE

4-1.4a General
The purpose of this ordinance is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-*development stormwater* runoff and nonpoint and point source pollution associated with *new development* and *redevelopment* and by preventing the introduction of potentially harmful materials and *illicit discharges* into the Town of Kernersville *Municipal Separate Storm Sewer System* (*MS4)*; and to meet the requirements in the Town of Kernersville's *National Pollutant Discharge Elimination System* Permit for Storm Water Discharges NCS000483 effective date October 1, 2005. It has been determined that proper management of construction-related and post-*development stormwater* runoff will minimize damage to public and private property and infrastructure, safeguard the public health, safety, and general welfare, and protect water and aquatic resources.

4-1.4b Specific
This ordinance seeks to meet its general purpose through the following specific objectives and means:

1. Establishing decision-making processes for *development* that protect the integrity of *watersheds* and preserve the health of water resources;

2. Requiring that *new development* and *redevelopment* maintain the pre-*development* hydrologic response in their post-*development* state as nearly as practicable for the applicable design storm in order to reduce flooding, stream bank erosion, nonpoint and point source pollution and increases in stream temperature, and to maintain the integrity of stream channels and aquatic habitats;

3. Establishing minimum post-*development stormwater* management standards and design criteria for the regulation and control of *stormwater* runoff quantity and quality;

4. Establishing design and review criteria for the construction, function, and use of structural *stormwater BMPs* that may be used to meet the minimum post-*development stormwater* management standards;

5. Encouraging the use of better management and site design practices, such as the use of vegetated *conveyances* for *stormwater* and the preservation of green space and other conservation areas to the maximum extent practicable;

6. Establishing provisions for the long-term responsibility for and maintenance of *structural* and *nonstructural stormwater BMPs* to ensure that they continue to function as designed, are maintained appropriately, and pose no threat to public safety;

7. Establishing administrative procedures for the submission, review, approval and disapproval of *stormwater* management plans, for the inspection of approved projects, and to assure appropriate long-term maintenance.

8. Controlling *illicit discharges* into the Town of Kernersville *municipal separate storm sewer system*.

9. Controlling erosion and sedimentation from construction activities.

10. Assigning responsibility and processes for approving the creation and maintenance of adequate *drainage* and flood damage prevention.

11. To reduce the *discharge* of *pollutants* to the storm sewer system to the maximum extent practicable by requiring, where appropriate, the use of best management practices, structural and/or nonstructural storm water quantity and quality control measures and other provisions.

12. To prohibit non-storm water *discharges* to the Town of Kernersville *municipal separate storm sewer system* and require the removal of *illicit connections* to the *municipal separate storm sewer system*.

13. To prevent improper disposal of materials that degrade water quality.

14. To permit sampling and monitoring for *pollutants* such as those associated with *illicit discharges*, improper disposal, industrial and construction activities, and the application of pesticides, herbicides, and fertilizers.

15. To reduce erosion associated with storm water runoff.

4-1.5 JURISDICTION

The provisions of this Ordinance shall apply both to that area which is within the corporate limits of the Town of Kernersville and within the extra territorial zoning jurisdiction of the Town of Kernersville. If a parcel of land lies within the planning and development regulation jurisdiction of more than one local government, the local governments may by mutual agreement, pursuant and with the written consent of the landowner, assign exclusive planning and development regulation jurisdiction for the entire parcel to any one of those local governments. Such a mutual

agreement pursuant to G.S.160D-203 shall only be applicable to development regulations and shall not affect taxation or other non-regulatory matters. The mutual agreement shall be evidenced by a resolution formally adopted by each governing board and recorded with the register of deeds in the county where the property is located within 14 days of the adoption of the last required resolution.

4-1.6 ABROGATION

This chapter is not intended to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, or permits previously adopted or issued.

4-1.7 ARTICLE IV DEFINITIONS

Unless otherwise expressly stated, or unless the context clearly indicates a different meaning, the words and phrases in the following list of definitions shall, for the purposes of Chapter C, Article IV of the *Unified Development Ordinances***,** have the meanings indicated. All words and phrases not defined in this Article shall have their common meaning. Words and phrases that are defined herein have generally been italicized when used in the ordinance. When used in this Ordinance, the present tense includes the future, the singular includes the plural, and words of one gender include the other, as may be applicable. The word shall is mandatory, not directory. The word use includes designed for use.

1-year, 24-hour storm. The surface runoff resulting from a 24-hour rainfall of an intensity expected to be equaled or exceeded, on average, once in 12 months and with a duration of 24 hours.

Best management practice (BMP). A structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.

Built-upon area. "built-upon area" means impervious surface and partially impervious surface to the extent that the partially impervious surface does not allow water to infiltrate through the surface and into the subsoil. "Built-upon area" does not include a slatted deck; the water area of a swimming pool; a surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least four inches thick over a geotextile fabric; or a trail as defined in G.S. 113A-85 that is either unpaved or paved as long as the pavement is porous with a hydraulic conductivity greater than 0.001 centimeters per second (1.41 inches per hour)."

Clean Water Act. The Federal Water Pollution Control Act (33 U.S.C. '1251 et seq.) and any subsequent amendments thereto.

Connection. Any *ditch*, pipe, or other device for the diversion or transmission of storm *drainage* which will in any way affect the operation or maintenance of the *municipal separate storm sewer system.*

Conveyance. Any feature of the landscape or earth, manmade or natural that carries water in a concentrated flow.

Design Manual. The policy, criteria, and information, including technical specifications and standards, in the most current revision of the North Carolina Stormwater Best Management Practice *Manual*, hereafter referred to as the *Design Manual* shall be the basis for decisions about *stormwater* permits and about the design, implementation and performance of *structural* and *non-structural stormwater BMPs*. All references herein to the *Design Manual* are to the latest published edition or revision. The *Design Manual* includes a list of acceptable *stormwater* treatment practices, including the specific design criteria for each *stormwater* practice. *Stormwater* treatment practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards of the Phase II laws.

Developer. A *person* engaged in land, site, or building *development.*

Development. Any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.

Discharge. Additions of *pollutants* into waters of the United States from: Surface runoff which is collected or channeled by man; *discharges* through pipes, sewers, or other *conveyance* owned by a stated municipality, or other

person which does not lead to a treatment works; and *discharges* through pipes, sewers, or other *conveyance*, leading into privately owned treatment works.

Ditch/swale. Open channel that infiltrates and/or transports runoff waters.

Drainage. The flow of runoff into a *conveyance*.

Drainage easement. An easement which grants to the board of alderman the right to maintain *conveyances* of *drainage* structures.

Easement. A grant of one (1) or more of the property rights, by the property *owner*, to, or for use by, the public, a corporation, or other entity.

Erosion. The wearing away of land surface by the action of wind, water, gravity, or any combination thereof.

Existing development. Those projects that are built in a non-water supply watershed that, at a minimum, for which a vested right has been established under North Carolina zoning law based on at least one of the following criteria: (1) substantial expenditure of resources based on a good faith reliance upon a valid local government approval to proceed with a project; or (2) issuance of a valid building permit; or (3) substantial expenditure of resources based on an approved site specific development plan.

Facility. Any land use including, but not limited to: commercial, industrial and residential land uses, and any other source including, but not limited to: motor vehicles and rolling stock that directly contribute, cause or permit the contribution of any *discharge*, illicit or otherwise to the MS4.

Garbage. All non-hazardous and non-medical solid waste including animal and vegetable solid waste resulting from the handling, preparation, cooking and consumption of food including the minimal amount of liquid necessarily incident thereto.

Geotextile Fabric. Geotextile fabric means a permeable geosynthetic comprised solely of non-biodegradable textiles.

Having control over. Shall mean but not be limited to any *person* using, transferring, storing, or transporting a *hazardous material* immediately prior to release of such *hazardous material* on the land or into the air or the waters of the town.

Hazardous material. Any substance which, when *discharged* in any quantity, may present an eminent and substantial danger to the public health or welfare or to the environment or any substance listed in SARA Title III, Section 302(extremely hazardous substances); CERCLA (hazardous substances); or Section 311 of the Clean Water Act (oil and hazardous substances).

Hazardous material response. The sending of fire department equipment to abate *hazardous materials* which endanger the health or safety of *persons* or the environment.

High-density project. Any project that exceeds the *low-density* threshold for dwelling units per acre and *built-upon area*.

Illicit connection. An *illicit connection* is either of the following:

A. Any *conveyance* that allows or may allow an *Illicit Discharge* to enter the MS4; or,

B. Any pipeline, *ditch* or other *conveyance* connected to the MS4 which has not been documented in construction or site plans, a building permit, maps or other equivalent records by which the Town of Kernersville would have express notice of the existence and location to the MS4.

Illicit discharge. Any *discharge* to a *municipal separate storm sewer system (MS4)* that is not composed entirely of

storm water except *discharge*s pursuant to a NPDES permit (other than the NPDES permit for *discharges* from the *MS4*) and *discharges* resulting from firefighting activities.

Impervious surface. An area composed of any material that impedes or prevents natural infiltration of water into the soil. Impervious area shall include but are not limited to roofs, decks, driveways, patios, sidewalks, parking areas, tennis courts, concrete or asphalt streets, crushed stone and gravel surfaces.

Larger common plan of development or sale. Any area where multiple separate and distinct construction or land disturbing activities will occur under one plan. A plan is any announcement or piece of documentation (including but not limited to a sign, public notice or hearing, sales pitch, advertisement, loan application, drawing, permit application, zoning request, or computer design) or physical demarcation (including but not limited to boundary signs, lot stakes, or surveyor markings) indicating that construction activities may occur on a specific plot.

Low-density project. A project that has no more than two dwelling units per acre or twenty-four percent *built-upon area* (BUA) for all residential and non-residential *development*.

Municipal separate storm sewer (MS4). For regulatory purposes, a *conveyance* or system of *conveyances* including storm drain systems, roads with *drainage* systems, municipal streets, catch basins, curbs, gutters, *ditches*, manmade channels, or storm drains within the Town limits and in any of the extra territorial jurisdictions.

National Pollutant Discharge Elimination System (NPDES). A permitting system established by Section 402 of the *Clean Water Act*. Permits are issued by the State of North Carolina for *discharges* directly to the surface waters of the state.

New development. Any activity for which a building permit or a grading permit is required, or any of the following without regard to a permit requirement: clearing, stripping, dredging, grading, excavating, transporting, and filling of land.

Non Structural Best management practice (BMP). A nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.

Outfall. A point source at the point where a *MS4 discharges* to waters of the United States and does not include open *conveyances* connecting two (2) municipal separate storm sewers; or pipes, tunnels or other *conveyances* which connect segments of the same stream or other waters of the United States.

Owner. The legal or beneficial *owner* of land, including but not limited to a mortgagee or vendee in possession, receiver, executor, trustee, or long-term or commercial lessee, or any other *person* or entity holding proprietary rights in the property or having legal power of management and control of the property. "*Owner*" shall include long-term commercial tenants; management entities, such as those charged with or engaged in the management of properties for profit; and every *person* or entity having joint ownership of the property. A secured lender not in possession of the property does not constitute an *owner*, unless the secured lender is included within the meaning of "*owner*" under another description in this definition, such as a management entity.

Performance Bond. A guarantee against loss or damage from one's failure to perform, and a tangible guarantee of performance or the fulfillment of an obligation. The following must be included in any Performance Bond accepted by the Town of Kernersville and considered as such within this ordinance.

A. Entity issuing the Performance Surety must be licensed to do business in the State of North Carolina and state its preferred correspondence address within the Performance Surety.

B. The Performance Surety must be issued in favor of the Town of Kernersville (obligee) for a specified mount.

C. The Performance Surety shall clearly indicate the obligation within the document.

D. The Performance Surety shall clearly indicate principal's full intent to perform.

E. The Performance Surety shall state the surety shall stay in full force and effect until obligee notifies principal that all obligations stated within the Performance Surety have been satisfied in their entirety.

Performance Surety. A guarantee against loss or damage from one's failure to perform and a physical or financial guarantee for the fulfillment of an obligation. Performance Sureties may be in the form of Standby Letters of Credit, Performance Bonds, and Cash.

Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or their legal representative agents or assigns.

Pollutant. Any substance that contributes to or causes pollution, including but not limited to: paints, varnishes, solvents, oil or other automotive fluids; hazardous and non-hazardous liquids, solids and wastes; yard wastes, *refuse*, rubbish, *garbage*, litter and floatables; pesticides, herbicides and fertilizers; sewage, fecal coliforms and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a structure; other discarded or abandoned objects and accumulations; or any noxious or offensive matter of any kind that may cause or contribute to pollution.

Preliminary Plat. The final map of all or a portion of a subdivision or site, showing the boundaries and location of lots, streets, easements and any other requirements of the *Subdivision Ordinance*, which is presented for local government approval and subsequent recordation with the Register of Deeds.

Redevelopment. Any rebuilding activity other than a rebuilding activity that results in no net increase in *built-upon area* and provides equal or greater *stormwater* control than the previous *development*.

Refuse. Solid waste, including but not limited to *garbage*, rubbish and ashes.

Riparian buffer* or *stream buffer. An area of native or non-native woody vegetation adjacent to a stream or other natural *conveyance* of water or storm water.

Soil erosion and sedimentation plan. The graphic plan, including narrative where appropriate, required by the development ordinance as a prerequisite for a grading permit, the purpose of which is to explain existing conditions and proposed grading of land including any *development* and to describe the activities and measures to be undertaken to control accelerated soil erosion and sedimentation.

Standby Letter of Credit (SBLC). An irrevocable obligation to the beneficiary indicating payment to the beneficiary in the event of default by the account party and/or failure to perform an obligation. The following must be included in any SBLC accepted by the Town of Kernersville to be considered as such within this ordinance.

A. Entity issuing the SBLC must be licensed to do business in the State of North Carolina and state its preferred correspondence address within the SBLC.

B. The SBLC must be issued in favor of the Town of Kernersville (beneficiary) for a specified amount and state the customer (account party).

C. The SBLC must clearly state it is an irrevocable Standby Letter of Credit.

D. The SBLC shall clearly indicate the obligation within the SBLC is for the payment of money in lieu of performance.

E. The SBLC must state the beneficiary has the right to draw on the SBLC from time to time upon written demand by the beneficiary indicating account parties failure to meet their obligations.

F. The SBLC shall state draws will be processed within a reasonable time period once beneficiary demands a draw.

G. The SBLC shall state the original amount may be reduced from time to time only upon written notice by the beneficiary to do so.

H. The SBLC shall state the obligation shall be in full effect up to 5:00 pm on the date of expiration as indicated within the SBLC and if said date falls on a holiday, weekend, or other day in which the beneficiary or issuer are closed for business, the expiration day shall be the following day that both beneficiary and issuer are open for business.

I. The SBLC shall state the SBLC shall be automatically extended, without any formal amendment or notice to the effect, from year to year, for successive periods of one (1) year each from the present or any future expiration date hereof, unless the issuer notifies the beneficiary 60-days prior to such expiration date in writing, via certified mail, return receipt requested that issuer has elected not to renew the SBLC and beneficiary has until 5:00pm on or before the expiration date to draw the full amount hereunder.

Stormwater. Any surface flow, runoff or *drainage* consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

Stormwater Administrator. An official or other person designated by the Town to be responsible for the administration and enforcement of Article IV of the *Unified Development Ordinances*.

Stormwater Review Committee. A staff level review and advisory committee appointed by the *Stormwater Admini*strator for consultation regarding design plan review, enforcement options and other matters related to administration and enforcement of Article IV of the *Unified Development Ordinances*.

Structural BMP. A physical device designed to trap, settle out, or filter *pollutants* from *stormwater* runoff; to alter or reduce *stormwater* runoff velocity, amount, timing, or other characteristics; to approximate the pre-*development* hydrology on a developed site; or to achieve any combination of these goals. *Structural BMP* includes physical practices such as constructed wetlands, vegetative practices, filter strips, grassed *swales*, and other methods installed or created on real property. "*Structural BMP*" is synonymous with "structural practice", "*stormwater* control *facility*," "*stormwater* control practice," "*stormwater* treatment practice," "*stormwater* management practice," "*stormwater* control measures," "*stormwater* treatment systems," and similar terms used in this ordinance.

Substantial progress. For the purposes of determining whether sufficient progress has been made on an approved plan, one or more of the following construction activities toward the completion of a site or subdivision plan shall occur: obtaining a grading permit and conducting grading activity on a continuous basis and not discontinued for more than thirty (30) days; or installation and approval of on-site infrastructure; or obtaining a building permit for the construction and approval of a building foundation. "*Substantial progress*" for purposes of determining whether an approved plan is null and void is not necessarily the same as "substantial expenditures" used for determining vested rights pursuant to applicable law.

Substantial redevelopment. An increase or change in impervious area that impacts the *MS4*.

Town Manager. The *Town Manager* as appointed by the Board of Aldermen of the Town of Kernersville, or his designee.

Watershed. The entire land area contributing to surface *drainage* to a specific point.

4-1.8 RIGHT-OF-ENTRY

A. The *town manager* or his designee shall have right-of-entry on or upon the property or *facility* of any *person* subject to this chapter and any permit/document issued hereunder. The *town manager* or his designee shall be provided ready access to all parts of the premises for the purposes of inspection, monitoring, sampling,

inventory, records examination and copying, and the performance of any other duties necessary to determine compliance with this chapter.

B. Where a *person* has security measures in force which require proper identification and clearance before entry into its premises, the *person* shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the *town manager* or his designee will be permitted to enter without delay for the purposes of performing specific responsibilities.

C. The *town manager* or his designee shall have the right to set up on the *person's* property such devices as are necessary to conduct sampling and/or metering of the *person's* operations.

D. Any temporary or permanent obstruction to safe and easy access to the areas to be inspected and/or monitored shall be removed promptly by the *person* at the written or verbal request of the *town manager* or his designee. The costs of clearing such access shall be borne by the *person*.

E. The *town manager* or his designee may inspect the facilities of any user in order to ensure compliance with this chapter. Such inspection shall be made with the consent of the *owner*, manager, or signatory official. If such consent is refused the *town manager* or his designee may seek issuance or an administrative search warrant.

4-1.9 APPLICABILITY AND JURISDICTION

A. General

This ordinance shall be effective beginning October 1, 2007. Beginning with and subsequent to its effective date, this ordinance shall be applicable to all *development* and *redevelopment*, including, but not limited to, site plan applications, subdivision applications, and grading applications, unless exempt pursuant to Subsection (B) of this Section, Exemptions, below.

B. Exemptions

Development that cumulatively disturbs less than one acre and is not part of a *larger common plan of development or sale* is exempt from the provisions of this ordinance.

Redevelopment that cumulatively disturbs less than one acre and is not part of a larger common plan of *development* or sale is exempt from the provisions of this ordinance.

Development and *redevelopment* that disturb less than one acre are not exempt if such activities are part of a *larger common plan of development or sale*, even though multiple, separate or distinct activities take place at different times on different schedules.

Activities that are exempt from permit requirements of Section 404 of the federal *Clean Water Act*, as specified in 40 CFR 232 (primarily, ongoing farming and forestry activities) are exempt from the provisions of this ordinance.

C. Vesting

Development or *redevelopment* projects conducted pursuant to one of the following authorizations obtained prior to the effective date of this ordinance are determined to be vested in accordance with the provisions of North Carolina General Statute §160D-108 and Chapter B, Section 1-5.2 of the **Unified Development Ordinances** and shall thus be exempt from complying with all provisions of this ordinance dealing with the control and/or management of post-construction runoff, but shall be required to comply with all other applicable provisions, including but not limited to local *illicit discharge* ordinances and local erosion and sediment control ordinances:

1. a building permit

2. a site specific development plan

3. a vested right pursuant to statutory or local law.

Changes to any of the above listed authorizations may negate vested right status and subject the *development* or *redevelopment* to the provisions of this ordinance.

D. Violations Continue

Any violation of provisions existing on the effective date of this ordinance shall continue to be a violation under this ordinance and be subject to penalties and enforcement under this ordinance unless the use, *development*, construction, or other activity complies with the provisions of this ordinance.

E. No Development or Redevelopment Until Compliance and Permit

No *development* or *redevelopment* shall occur except in compliance with the provisions of this ordinance or unless exempted. No *development* for which a permit is required pursuant to this ordinance shall occur except in compliance with the provisions, conditions, and limitations of the permit.

F. Map

The provisions of this ordinance shall apply within the areas designated on the map titled "Phase II Stormwater Map of the Town of Kernersville North Carolina" ("the Stormwater Map"), which is adopted simultaneously herewith. The Stormwater Map and all explanatory matter contained thereon accompany and are hereby made a part of this ordinance.

The Stormwater Map shall be kept on file by the *Stormwater Administrator* and shall be updated to take into account changes in the land area covered by this ordinance and the geographic location of all *structural BMPs* permitted under this ordinance. In the event of a dispute, the applicability of this ordinance to a particular area of land or *BMP* shall be determined by reference to the North Carolina Statutes, the North Carolina Administrative Code, and local zoning and jurisdictional boundary ordinances.

4-1.10 INTERPRETATION

A. Meaning and Intent

All provisions, terms, phrases, and expressions contained in this ordinance shall be construed according to the general and specific purposes set forth in Section 4-1.4, Purpose. If a different or more specific meaning is given for a term defined elsewhere in the Town of Kernersville's **Unified Development Ordinance**, the meaning and application of the term in this ordinance shall control for purposes of application of this ordinance.

B. Text Controls in Event of Conflict

In the event of a conflict or inconsistency between the text of this ordinance and any heading, caption, figure, illustration, table, or map, the text shall control.

C. Authority for Interpretation

The *Stormwater Administrator* has authority to determine the interpretation of this ordinance. Any person may request an interpretation by submitting a written request to the *Stormwater Administrator* who shall respond in writing within 30 days. The *Stormwater Administrator* shall keep on file a record of all written interpretations of this ordinance. Appeals from any interpretation issued by the *Stormwater Administrator* shall be filed in accordance with the provisions of Section 4-3.11.

D. References to Statutes, Regulations, and Documents

Whenever reference is made to a resolution, ordinance, statute, regulation, manual (including the *Design Manual*), or document, it shall be construed as a reference to the most recent edition of such that has been finalized and published with due provision for notice and comment, unless otherwise specifically stated.

E. Computation of Time

The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the Town of Kernersville, the deadline or required date of action shall be the next day that is not a Saturday, Sunday or holiday observed by the Town of Kernersville. References to days are calendar days unless otherwise stated.

F. Delegation of Authority

Any act authorized by this Ordinance to be carried out by the *Stormwater Administrator* of the Town of Kernersville may be carried out by his or her designee.

G. Usage

1. Mandatory and Discretionary Terms
The words "shall," "must," and "will" are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words "may" and "should" are permissive in nature.

2. Conjunctions
Unless the context clearly indicates the contrary, conjunctions shall be interpreted as follows: The word "and" indicates that all connected items, conditions, provisions or events apply. The word "or" indicates that one or more of the connected items, conditions, provisions or events apply.

3. Tense, Plurals, and Gender
Words used in the present tense include the future tense. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise. Words used in the masculine gender include the feminine gender, and vice versa.

H. Measurement and Computation
Lot area refers to the amount of horizontal land area contained inside the lot lines of a lot or site.

4-1.11 DESIGN MANUAL

A. Reference to Design Manual
The *Stormwater Administrator* shall use the policy, criteria, and information, including technical specifications and standards, in the most current revision of the *North Carolina Stormwater Best Management Practice Manual, hereafter referred to as the Design Manual* as the basis for decisions about stormwater permits and about the design, implementation and performance of *structural and non-structural stormwater BMPs*.

The *Design Manual* includes a list of acceptable stormwater treatment practices, including the specific design criteria for each stormwater practice. Stormwater treatment practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards of the Phase II laws.

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

C. Changes to Standards and Specifications
If the standards, specifications, guidelines, policies, criteria, or other information in the *Design Manual* are amended subsequent to the submittal of an application for approval pursuant to this ordinance but prior to approval, the new information shall control and shall be utilized in reviewing the application and in implementing this ordinance with regard to the application.

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

Prior to amending or updating the *Design Manual*, proposed changes shall be generally publicized and made available for review, and an opportunity for comment by interested persons shall be provided by the State of North Carolina.

4-1.12 RELATIONSHIP TO OTHER LAWS, REGULATIONS AND PRIVATE AGREEMENTS

A. Conflict of Laws

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

B. Private Agreements

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

4-1.13 SEVERABILITY

If the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this ordinance.

4-1.14 ADMINISTRATION AND PROCEDURES

Stormwater Administrator

A. Designation

A *Stormwater Administrator* shall be designated by the Board of Alderman of the Town of Kernersville to administer and enforce this ordinance.

B. Powers and Duties

In addition to the powers and duties that may be conferred by other provisions of the Town of Kernersville's **Unified Development Ordinance** and other laws, the *Stormwater Administrator* shall have the following powers and duties under this ordinance:

1. To review and approve, approve with conditions, or disapprove applications for approval of plans pursuant to this ordinance.

2. To make determinations and render interpretations of this ordinance.

3. To establish application requirements and schedules for submittal and review of applications and appeals, to review and make recommendations to the Board of Alderman of the Town of Kernersville on applications for *development* or *redevelopment* approvals.

4. To enforce the provisions of this ordinance in accordance with its enforcement provisions.

5. To maintain records, maps, and official materials as relate to the adoption, amendment, enforcement, or administration of this ordinance.

6. To provide expertise and technical assistance to the Board of Alderman of the Town of Kernersville and the Stormwater Review Committee upon request.

7. To designate appropriate other person(s) who shall carry out the powers and duties of the *Stormwater Administrator*.

8. To take any other action necessary to administer the provisions of this ordinance.

4-2 ILLICIT DISCHARGES AND IMPROPER DISPOSALS

4-2.1 ILLICIT DISCHARGES AND CONNECTIONS

4-2.1a Illicit Discharges

No *person* shall cause or allow the *discharge*, emission, disposal, pouring, or pumping directly or indirectly to any *stormwater conveyance*, the waters of the State, or upon the land in manner and amount that the substance is likely to reach a *stormwater conveyance* or the waters of the State, any liquid, solid, gas, or other substance, other than *stormwater*; provided that non-*stormwater discharges* associated with the following activities are allowed and provided that they do not significantly impact water quality:

1. Water line flushing;

2. Landscape irrigation;

3. Diverted stream flows;

4. Rising ground waters;

5. Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20));

6. Uncontaminated pumped ground water;

7. *Discharges* from potable water sources;

8. Foundation drains;

9. Air conditioning condensation;

10. Irrigation water;

11. Springs;

12. Water from crawl space pumps;

13. Footing drains;

14. Lawn watering;

15. Residential and charity car washing

16. Flows from riparian habitats and wetlands;

17. Dechlorinated swimming pool *discharges*;

18. Street wash water;

19. *Discharges* from firefighting operations; and

20. Other non-*stormwater discharges* for which a valid *NPDES* permit has been approved and issued by the State of North Carolina.

Prohibited substances include but are not limited to: oil, anti-freeze, chemicals, animal waste, paints, *garbage*, yard waste and litter.

4-2.1b Illicit Connections

1. *Connections* to a *stormwater conveyance* or *stormwater conveyance* system that allow the d*ischarge* of non-*stormwater*, other than the exclusions described in section (a) above, are unlawful. Prohibited *connections* to the *MS4* include, but are not limited to: floor drains, waste water from washing machines or sanitary sewers, wash water from commercial vehicle washing or steam cleaning, and waste water from septic systems.

2. Where such *connections* exist in violation of this section and said *connections* were made prior to the adoption of this provision or any other ordinance prohibiting such *connections*, the property *owner* or the *person* using said *connection* shall remove the *connection* within one year following the effective date of this ordinance. However, the one-year grace period shall not apply to *connections* which may result in the *discharge* of *hazardous materials* or other *discharges* which pose an immediate threat to health and safety, or are likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat.

3. Where it is determined that said *connection*:

a. May result in the *discharge* of *hazardous materials* or may pose an immediate threat to health and safety, or is likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat, or

b. Was made in violation of any applicable regulation or ordinance, other than this section;

The *Stormwater Administrator* shall designate the time within which the *connection* shall be removed. In setting the time limit for compliance, the *Stormwater Administrator* shall take into consideration:

i. The quantity and complexity of the work,

ii. The consequences of delay,

iii. The potential harm to the environment, to the public health, and to public and private property, and

iv. The cost of remedying the damage.

4-2.2 SPILLS

Spills or leaks of polluting, harmful or hazardous substances released, *discharged* to, or having the potential to be released or *discharged* to the *stormwater conveyance* system, shall be contained, controlled, collected, and properly disposed. All affected areas shall be restored to their preexisting condition. *Persons* in control of the polluting substances immediately prior to their release or *discharge*, and *persons* owning the property on which the substances were released or *discharged*, shall immediately notify the Fire Chief of the Town of Kernersville of the release or *discharge*, as well as making any required notifications under state and federal law. Notification shall not relieve any *person* of any expenses related to the restoration, loss, damage, or any other liability which may be incurred as a result of said spill or leak, nor shall such notification relieve any *person* from other liability which may be imposed by State or other law.

4-2.3 NUISANCE

Illicit discharges and *illicit connections* which exist within the Town of Kernersville are hereby found, deemed, and declared to be dangerous or prejudiced to the public health or public safety and are found, deemed, and declared to be

public nuisances. Such public nuisances shall be abated in accordance with the procedures set forth in Chapter 10 of the Code of Ordinances Town of Kernersville North Carolina.

4-2.4 ENFORCEMENT

A. Violations

Any of the following shall be a violation of this chapter and shall be subject to the enforcement remedies and penalties provided by this article and by state law:

1. Development without permit. To engage in any *development*, use, construction, remodeling, or other activity of any nature upon land or improvements thereon subject to the jurisdiction of this chapter without all required permits, certificates, or other forms of authorization as set forth in the Town of Kernersville *Unified Development Ordinance.*

2. Development inconsistent with permit. To engage in any *development*, use, construction remodeling or other activity of any nature in any way inconsistent with any approved plan, permit, certificate, or other for of authorization granted for such activity.

3. Violation by act or omission. To violate, by act or omission, any term, variance, modification, condition, or qualification placed by the governing body or its agent boards upon any required permit, certificate, or other form of authorization of the use, *development*, or other activity upon land or improvements thereon.

4. Use in violation. To erect, construct, reconstruct, alter, repair, convert, maintain, or use any building or structure or to use any land in violation or contravention of this article or any other regulation made under the authority conferred thereby.

5. Continuing a violation. To continue any of the above violations is a separate and distinct offense each day.

B. Civil Penalties

1. Illicit Connections.

a. Any *person* who is found responsible for an *illicit connection* shall receive a notice of violation when the *connection* is discovered. The *person* shall have sixty (60) days to remove the *connection* unless the connection is determined to pose an immediate and severe public health risk. At the end of that time if the *connection* has not been removed, the *Stormwater Administrator* may assess civil penalties in the amount of two hundred dollars ($200.00) for violation of the ordinance. For purposes of this section, each day that a violation remains unabated shall be considered a new, separate and distinct violation for purposes of assessing a civil penalty. In addition to the assessment of civil penalties, the *Town Manager* or his designee may enter the property and take measures necessary to remove the *connection* and perform whatever cleanup or abatement is necessary. If the *person* fails to remove the *connection* in the time prescribed, the Town of Kernersville may petition the superior court of justice, for the issuance of an injunction to compel removal and payment; however, removal of the *illicit connection* shall be immediate upon the determination of the *Town Manager* or his designee that the *connection* poses an imminent threat to public health. In determining the amount of the penalty the Town Manager or his designee shall consider the following:

i. The degree and extent of the harm to the natural resources, to the public health, or to the public or private property resulting from the violation;
ii. The duration and gravity of the violation;
iii. The effect on ground or surface water quality or on air quality;
iv. The cost of rectifying the damage;
v. The amount of money saved by noncompliance;
vi. Whether the violation was committed willfully or intentionally;
vii. The prior record of the violator in complying or failing to comply with the *stormwater* quality management;
viii. The costs of enforcement to the Town of Kernersville.

b. If any *person* who previously has been found to have an *illicit connection* reconnects to the *conveyance*, he shall be assessed a civil penalty not to exceed five thousand dollars ($5,000.00). The penalty shall increase by twenty-five (25) percent of the previous penalty amount for every subsequent *illicit connection* made by the same *person*. The penalty shall be additional to the cost of cleanup and abatement. If the *person* has or is required to have a *stormwater NPDES* permit from the state division of environmental management, the *Stormwater Administrator* shall alert the appropriate state authorities of the violation. In determining the amount of the penalty the Town Manager or his designee shall consider the following:

i. The degree and extent of the harm to the natural resources, to the public health, or to the public or private property resulting from the violation;
ii. The duration and gravity of the violation;
iii. The effect on ground or surface water quality or on air quality;
iv. The cost of rectifying the damage;
v. The amount of money saved by noncompliance;
vi. Whether the violation was committed willfully or intentionally;
vii. The prior record of the violator in complying or failing to comply with the *stormwater* quality management;
viii. The costs of enforcement to the Town of Kernersville.

2. Improper disposal.

a. Process wastewater. Any *person* who is found to have improperly disposed of any process wastewater to the receiving streams shall be assessed a civil penalty not to exceed five thousand dollars ($5,000.00). In determining the amount of the penalty the *Town Manager* or his designee shall consider the following:

i. The degree and extent of the harm to the natural resources, to the public health, or to the public or private property resulting from the violation;
ii. The duration and gravity of the violation;
iii. The effect on ground or surface water quality or on air quality;
iv. The cost of rectifying the damage;
v. The amount of money saved by noncompliance;
vi. Whether the violation was committed willfully or intentionally;
vii. The prior record of the violator in complying or failing to comply with the storm water quality management program and,
viii. The costs of enforcement to the Town of Kernersville.

b. **Bulk sales.** Any *person* who is found to have improperly disposed of any substance that was purchased at a bulk sales location which, upon *discharge* to the receiving streams or *drainage* network, would have an adverse impact on water quality or cause the Town of Kernersville to be in noncompliance with any applicable environmental permit shall be assessed a civil penalty not to exceed five thousand dollars ($5,000.00). In determining the amount of the penalty the Town Manager or his designee shall consider the following:

i. The degree and extent of the harm to the natural resources, to the public health, or to the public or private property resulting from the violation;
ii. The duration and gravity of the violation;
iii. The effect on ground or surface water quality or on air quality;
iv. The cost of rectifying the damage;
v. The amount of money saved by noncompliance;
vi. Whether the violation was committed willfully or intentionally;
vii. The prior record of the violator in complying or failing to comply with the storm water quality management program and,
viii. The costs of enforcement to the Town of Kernersville.

c. Household products. Any *person* who is found to have improperly disposed of any

substance that was purchased over-the-counter for household, in quantities considered normal for household purposes, which, upon *discharge* to the receiving streams or *drainage* network, would have an adverse impact on water quality or cause the Town to be in noncompliance with any applicable environmental permit shall be assessed a civil penalty not to exceed five hundred dollars ($500.00). In determining the amount of the civil penalty the *Town Manager* or his designee shall consider the following:

i. The degree and extent of the harm to the natural resources, to the public health, or to the public or private property resulting from the violation;
ii. The duration and gravity of the violation;
iii. The effect on ground or surface water quality or on air quality;
iv. The cost of rectifying the damage;
v. The amount of money saved by noncompliance;
vi. Whether the violation was committed willfully or intentionally;
vii. The prior record of the violator in complying or failing to comply with the storm water quality management program; and
viii. The costs of enforcement to the Town of Kernersville.

d. **Yard waste**. Any *person* who is found to have improperly disposed of leaves, grass clippings, or other yard wastes shall be assessed a civil penalty not to exceed five hundred dollars ($500.00). In determining the amount of the penalty the Town Manager or his designee shall consider the following:

i. The degree and extent of the harm to the natural resources, to the public health, or to the public or private property resulting from the violation;
ii. The duration and gravity of the violation;
iii. The effect on ground or surface water quality or on air quality;
iv. The cost of rectifying the damage;
v. The amount of money saved by noncompliance;
vi. Whether the violation was committed willfully or intentionally;
vii. The prior record of the violator in complying or failing to comply with the storm water quality management program; and
viii. The costs of enforcement to the Town of Kernersville.

e. **Repeat violation**. If a *person* is found to be responsible for more than one (1) instance of improper disposal, the penalty shall increase by twenty-five (25) percent of the previous penalty amount for each subsequent improper disposal. The penalties shall be additional to the cost of clean-up and abatement.

f. **Watershed areas.** The penalty assessed for any of the above violations shall be increased by twenty-five (25) percent of the amount assessed if it occurs in any designated water-supply *watershed* area.

g. **Failure to report**. The penalty assessed for any of the above violations shall be increased by twenty-five (25) percent of the amount assessed for any spill not properly reported by the violator once he has knowledge of the violation.

h. **Penalties.** In the event there are subsequent penalties assessed by the state against the Town for improper disposal or illegal dumping, or *illicit connection* into receiving streams, caused by any *person*, such *person* shall be assessed the equivalent amount of civil penalty.

4-2.5 REMEDIES

Any or all of the following procedures may be used to enforce the provisions of this chapter:

A. **Injunction.** Any violation of this article or of any condition, order, requirement, or remedy adopted pursuant hereto may be restrained, corrected, abated, mandated, or enjoined by other appropriate proceeding pursuant to state law.

B. **Civil penalties**. Any *person* who violates any provision of this article shall be subject to the assessment of a civil penalty under the procedures provided in Article 4-2.4b.

C. **Denial of permit**. The Town Manager or his designee shall withhold or deny any permit, certificate, or other authorization on any land, building, structure, or use in which there is an uncorrected violation of a provision of this article, or of a condition or qualification of a permit, certificate, or other authorization previously granted.

D. **Conditional permit or temporary certificate**. The *Town Manager* or his designee may condition the authorization of any permit or certificate upon the correction of the deficiency, payment of civil penalties within a specified time, or the posting of a performance surety.

E. **Revocation of permit**. The *Town Manager* or his designee may revoke and require the return of a permit or certificate by notifying the permit holder in writing, stating the reason for the revocation. Permits or certificates shall be revoked for any substantial departure from the approved application plans, or specifications; refusal or failure to comply with the requirements of state or local law; or for false statements or misrepresentations made in securing the permit or certificate. Any permit or certificate mistakenly issued in violation of any applicable state or local law may also be revoked.

F. **Criminal penalties**. Any violation of this chapter shall be a misdemeanor or infraction as provided by NCGS 14-4. Each violation shall be subject to a fine not to exceed five hundred dollars ($500.00).

G. **Notification of the State Enforcement Officials.**

1. **Industrial and related facilities**. When a Town Manager or his designee discovers an apparent violation of an industrial or related facility's NPDES storm water discharge permit or that the facility is not operating pursuant to its storm water pollution prevention plan, the Town shall notify the appropriate state officials immediately.

2. **Construction sites.** If the Town Manager or his designee discovers an apparent violation of the NPDES storm water discharge permit required by the state for sites with land-disturbing activity greater than one (1) acre, or less if part of a larger project, he shall report the violation immediately to the appropriate state officials.

3. **Abatement.** When the discharge from the facility interferes significantly with the receiving streams, and the facility fails to take appropriate actions upon notification by the Town, the Town may take immediate and appropriate measures to control the problem whether or not the facility is violating its NPDES permit and recover the cost from the facility.

4. **Judicial Enforcement**. When any person is in violation of the provisions of this chapter, the Town Manager or his designee, through the Town attorney, may petition the superior court of justice for the issuance of a restraining order or a preliminary and permanent injunction, which restrains or compels the activities in question.

4-2.6 APPEAL HEARING

A. Any *person* assessed a civil penalty under this chapter shall have the right to a hearing before the *Stormwater Administrator* upon making a written demand to *Stormwater Administrator* specifying the issues to be contested, within thirty (30) days following receipt of the assessment.

B. Unless such written demand is made within the time specified herein, the action shall be final and binding.

C. The *Stormwater Administrator* shall make a final decision on the contested penalty within thirty (30) days of the receipt of the written demand for a hearing.

D. The *Stormwater Administrator* shall transmit a copy of the decision by registered or certified mail.

E. The decision of the *Stormwater Administrator* shall be considered the final administrative action for the purposes of judicial review. Any *person* may seek judicial review of a final administrative decision by the *Stormwater Administrator* by filing a petition for writ of certiorari within thirty (30) days after receipt of notice by registered or certified mail, but not thereafter, with the Superior Court of Forsyth County and with a copy to Forsyth County.

4-3 POST-CONSTRUCTION RUNOFF

4-3.1 REVIEW PROCEDURES

A. **Permit Required; Must Apply for Permit**
A stormwater permit is required (1) for all *development* and *redevelopment* unless exempt pursuant to this ordinance, and (2) prior to the construction of any *BMP*. A permit may only be issued subsequent to a properly submitted and reviewed permit application, pursuant to this section.

B. Effect of Permit
A stormwater permit shall govern the design, installation, and construction of stormwater management and control practices on the site, including *structural BMPs* and elements of site design for stormwater management other than *structural BMPs.*

The permit is intended to provide a mechanism for the review, approval, and inspection of the approach to be used for the management and control of stormwater for the *development* or *redevelopment* site consistent with the requirements of this ordinance, whether the approach consists of *structural BMPs* or other techniques such as low-impact or low-density design. The permit does not continue in existence indefinitely after the completion of the project; rather, compliance after project construction is assured by the maintenance provisions of this ordinance.

C. Authority to File Applications
All applications required pursuant to this Code shall be submitted to the *Stormwater Administrator* by the land *owner* or the land *owner's* duly authorized agent.

D. Establishment of Application Requirements, Schedule, and Fees

1. Application Contents and Form
The *Stormwater Administrator* shall establish requirements for the content and form of all applications and shall amend and update those requirements from time to time. At a minimum, the stormwater permit application shall describe in detail how post-*development* stormwater runoff will be controlled and managed, the design of all stormwater facilities and practices, and how the proposed project will meet the requirements of this ordinance.

2. Submission Schedule
The *Stormwater Administrator* shall establish a submission schedule for applications. The schedule shall establish deadlines by which complete applications must be submitted for the purpose of ensuring that there is adequate time to review applications, and that the various stages in the review process are accommodated.

3. Permit Review Fees
The Board of Alderman of the Town of Kernersville shall establish permit review fees as well as policies regarding refund of any fees upon withdrawal of an application, and may amend and update the fees and policies from time to time.

4. Administrative Manual

For applications required under this Code, the *Stormwater Administrator* shall compile the application requirements, submission schedule, fee schedule, a copy of this ordinance, and information on how and where to obtain the *Design Manual* in an *Administrative Manual*, which shall be made available to the public.

E. Submittal of Complete Application

Applications shall be submitted to the *Stormwater Administrator* pursuant to the application submittal schedule in the form established by the *Stormwater Administrator*, along with the appropriate fee established pursuant to this section.

An application shall be considered as timely submitted only when it contains all elements of a complete application pursuant to this ordinance, along with the appropriate fee. If the *Stormwater Administrator* finds that an application is incomplete, the applicant shall be notified of the deficient elements and shall be provided with an opportunity to submit a complete application. However, the submittal of an incomplete application shall not suffice to meet a deadline contained in the submission schedule established above.

F. Review

Within thirty (30) working days after a complete application is submitted, the *Stormwater Administrator* shall review the application and determine whether the application complies with the standards of this ordinance. The *Stormwater Administrator* may consult with the *Stormwater Review Committee* regarding applications and make such written findings and recommendations as the *Stormwater Administrator* and the *Stormwater Review Committee* deem appropriate.

1. Approval

If the *Stormwater Administrator* finds that the application complies with the standards of this ordinance, the *Stormwater Administrator* shall approve the application. The *Stormwater Administrator* may impose conditions of approval as needed to ensure compliance with this ordinance. The conditions shall be included as part of the approval.

2. Fails to Comply

If the *Stormwater Administrator* finds that the application fails to comply with the standards of this ordinance, the *Stormwater Administrator* shall notify the applicant and shall indicate how the application fails to comply. The applicant shall have an opportunity to submit a revised application.

3. Revision and Subsequent Review

A complete revised application shall be reviewed by the *Stormwater Administrator* within thirty (30) working days after its re-submittal and shall be approved, approved with conditions or disapproved.

If a revised application is not re-submitted within thirty (30) calendar days from the date the applicant was notified, the application shall be considered withdrawn, and a new submittal for the same or substantially the same project shall be required along with the appropriate fee.

One re-submittal of a revised application may be submitted without payment of an additional permit review fee. Any re-submittal after the first re-submittal shall be accompanied by a permit review fee additional fee, as established pursuant to this ordinance.

4-3.2 APPLICATIONS FOR APPROVAL

A. Concept Plan and Consultation Meeting

At least two weeks prior to the submittal of a stormwater management permit application; the *developer* shall request a consultation on a concept plan for the post-construction stormwater management system to be utilized in the proposed *development* project. This consultation meeting shall take place at the time of the preliminary plan of subdivision or other early step in the *development* process. The purpose of this meeting

is to discuss the post-construction stormwater management measures necessary for the proposed project, as well as to discuss and assess constraints, opportunities and potential approaches to stormwater management designs before formal site design engineering is commenced. Local watershed plans, the Kernersville Development Plan and other relevant resource protection plans may be consulted in the discussion of the concept plan.

To accomplish this goal the following information should be included in the concept plan, which should be submitted in advance of the meeting:

1. Existing Conditions / Proposed Site Plans

Existing conditions and proposed site layout sketch plans, which illustrate at a minimum: existing and proposed topography; perennial and intermittent streams; mapping of predominant soils from soil surveys (when available); boundaries of existing predominant vegetation and proposed limits of clearing and grading; and location of existing and proposed roads, buildings, parking areas and other impervious surfaces.

2. Natural Resources Inventory

A written or graphic inventory of the natural resources at the site and surrounding area as it exists prior to the commencement of the project. This description should include a discussion of soil conditions, forest cover, geologic features, topography, wetlands, and native vegetative areas on the site, as well as the location and boundaries of other natural feature protection and conservation areas such as lakes, ponds, floodplains, stream buffers and other setbacks (e.g., drinking water well setbacks, septic setbacks, etc.). Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for *development*.

3. Stormwater Management System Concept Plan

A written or graphic concept plan of the proposed post-*development* stormwater management system including: preliminary selection and location of proposed structural stormwater controls; low impact design elements; location of existing and proposed *conveyance* systems such as grass channels, *swales*, and storm drains; flow paths; location of floodplain/floodway limits; relationship of site to upstream and downstream properties and *drainages*; and preliminary location of proposed stream channel modifications, such as bridge or culvert crossings.

B. Stormwater Management Permit Application

The stormwater management permit application shall detail how post-*development* stormwater runoff will be controlled and managed and how the proposed project will meet the requirements of this ordinance, including Section 4-1.11(A). All such plans shall be prepared by a qualified registered North Carolina professional engineer, surveyor, soil scientist or landscape architect, and the engineer, surveyor, soil scientist or landscape architect shall perform services only in their area of competence, and shall verify that the design of all stormwater management facilities and practices meets the submittal requirements for complete applications, that the designs and plans are sufficient to comply with applicable standards and policies found in the *Design Manual*, and that the designs and plans ensure compliance with this ordinance.

The submittal shall include all of the information required in the submittal checklist established by the *Stormwater Administrator*. Incomplete submittals shall be rejected.

C. As-Built Plans and Final Approval

Upon completion of a project, and before a certificate of occupancy shall be granted, the applicant shall certify that the completed project is in accordance with the approved stormwater management plans and designs, and shall submit actual “as built” plans for all stormwater management facilities or practices after final construction is completed.

The plans shall show the final design specifications for all stormwater management facilities and practices and the field location, size, depth, and planted vegetation of all measures, controls, and devices, as installed. The designer of the stormwater management measures and plans shall certify, under seal, that the as-built

stormwater measures, controls, and devices are in compliance with the approved stormwater management plans and designs and with the requirements of this ordinance. A final inspection and approval by the *Stormwater Administrator* shall occur before the release of any performance surety.

D. Other Permits

No certificate of compliance or occupancy shall be issued by the Town of Kernersville Community Development Department without final as-built plans and a final inspection and approval by the *Stormwater Administrator*, except where multiple units are served by the stormwater practice or facilities, in which case the Town of Kernersville Community Development Department may elect to withhold a percentage of permits or certificates of occupancy until as-built plans are submitted and final inspection and approval has occurred.

4-3.3 APPROVALS

A. Effect of Approval

Approval authorizes the applicant to go forward with only the specific plans and activity authorized in the permit. The approval shall not be construed to exempt the applicant from obtaining other applicable approvals from local, state, and federal authorities.

B. Time Limit/Expiration

An approved plan shall become null and void if the applicant has failed to make *substantial progress* on the site within one year after the date of approval. The *Stormwater Administrator* may grant a single extension of this time limit of up to one-year, for good cause shown, upon receiving a written request from the applicant before the expiration of the approved plan. Good cause for an extension shall include, but not be limited to, weather conditions, and Acts of God.

A permit valid between September 2, 2020, and 30 days after the COVID-19 declaration of a state of emergency is rescinded is extended 120 days and any associated vested right under G.S. 160D-108.

In granting an extension, the *Stormwater Administrator* may require compliance with standards adopted since the original application was submitted unless there has been substantial reliance on the original permit and the change in standards would infringe the applicant's vested rights.

4-3.4 APPEALS

A. Right of Appeal

Any aggrieved person affected by any decision, order, requirement, or determination relating to the interpretation or application of this ordinance and made by the *Stormwater Administrator* may file an appeal to the Board of Adjustment within 30 days.

B. Filing of Appeal and Procedures

Appeals shall be taken within the specified time period by filing a notice of appeal and specifying the grounds for appeal on forms provided by the Town of Kernersville. The *Stormwater Administrator* shall forthwith transmit to the Board of Adjustment all documents constituting the record on which the decision appealed from was taken.

The hearing conducted by the Board of Adjustment shall be conducted in the nature of a quasi-judicial proceeding with all findings of fact supported by competent, material evidence.

C. Review by Superior Court

Every decision of the Board of Adjustment shall be subject to Superior Court review by proceedings in the nature of certiorari. Petition for review by the Superior Court shall be filed with the Clerk of Superior Court within thirty (30) days after the latter of the following:

1. The decision of the Board of Adjustment is filed; or

2. A written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the Chair of the Board of Adjustment at the time of its hearing of the case.

4-3.5 GENERAL STANDARDS

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

4-3.6 DEVELOPMENT STANDARDS FOR LOW-DENSITY PROJECTS

Low-density projects shall comply with each of the following standards:

A. Stormwater runoff from the *development* shall be transported from the *development* by vegetated *conveyances* to the maximum extent practicable.

B. All *built-upon area* shall be at a minimum of 30 feet landward of all perennial and intermittent surface waters. A perennial or intermittent surface water shall be present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B .0233 (3)(a) or similar site-specific determination made using Division-approved methodology, or where no practical alternative exists (Note: A lack of practical alternatives may be shown by demonstrating that, considering the potential for a reduction in size, configuration or density of the proposed activity and all alternative designs, the basic project purpose cannot be practically accomplished in a manner which would avoid or result in less adverse impact to surface waters. Also, these structures shall be located, designed, constructed, and maintained to have minimal disturbance, to provide maximum nutrient removal and erosion protection, to have the least adverse effects on aquatic life and habitat, and to protect water quality to the maximum extent practical through the use of best management practices):

1. Road crossings, railroad crossings, bridges, airport facilities, and utility crossings.

2. Stormwater management facilities and ponds, and utility construction and maintenance corridors for utilities such as water, sewer or gas.

3. A corridor for the construction and maintenance of utility lines, such as water, sewer or gas, (including access roads and stockpiling of materials) running parallel to the stream. Permanent, maintained access corridors shall be restricted to the minimum width practicable and shall not exceed 10 feet in width except at manhole locations. A 10 feet by 10 feet perpendicular vehicle turnaround shall be allowed provided they are spaced at least 500 feet apart along the riparian area;

4. Stream restoration projects, scientific studies, stream gauging, water wells, passive recreation facilities such as boardwalks, trails, pathways, historic preservation and archaeological activities, provided that they are designed, constructed and maintained to provide the maximum nutrient removal and erosion protection, to have the least adverse effects on aquatic life and habitat, and to protect water quality to the maximum extent practical through the use of best management practices; and

5. Stream crossings associated with timber harvesting, if performed in accordance with the Forest Practices Guidelines Related to Water Quality (15A NCAC 1J .0201-.0209).

C. The approval of the stormwater permit shall require an enforceable restriction on property usage that runs with the land, such as a recorded deed restriction or protective covenants, to ensure that future *development* and *redevelopment* maintains the site consistent with the approved project plans.

4-3.7 DEVELOPMENT STANDARDS FOR HIGH-DENSITY PROJECTS

High-density projects shall implement stormwater control measures that comply with each of the following standards:

A. The measures shall utilize engineered stormwater controls to control runoff from the first inch of rainfall. Runoff volume drawdown time shall be a minimum of 24 hours, but not more than 120 hours.

B. All structural stormwater treatment systems used to meet the requirements of the program shall be designed to have a minimum of 85% average annual removal for Total Suspended Solids;

C. General engineering design criteria for all projects shall be in accordance with 15A NCAC 2H .1008(c), as explained in the *Design Manual*;

D. All *built-upon area* shall be at a minimum of 30 feet landward of all perennial and intermittent surface waters unless the area is used solely for access by emergency vehicles or is part of a railroad crossing. A surface water shall be deemed present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B .0233 (3)(a) or similar site-specific determination made using Division-approved methodology, or where no practical alternative exists (Note: A lack of practical alternatives may be shown by demonstrating that, considering the potential for a reduction in size, configuration or density of the proposed activity and all alternative designs, the basic project purpose cannot be practically accomplished in a manner which would avoid or result in less adverse impact to surface waters. Also, these structures shall be located, designed, constructed, and maintained to have minimal disturbance, to provide maximum nutrient removal and erosion protection, to have the least adverse effects on aquatic life and habitat, and to protect water quality to the maximum extent practical through the use of best management practices):

1. Road crossings, railroad crossings, bridges, airport facilities, and utility crossings.

2. Stormwater management facilities and ponds, and utility construction and maintenance corridors for utilities such as water, sewer or gas.

3. A corridor for the construction and maintenance of utility lines, such as water, sewer or gas, (including access roads and stockpiling of materials) running parallel to the stream. Permanent, maintained access corridors shall be restricted to the minimum width practicable and shall not exceed 10 feet in width except at manhole locations. A 10 feet by 10 feet perpendicular vehicle turnaround shall be allowed provided they are spaced at least 500 feet apart along the riparian area;

4. Stream restoration projects, scientific studies, stream gauging, water wells, passive recreation facilities such as boardwalks, trails, pathways, historic preservation and archaeological activities, provided that they are designed, constructed and maintained to provide the maximum nutrient removal and erosion protection, to have the least adverse effects on aquatic life and habitat, and to protect water quality to the maximum extent practical through the use of best management practices; and

5. Stream crossings associated with timber harvesting, if performed in accordance with the Forest Practices Guidelines Related to Water Quality (15A NCAC 1J .0201-.0209).

E. The approval of the stormwater permit shall require an enforceable restriction on property usage that runs with the land, such as recorded deed restrictions or protective covenants, to ensure that future *development* and *redevelopment* maintains the site consistent with the approved project plans.

4-3.8 STANDARDS FOR STORMWATER CONTROL MEASURES

A. Evaluation According to Contents of Design Manual

All stormwater control measures and stormwater treatment practices (also referred to as *Best Management Practices*, or *BMPs*) required under this ordinance shall be evaluated by the *Stormwater Administrator*

according to the policies, criteria, and information, including technical specifications and standards and the specific design criteria for each stormwater practice, in the *Design Manual*. The *Stormwater Administrator* shall determine whether they will be adequate to meet the requirements of this ordinance.

B. Determination of Adequacy; Presumptions and Alternatives

Stormwater treatment practices that are designed, constructed, and maintained in accordance with the criteria and specifications in the *Design Manual* will be presumed to meet the minimum water quality and quantity performance standards of this ordinance. Whenever an applicant proposes to utilize a practice or practices not designed and constructed in accordance with the criteria and specifications in the *Design Manual*, the applicant shall have the burden of demonstrating that the practice(s) will satisfy the minimum water quality and quantity performance standards of this ordinance. The *Stormwater Administrator* may require the applicant to provide such documentation, calculations, and examples as necessary for the *Stormwater Administrator* to determine whether such an affirmative showing is made.

4-3.9 VARIANCES

Any person may petition the Town of Kernersville for a variance granting permission to use the person's land in a manner otherwise prohibited by this ordinance. To qualify for a variance, the petitioner must show all of the following:

- Unnecessary hardships would result from strict application of this ordinance.
- The hardships result from conditions that are peculiar to the property, such as the location, size, or topography of the property.
- The hardships did not result from actions taken by the petitioner.
- The requested variance is consistent with the spirit, purpose, and intent of this ordinance; will secure public safety and welfare; and will preserve substantial justice.
- The Town of Kernersville may impose reasonable and appropriate conditions and safeguards upon any variance it grants.

4-3.10 MAINTAINING IMPERVIOUS SURFACE AREA COVERAGE RIGHTS ON EXISTING DEVELOPMENT

A. Reconstruction after removal of impervious surface area due to catastrophe.

1. Applicability

If impervious surfaces are removed as a result of fire, explosion, or other catastrophe, and no government investigation determines that the damage resulted from the owner's intentional conduct or gross negligence the owner of the property has two (2) years to reestablish the impervious surface area to maintain or preserve the existing impervious rights for that property.

2. Approval Process

The owner can reestablish the impervious surface area conditions by covering the same area with any type of impervious cover including building, pavement, or compacted gravel as long as a valid permit has been issued for the work.

Alternatively, the owner of the property may submit a request for a time extension to the Watershed Review Committee. In order for the Committee to approve the extension, the owner must document that there are future development intentions for the property and that continued efforts have been made to redevelop the property during the two (2) year period for reestablishment of the impervious surface area. The Watershed Review Committee will be responsible for reviewing documentation submitted by the property owner to verify the redevelopment efforts and to make a determination if a time extension will be granted, as well as the duration of the extension.

An application to request an extension shall be filed no later than one (1) month in advance of the

end of two (2) year period for reestablishment of the impervious surface area.

3. Appeals
Appeals of any order, requirement, decision or determination made by the Watershed Review Committee may be made to, and decided by, the Board of Adjustment as set forth in Section 3-7.7 of this Ordinance

B. Voluntary Demolition of impervious surface area.

1. Applicability
If impervious surfaces are removed as a result of voluntary actions of the owner of the property has one hundred eighty (180) days to reestablish the impervious surface area to maintain or preserve the existing impervious rights for that property.

2. <u>Approval Process</u>
The owner can reestablish the impervious surface area conditions by covering the same area with any type of impervious cover including building, pavement, or compacted gravel as long as a valid permit has been issued for the work.

Alternatively, the owner of the property may submit a request for a time extension to the Watershed Review Committee. In order for the Committee to approve the extension, the owner must document that there are future development intentions for the property and that continued efforts have been made to redevelop the property during the one hundred eighty (180) day period for reestablishment of the impervious surface area. The Watershed Review Committee will be responsible for reviewing documentation submitted by the property owner to verify the redevelopment efforts and to make a determination if a time extension will be granted, as well as the duration of the extension.

An application to request an extension shall be filed no later than one (1) month in advance of the end of the one hundred eighty (180) day period for reestablishment of the impervious surface area.

C. Effective Date. The effective date of this section *Maintaining Impervious Surface Area Coverage Rights on Existing Development* shall be February 7, 2017.

4-3.11 GENERAL STANDARDS FOR MAINTENANCE

A. Function of *BMPs* As Intended
The *owner* of each *structural BMP* installed pursuant to this ordinance shall maintain and operate it so as to preserve and continue its function in controlling stormwater quality and quantity at the degree or amount of function for which the *structural BMP* was designed.

B. Annual Maintenance Inspection and Report
The person responsible for maintenance of any *structural BMP* installed pursuant to this ordinance shall submit to the *Stormwater Administrator* an inspection report from a qualified registered North Carolina professional engineer, surveyor, soil scientist or landscape architect performing services only in their area of competence. The inspection report shall contain all of the following:

1. The name and address of the land *owner*;

2. The recorded book and page number of the lot of each *structural BMP*;

3. A statement that an inspection was made of all *structural BMP*s;

4. The date the inspection was made;

5. A statement that all inspected *structural BMPs* are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this ordinance;

6. The original signature and seal of an engineer, surveyor, soil scientist or landscape architect who either has adequate training in BMP maintenance or has been certified to maintain *BMPs*.

7. Homeowner's and other associations required in Section 4-3.12(B) to enter into an operation and maintenance agreement shall include a financial statement certifying compliance with the escrow account requirements therein.

All inspection reports shall be on forms supplied by the *Stormwater Administrator*. An original inspection report shall be provided to the *Stormwater Administrator* beginning one year from the date of as-built certification and each year thereafter on or before the date of the as-built certification.

4-3.12 OPERATION AND MAINTENANCE AGREEMENT

A. In General

Prior to the *conveyance* or transfer of any lot or building site to be served by a *structural BMP* pursuant to this ordinance, and prior to issuance of any permit for *development* or *redevelopment* requiring a *structural BMP* pursuant to this ordinance, the applicant or *owner* of the site must execute an operation and maintenance agreement that shall be binding on all subsequent *owner*s of the site, portions of the site, and lots or parcels served by the *structural BMP*. Until the transference of all property, sites, or lots served by the *structural BMP*, the original *owner* or applicant shall have primary responsibility for carrying out the provisions of the maintenance agreement.

The operation and maintenance agreement shall require the *owner* or *owner*s to maintain, repair and, if necessary, reconstruct the *structural BMP*, and shall state the terms, conditions, and schedule of maintenance for the *structural BMP*. In addition, it shall grant to the Town of Kernersville a right of entry in the event that the *Stormwater Administrator* has reason to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the *structural BMP*; however, in no case shall the right of entry, of itself, confer an obligation on the Town of Kernersville to assume responsibility for the *structural BMP*.

The operation and maintenance agreement must be approved by the *Stormwater Administrator* prior to plan approval, and it shall be referenced on the final plat and shall be recorded with the county Register of Deeds upon final plat approval. A copy of the recorded maintenance agreement shall be given to the *Stormwater Administrator* within fourteen (14) days following its recordation.

B. Special Requirement for Homeowners' and Other Associations

For all *structural BMPs* required pursuant to this ordinance and that are to be or are owned and maintained by a homeowners' association, property owners' association, or similar entity, the required operation and maintenance agreement shall include all of the following provisions:

1. Acknowledgment that the association shall continuously operate and maintain the stormwater control and management facilities.

2. Establishment of an escrow account, which can be spent solely for sediment removal, structural, biological or vegetative replacement, major repair, or reconstruction of the *structural BMPs*. If structural *BMPs* are not performing adequately or as intended or are not properly maintained, the Town of Kernersville in its sole discretion, may remedy the situation, and in such instances, the Town of Kernersville shall be fully reimbursed from the escrow account. Escrowed funds may be spent by the association for sediment removal, structural, biological or vegetative replacement, major repair, and reconstruction of the *structural BMPs*, provided that the Town of Kernersville shall first consent to the expenditure. Escrowed funds shall not be spent for routine landscaping maintenance items such as mowing.

3. Requirement of both *developer* contribution and annual sinking funds to fund the escrow account. Prior to plat recordation or issuance of construction permits, whichever shall first occur, the *developer* shall pay into the escrow account an amount equal to fifteen (15) per cent of the initial construction cost of the *structural BMPs*. Two-thirds (2/3) of the total amount of sinking fund budget shall be deposited into the escrow account within the first five (5) years and the full amount shall be deposited within ten (10) years following initial construction of the *structural BMPs*. Funds shall be deposited each year into the escrow account. A portion of the annual assessments of the association shall include an allocation into the escrow account. Any funds drawn down from the escrow account shall be replaced in accordance with the schedule of anticipated work used to create the sinking fund budget.

4. Requirement that the association is formed and the association bylaws are submitted to the Town prior to the *conveyance* or transfer of any lot, unit or building site.

5. Grant to the Town of Kernersville a right of entry to inspect, monitor, maintain, repair, and reconstruct *structural BMPs*.

6. Authorization for the Town of Kernersville to recover from the association and its members any and all costs the Town of Kernersville expends to maintain or repair the *structural BMP*s or to correct any operational deficiencies. Failure to pay the Town of Kernersville all of its expended costs, after forty-five days written notice, shall constitute a breach of the agreement. The Town of Kernersville shall thereafter be entitled to bring an action against the association and its members to pay, or foreclose upon the lien hereby authorized by the agreement against the property, or both, in case of a deficiency. Interest, collection costs, and attorney fees shall be added to the recovery.

7. A statement that this agreement shall not obligate the Town of Kernersville to maintain or repair any *structural BMPs*, and the Town of Kernersville shall not be liable to any person for the condition or operation of *structural BMPs*.

8. A statement that this agreement shall not in any way diminish, limit, or restrict the right of the Town of Kernersville to enforce any of its ordinances as authorized by law.

9. A clause indemnifying and holding harmless the Town of Kernersville for any costs and injuries arising from or related to the *structural BMP*, unless the Town of Kernersville has agreed in writing to assume the maintenance responsibility for the *BMP* and has accepted dedication of any and all rights necessary to carry out that maintenance.

4-3.13 INSPECTION PROGRAM

Inspections and inspection programs by the Town of Kernersville may be conducted or established on any reasonable basis, including but not limited to routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling *discharges*, surface water, groundwater, and material or water in *BMPs*; and evaluating the condition of *BMPs*.

If the *owner* or occupant of any property refuses to permit such inspection, the *Stormwater Administrator* shall proceed to obtain an administrative search warrant pursuant to G.S. 15-27.2 or its successor. No person shall obstruct, hamper or interfere with the *Stormwater Administrator* while carrying out his or her official duties.

4-3.14 PERFORMANCE SURETY FOR INSTALLATION AND MAINTENANCE

A. May Be Required

The Town of Kernersville may, at its discretion, require the submittal of a performance surety prior to issuance of a permit in order to ensure that the *structural BMPs* are:

1. Installed by the permit holder as required by the approved stormwater management plan, and/or

2. Maintained by the *owner* as required by the operation and maintenance agreement.

B. Amount

1. Installation
The amount of an installation performance surety shall be 100% of the total estimated construction cost of the *BMPs* approved under the permit.

2. Maintenance
The amount of a maintenance performance surety shall be the present value of an annuity of perpetual duration based on a reasonable estimate of the annual cost of inspection, operation and maintenance of the *BMPs* approved under the permit, at a discount rate that reflects the jurisdiction's cost of borrowing minus a reasonable estimate of long term inflation.

C. Uses of Performance Surety

1. Forfeiture Provisions
The performance surety shall contain forfeiture provisions for failure to complete work within the time specified, or to initiate or maintain any actions which may be required of the applicant or *owner* in accordance with this ordinance, approvals issued pursuant to this ordinance, or an operation and maintenance agreement established pursuant to this ordinance.

2. Default
Upon default of the *owner* to construct, maintain, repair and, if necessary, reconstruct any *structural BMP* in accordance with the applicable permit or operation and maintenance agreement, the *Stormwater Administrator* shall obtain and use all or any portion of the performance surety to make necessary improvements based on an engineering estimate. Such expenditure of funds shall only be made after requesting the *owner* to comply with the permit or maintenance agreement. In the event of a default triggering the use of installation performance surety, the Town of Kernersville shall not return any of the unused performance surety, which shall be retained for maintenance.

3. Costs in Excess of Performance Surety
If The Town of Kernersville takes action upon such failure by the applicant or *owner*, the Town of Kernersville may collect from the applicant or *owner* for the difference should the amount of the reasonable cost of such action exceed the amount of the performance surety held.

4. Refund
Within sixty days of the final approval, the installation performance surety shall be refunded to the applicant or terminated, with the exception of any amount attributable to the cost (plus 25%) of landscaping installation and ongoing maintenance associated with the *BMPs* covered by the surety. Any such landscaping shall be inspected one (1) year after installation with replacement for compliance with the approved plans and specifications and, if in compliance, the portion of the performance surety attributable to landscaping shall be released.

4-3.15 NOTICE TO OWNERS

A. Deed Recordation and Indications On Plat
The applicable operations and maintenance agreement pertaining to every *structural BMP* shall be referenced on the final plat and shall be recorded with the county Register of Deeds upon final plat approval. If no subdivision plat is recorded for the site, then the operations and maintenance agreement shall be recorded with the county Register of Deeds so as to appear in the chain of title of all subsequent purchasers under generally accepted searching principles.

B. Signage

Where appropriate in the determination of the *Stormwater Administrator* to assure compliance with this ordinance, *structural BMPs* shall be posted with a conspicuous sign stating who is responsible for required maintenance and annual inspection. The sign shall be maintained so as to remain visible and legible.

4-3.16 RECORDS OF INSTALLATION AND MAINTENANCE ACTIVITIES

The *owner* of each *structural BMP* shall keep records of inspections, maintenance, and repairs for at least five years from the date of creation of the record and shall submit the same upon reasonable request to the *Stormwater Administrator*.

4-3.17 NUISANCE

The *owner* of each stormwater *BMP*, whether *structural* or non-*structural BMP*, shall maintain it so as not to create or result in a nuisance condition.

4-3.18 GENERAL STANDARDS FOR ENFORCEMENT AND VIOLATIONS

A. Authority to Enforce

The provisions of this ordinance shall be enforced by the *Stormwater Administrator*, his or her designee, or any authorized agent of the Town of Kernersville. Whenever this section refers to the *Stormwater Administrator*, it includes his or her designee as well as any authorized agent of Town of Kernersville.

B. Violation Unlawful

Any failure to comply with an applicable requirement, prohibition, standard, or limitation imposed by this ordinance, or the terms or conditions of any permit or other *development* or *redevelopment* approval or authorization granted pursuant to this ordinance, is unlawful and shall constitute a violation of this ordinance.

C. Each Day a Separate Offense

Each day that a violation continues shall constitute a separate and distinct violation or offense.

D. Responsible Persons/Entities

Any person who erects, constructs, reconstructs, alters (whether actively or passively), or fails to erect, construct, reconstruct, alter, repair or maintain any structure, *BMP*, practice, or condition in violation of this ordinance shall be subject to the remedies, penalties, and/or enforcement actions in accordance with this section. Persons subject to the remedies and penalties set forth herein may include any architect, engineer, builder, contractor, *developer*, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that results in or constitutes a violation of this ordinance, or fails to take appropriate action, so that a violation of this ordinance results or persists; or an *owner*, any tenant or occupant, or any other person, who has control over, or responsibility for, the use or *development* of the property on which the violation occurs.

For the purposes of this article, a responsible person(s) shall include the *owner* of the land on which the violation occurs, any tenant or occupant of the property, any person who is responsible for stormwater controls or practices pursuant to a private agreement or public document, or any person, who has control over, or responsibility for, the use, *development* or *redevelopment* of the property. A responsible person(s) may also include, but not be limited to an architect, engineer, builder, contractor, *developer*, agency, or any other person who participates in, assists, directs, creates, causes, maintains or does not correct a condition that constitutes a violation of this ordinance, or fails to take appropriate action, resulting in a continuing violation.

4-3.19 REMEDIES AND PENALTIES

The remedies and penalties provided for violations of this ordinance, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.

A. Remedies

1. Withholding of Certificate of Occupancy

The *Stormwater Administrator* or other authorized agent may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site and served by the stormwater practices in question until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.

2. Disapproval of Subsequent Permits and Development Approvals

As long as a violation of this ordinance continues and remains uncorrected, the *Stormwater Administrator* shall inform the zoning officer(s) and other development officials and request that all permits or *development* approvals or authorizations provided for by this ordinance or the zoning, subdivision, and/or building regulations, be delayed or denied, as appropriate, for the land on which the violation occurs until the corrective actions have been completed.

3. Injunction, Abatements, etc.

The *Stormwater Administrator*, with the written authorization of the Board of Alderman of the Town of Kernersville may institute an action in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement to correct a violation of this ordinance. Any person violating this ordinance shall be subject to the full range of equitable remedies provided in the General Statutes or at common law.

4. Correction as Public Health Nuisance, Costs as Lien, etc.

If the violation is deemed dangerous or prejudicial to the public health or public safety and is within the geographic limits prescribed by North Carolina G.S. § 160A-193, the *Stormwater Administrator*, with the written authorization of the Board of Alderman of the Town of Kernersville may cause the violation to be corrected and the costs to be assessed as a lien against the property.

5. Stop Work Order

The *Stormwater Administrator* may issue a stop work order to the person(s) violating this ordinance. The stop work order shall remain in effect until the person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein. The stop work order may be withdrawn or modified to enable the person to take the necessary remedial measures to cure such violation or violations.

B. Civil Penalties

Violation of this ordinance may subject the violator to a civil penalty to be recovered in a civil action in the nature of a debt if the violator does not pay the penalty within 30 days after notice of the violation is issued by the *Stormwater Administrator*. Civil penalties may be assessed up to the full amount of penalty to which the Town of Kernersville is subject for violations of its Phase II Stormwater permit and shall be included annually in the Statement of Fees and Charges adopted by the Board of Aldermen.

C. Criminal Penalties

Violation of this ordinance may be enforced as a misdemeanor subject to the maximum fine permissible under North Carolina law.

4-3.20 PROCEDURES

A. Initiation/Complaint

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint shall state fully the alleged violation and the basis thereof, and shall be filed with the *Stormwater Administrator*, who shall record the complaint. The complaint shall be investigated promptly by the *Stormwater Administrator*.

B. Inspection

The *Stormwater Administrator* shall have the authority, upon presentation of proper credentials, to enter and inspect any land, building, structure, or premises to ensure compliance with this ordinance.

C. Notice of Violation and Order to Correct

When the *Stormwater Administrator* finds that any building, structure, or land is in violation of this ordinance, the *Stormwater Administrator* shall notify, in writing, the property *owner* or other person violating this ordinance. The *Stormwater Administrator* may consult with the *Stormwater Review Committee* regarding such violations prior to making a determination regarding whether a violation exists and the type of correction needed. The notification to the property owner or other person violating this ordinance shall indicate the nature of the violation, contain the address or other description of the site upon which the violation is occurring, order the necessary action to abate the violation, and give a deadline for correcting the violation. If civil penalties are to be assessed, the notice of violation shall also contain a statement of the civil penalties to be assessed, the time of their accrual, and the time within which they must be paid or be subject to collection as a debt.

The *Stormwater Administrator* may deliver the notice of violation and correction order personally, by the Kernersville Police Department or appropriate Sheriff's department, by certified or registered mail, return receipt requested, or by any means authorized for the service of documents by Rule 4 of the North Carolina Rules of Civil Procedure.

If a violation is not corrected within a reasonable period of time, as provided in the notification, the *Stormwater Administrator* may take appropriate action under this ordinance to correct and abate the violation and to ensure compliance with this ordinance.

D. Extension of Time

A person who receives a notice of violation and correction order, or the *owner* of the land on which the violation occurs, may submit to the *Stormwater Administrator* a written request for an extension of time for correction of the violation. On determining that the request includes enough information to show that the violation cannot be corrected within the specified time limit for reasons beyond the control of the person requesting the extension, the *Stormwater Administrator* may extend the time limit as is reasonably necessary to allow timely correction of the violation, up to, but not exceeding 60 days. The *Stormwater Administrator* may grant 30 day extensions in addition to the foregoing extension if the violation cannot be corrected within the permitted time due to circumstances beyond the control of the person violating this ordinance. The *Stormwater Administrator* may grant an extension only by written notice of extension. The notice of extension shall state the date prior to which correction must be made, after which the violator will be subject to the penalties described in the notice of violation and correction order.

E. Enforcement After Time to Correct

After the time has expired to correct a violation, including any extension(s) if authorized by the *Stormwater Administrator*, the *Stormwater Administrator* shall determine if the violation is corrected. If the violation is not corrected, the *Stormwater Administrator* may act to impose one or more of the remedies and penalties authorized by this ordinance.

F. Emergency Enforcement

If delay in correcting a violation would seriously threaten the effective enforcement of this ordinance or pose an immediate danger to the public health, safety, or welfare, then the *Stormwater Administrator* may order the immediate cessation of a violation. Any person so ordered shall cease any violation immediately. The *Stormwater Administrator* may seek immediate enforcement, without prior written notice, through any remedy or penalty authorized by this article.

CHAPTER C – ENVIRONMENTAL ORDINANCE
ARTICLE V – RIPARIAN BUFFER PROTECTION ORDINANCE FOR LANDS WITHIN THE JORDAN WATERSHED

TABLE OF CONTENTS

5-1.1 Authority 430
5-1.2 Purpose and Intent 430
5-1.3 Title 430
5-1.4 Jurisdiction 430
5-1.5 Applicability 430
5-1.6 Relation to Other Ordinances 430
5-1.7 Riparian Area Protection within the Jordan Reservoir Watershed 430
A. Buffers Protected 430
B. Exemption Based on On–site Determination 431
C. Exemption when Existing Uses are Present and Ongoing 432
D. Zones of the Riparian Buffer 432
E. Diffuse Flow Requirements 433
5-1.8 Potential Uses and Associated Requirements 433
A. Approval for New Development 433
B. Table of Uses 433
C. Requirements for Categories of Uses 441
5-1.9 Permits Procedures, Requirements, and Approvals 442
A. Determination of No Practical Alternatives / Request for Authorization Certificate 442
B. Variances 443
C. Mitigation 444
5-1.10 Compliance and Enforcement 447
A. Site Inspections 447
B. Civil Penalties 447
C. Criminal Penalties 448
D. Injunctive Relief 448
5-1.11 Severability 449
5-1.12 Effective Date 449
5-1.13 Revisions to this Ordinance 449
5-1.14 Definitions 449

5-1 GENERAL PROVISIONS

5-1.1 AUTHORITY

This Ordinance is adopted pursuant to the authority vested in Town of Kernersville by the Session Laws and the General Statutes of North Carolina, particularly Session Law 2009-216 (House Bill 239), Session Law 2009-484 (Senate Bill 838), N.C. Gen. Stat §160D-920, 160A-193, 160D-Article 2, and any special legislation enacted by the General Assembly for Town of Kernersville.

5-1.2 PURPOSE AND INTENT

The purposes of the Town of Kernersville in adopting the following Ordinance is to protect and preserve existing riparian buffers throughout the Jordan Watershed as generally described in Rule 15A NCAC 02B .0262 (Jordan Water Supply Nutrient Strategy: Purpose and Scope), in order to maintain their nutrient removal and stream protection functions. Additionally this Ordinance will help protect the water supply uses of Jordan Reservoir and of designated water supplies throughout the Jordan watershed.

Buffers adjacent to streams provide multiple environmental protection and resource management benefits. Forested buffers enhance and protect the natural ecology of stream systems, as well as water quality through bank stabilization, shading, and nutrient removal. They also help to minimize flood damage in flood prone areas. Well-vegetated streamside riparian areas help to remove nitrogen and prevent sediment and sediment-bound pollutants such as phosphorous from reaching the streams.

5-1.3 TITLE

This Ordinance shall be known as the *Town of Kernersville Riparian Buffer Protection Ordinance for Lands within the Jordan Watershed*.

5-1.4 JURISDICTION

This Ordinance shall be applied to all land in the planning jurisdiction of Town of Kernersville that is located within the Jordan Reservoir Watershed. If a parcel of land lies within the planning and development regulation jurisdiction of more than one local government, the local governments may by mutual agreement, pursuant and with the written consent of the landowner, assign exclusive planning and development regulation jurisdiction for the entire parcel to any one of those local governments. Such a mutual agreement pursuant to G.S.160D-203 shall only be applicable to development regulations and shall not affect taxation or other non-regulatory matters. The mutual agreement shall be evidenced by a resolution formally adopted by each governing board and recorded with the register of deeds in the county where the property is located within 14 days of the adoption of the last required resolution.

5-1.5 APPLICABILITY

This Ordinance applies to all landowners and other persons conducting activities in the area described in Section 4, with the exception of activities conducted under the authority of the State, the United States, multiple jurisdictions, or local units of government, and forest harvesting and agricultural activities. The NC Division of Water Quality shall administer the requirements of Rule 15A NCAC 02B .0267 and .0268 (Jordan Water Supply Nutrient Strategy: Protection of Existing Riparian Buffers and Mitigation of Existing Riparian Buffers, respectively) for these activities.

5-1.6 RELATION TO OTHER ORDINANCES

The requirements of this Ordinance shall supersede all locally implemented buffer requirements stated in Rules 15A NCAC 02B .0214 through .0216 as applied to WS-II, WS-III, and WS-IV waters in the Jordan watershed. If the provisions of this ordinance otherwise conflict with the provisions of any other validly enforceable ordinance(s) or laws, the most stringent provisions shall control. This Ordinance is not intended to interfere with, abrogate, or annul any other ordinance, rule, regulation, or other provision of law.

5-1.7 RIPARIAN AREA PROTECTION WITHIN THE JORDAN RESERVOIR WATERSHED

A. Buffers Protected

The following minimum criteria shall be used for identifying regulated buffers:

1. This Ordinance shall apply to activities conducted within, or outside of with hydrologic impacts in violation of the diffuse flow requirements set out in Section 7.(E) upon, 50-foot wide riparian buffers directly adjacent to surface waters in the Jordan watershed (intermittent streams, perennial streams, lakes, reservoirs and ponds), excluding wetlands.
2. Wetlands adjacent to surface waters or within 50 feet of surface waters shall be considered as part of the riparian buffer but are regulated pursuant to Rules 15A NCAC 2B .0230 and .0231, Rules 15A NCAC 2H .0500, 15A NCAC 2H .1300, and Sections 401 and 404 of the Federal Water Pollution Control Act.
3. For the purpose of this Ordinance, only one of the following types of maps shall be used for purposes of identifying a water body subject to the requirements of this ordinance:
    a. The most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture.
    b. The most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS).
    c. A map approved by the Geographic Information Coordinating Council and by the NC Environmental Management Commission. Prior to approving a map under this Item, the Commission shall provide a 30-day public notice and opportunity for comment. Alternative maps approved by the Commission shall not be used for buffer delineation on projects that are existing and ongoing within the meaning of Section 7. (C) of this Ordinance.
4. Where the specific origination point of a stream regulated under this Item is in question, upon request of the NC Division of Water Quality or another party, the Town of Kernersville shall make an on-site determination. A Town of Kernersville representative who has successfully completed the Division's *Surface Water Identification Training Certification* course, its successor, or other equivalent training curriculum approved by the Division, shall establish that point using the latest version of the Division publication, *Identification Methods for the Origins of Intermittent and Perennial Streams*, available at http://h2o.enr.state.nc.us/ncwetlands/documents/NC_Stream_ID_Manual.pdf or from the NC Division of Water Quality - 401 Oversight Express Permitting Unit, or its successor. The Town of Kernersville may accept the results of a site assessment made by another party who meets these criteria. Any disputes over on-site determinations made according to this Item shall be referred to the Director of the Division of Water Quality c/o the 401 Oversight Express Permitting Unit, or its successor, in writing. The Director's determination is subject to review as provided in Articles 3 and 4 of G.S. 150B.
5. Riparian buffers protected by this Ordinance shall be measured pursuant to Section 7. (D) of this Ordinance.
6. Parties subject to this Ordinance shall abide by all State rules and laws regarding waters of the state including but not limited to Rules 15A NCAC 2B .0230 and .0231, Rules 15A NCAC 2H .0500, 15A NCAC 2H .1300, and Sections 401 and 404 of the Federal Water Pollution Control Act.
7. No new clearing, grading, or development shall take place nor shall any new building permits be issued in violation of this Ordinance.

B. Exemption Based on On–site Determination

When a landowner or other affected party including the Division believes that the maps have inaccurately depicted surface waters, he or she shall consult the Town of Kernersville. Upon request, a Town of Kernersville representative who has successfully completed the Division of Water Quality's *Surface Water Identification Training Certification* course, its successor, or other equivalent training curriculum approved by the Division, shall make an on-site determination. The Town of Kernersville may also accept the results of site assessments made by other parties who have successfully completed such training. Any disputes over on-site determinations shall be referred to the Director of the Division of Water Quality c/o the 401 Oversight Express Permitting Unit, or its successor, in writing. A determination of the Director as to the accuracy or application of the maps is subject to review as provided in Articles 3 and 4 of G.S. 150B. Surface waters that appear on the maps shall not be subject to these buffer requirements if a site evaluation reveals any of the following cases:

1. Man-made ponds and lakes that are not part of a natural drainage way that is classified in accordance with 15A NCAC 2B .0100, including ponds and lakes created for animal watering, irrigation, or other agricultural uses. (A pond or lake is part of a natural drainage way when it is fed by an intermittent or perennial stream or when it has a direct discharge point to an intermittent or perennial stream.)
2. Ephemeral streams.
3. The absence on the ground of a corresponding intermittent or perennial stream, lake, reservoir, or pond.
4. Ditches or other man-made water conveyances, other than modified natural streams.

C. Exemption when Existing Uses are Present and Ongoing

This Ordinance shall not apply to uses that are existing and ongoing; however, this Ordinance shall apply at the time an existing, ongoing use is changed to another use. Change of use shall involve the initiation of any activity that does not meet either of the following criteria for existing, ongoing activity:

1. It was present within the riparian buffer as of the effective date of this Ordinance and has continued to exist since that time. Existing uses shall include agriculture, buildings, industrial facilities, commercial areas, transportation facilities, maintained lawns, utility lines and on-site sanitary sewage systems, any of which involve either specific, periodic management of vegetation or displacement of vegetation by structures or regular activity. Only the portion of the riparian buffer occupied by the footprint of the existing use is exempt from this Ordinance. Change of ownership through purchase or inheritance is not a change of use. Activities necessary to maintain uses are allowed provided that the site remains similarly vegetated, no impervious surface is added within 50 feet of the surface water where it did not previously exist as of the effective date of this Ordinance, and existing diffuse flow is maintained. Grading and revegetating Zone Two is allowed provided that the health of the vegetation in Zone One is not compromised, the ground is stabilized and existing diffuse flow is maintained.
2. Projects or proposed development that are determined by the Town of Kernersville to meet at least one of the following criteria:
    a. Project requires a 401 Certification/404 Permit and these were issued prior to the effective date this Ordinance, and prior to the effective date of this Ordinance.
    b. Projects that require a state permit, such as landfills, NPDES wastewater discharges, land application of residuals and road construction activities, have begun construction or are under contract to begin construction and had received all required state permits and certifications prior to the effective date of this Ordinance;
    c. Projects that are being reviewed through the Clean Water Act Section 404/National Environmental Policy Act Merger 01 Process (published by the US Army Corps of Engineers and Federal Highway Administration, 2003) or its immediate successor and that have reached agreement with DENR on avoidance and minimization by the effective date of this Ordinance; or
    d. Projects that are not required to be reviewed by the Clean Water Act Section 404/National Environmental Policy Act Merger 01 Process (published by the US Army Corps of Engineers and Federal Highway Administration, 2003) or its immediate successor if a Finding of No Significant Impact has been issued for the project and the project has the written approval of the Town of Kernersville prior to the effective date of this Ordinance.

D. Zones of the Riparian Buffer

The protected riparian buffer shall have two zones as follows:

1. **Zone One** shall consist of a vegetated area that is undisturbed except for uses provided for in the Table of Uses, Section 8. (B) of this Ordinance. The location of Zone One shall be as follows:
    a. For intermittent and perennial streams, Zone One shall begin at the top of the bank and extend landward a distance of 30 feet on all sides of the surface water, measured horizontally on a line perpendicular to a vertical line marking the top of the bank.

b. For ponds, lakes and reservoirs located within a natural drainage way, Zone One shall begin at the normal water level and extend landward a distance of 30 feet, measured horizontally on a line perpendicular to a vertical line marking the normal water level.

2. **Zone Two** shall consist of a stable, vegetated area that is undisturbed except for uses provided for in the Table of Uses, Section 8. (B) of this Ordinance. Grading and revegetating in Zone Two is allowed provided that the health of the vegetation in Zone One is not compromised. Zone Two shall begin at the outer edge of Zone One and extend landward 20 feet as measured horizontally on a line perpendicular to the surface water. The combined width of Zones One and Two shall be 50 feet on all sides of the surface water.

E. Diffuse Flow Requirements

Diffuse flow of runoff shall be maintained in the riparian buffer by dispersing concentrated flow prior to its entry into the buffer and reestablishing vegetation as follows:

1. Concentrated runoff from new ditches or man-made conveyances shall be converted to diffuse flow at non-erosive velocities before the runoff enters Zone Two of the riparian buffer;
2. Periodic corrective action to restore diffuse flow shall be taken as necessary and shall be designed to impede the formation of erosion gullies; and
3. As set out in Sections 7.(D) and 8.(B) of this Ordinance, The Zones of the Riparian Buffer and Table of Uses respectively, no new stormwater conveyances are allowed through the buffers except for those specified in the Table of Uses, Section 8.(B) of this Ordinance, addressing stormwater management ponds, drainage ditches, roadside ditches, and stormwater conveyances.

5-1.8 POTENTIAL USES AND ASSOCIATED REQUIREMENTS

A. Approval for New Development

Town of Kernersville shall issue an approval for new development only if the development application proposes to avoid impacts to riparian buffers defined in Section 7. (A) of this Ordinance, or where the application proposes to impact such buffers, it demonstrates that the applicant has done the following, as applicable:

1. Determined the activity is exempt from requirements of this Ordinance;
2. Received an Authorization Certificate from the Division pursuant to Section 9.A of this Ordinance;
3. For uses designated as Allowable with Mitigation in the Table of Uses in Section 8.(B), received approval of mitigation plan pursuant to Section 9.(C) of this Ordinance; and
4. Received a variance pursuant to Section 9. (B).

B. Table of Uses

The following chart sets out potential new uses within the buffer, or outside the buffer with impacts on the buffer, and categorizes them as exempt, allowable, or allowable with mitigation. All uses not categorized as exempt, allowable, or allowable with mitigation are considered prohibited and may not proceed within the riparian buffer or outside the buffer if the use would impact the buffer, unless a variance is granted pursuant to Section 9.(C) of this Ordinance, Variances. The requirements for each category are given in Section 8. (C) of this Section following the Table of Uses.

Use ** To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in Section 8. (C) of this Ordinance.*	**Exempt***	**Allowable***	**Allowable with Mitigation***

Access trails: Pedestrian access trails leading to the surface water, docks, fishing piers, boat ramps and other water dependent activities: • Pedestrian access trails that are restricted to the minimum width practicable and do not exceed 4 feet in width of buffer disturbance, and provided that installation and use does not result in removal of trees as defined in this Ordinance and no impervious surface is added to the riparian buffer • Pedestrian access trails that exceed 4 feet in width of buffer disturbance, the installation or use results in removal of trees as defined in this Ordinance or impervious surface is added to the riparian buffer	X	X	
Airport facilities: • Airport facilities that impact equal to or less than 150 linear feet or one-third of an acre of riparian buffer • Airport facilities that impact greater than 150 linear feet or one-third of an acre of riparian buffer • Activities necessary to comply with FAA requirements (e.g. radar uses or landing strips)[1]		X X	X
Archaeological activities	X		
Bridges		X	
Canoe Access provided that installation and use does not result in removal of trees as defined in this Ordinance and no impervious surface is added to the buffer.	X		
Dam maintenance activities: • Dam maintenance activities that do not cause additional buffer disturbance beyond the footprint of the existing dam or those covered under the U.S. Army Corps of Engineers Nationwide Permit No. 3 • Dam maintenance activities that do cause additional buffer disturbance beyond the footprint of the existing dam or those not covered under the U.S. Army Corps of Engineers Nationwide Permit No.3	X	X	
Drainage ditches, roadside ditches and stormwater conveyances through riparian buffers: • New stormwater flows to existing drainage ditches, roadside ditches, and stormwater conveyances provided flows do not alter or result in the need to alter the conveyance and are managed to minimize the sediment, nutrients and other pollution that convey to waterbodies. • Realignment of existing roadside drainage ditches retaining the design dimensions, provided that no additional travel lanes are added and the	X	X	

minimum required roadway typical section is used based on traffic and safety considerations. • New or altered drainage ditches, roadside ditches and stormwater outfalls provided that a stormwater management facility is installed to control nutrients and attenuate flow before the conveyance discharges through the riparian buffer • New drainage ditches, roadside ditches and stormwater conveyances applicable to linear projects that do not provide a stormwater management facility due to topography constraints provided that other practicable BMPs are employed.		X	X
Drainage of a pond in a natural drainage way provided that a new riparian buffer that meets the requirements of Items (7) and (8) of this rule is established adjacent to the new channel.	X		
Driveway crossings of streams and other surface waters subject to this Ordinance: • Driveway crossings on single family residential lots that disturb equal to or less than 25 linear feet or 2,500 square feet of riparian buffer • Driveway crossings on single family residential lots that disturb greater than 25 linear feet or 2,500 square feet of riparian buffer • In a subdivision that cumulatively disturb equal to or less than 150 linear feet or one-third of an acre of riparian buffer • In a subdivision that cumulatively disturb greater than 150 linear feet or one-third of an acre of riparian buffer	X	X X	X
Driveway impacts other than crossing of a stream or other surface waters subject to this Ordinance			X
Fences: • Fences provided that disturbance is minimized and installation does not result in removal of trees as defined in this Ordinance • Fences provided that disturbance is minimized and installation results in removal of trees as defined in this Ordinance	X	X	
Fertilizer application: one-time application to establish vegetation	X		
Grading and revegetation in Zone Two provided that diffuse flow and the health of existing vegetation in Zone One is not compromised and disturbed areas are stabilized until they are revegetated.	X		
Greenway / hiking trails designed, constructed, and maintained to maximize nutrient removal and erosion protection, minimize adverse		X	

effects on aquatic life and habitat, and protect water quality to the maximum extent practical.			
Historic preservation	X		
Maintenance access on modified natural streams: a grassed travel way on one side of the water body when less impacting alternatives are not practical. The width and specifications of the travel way shall be only that needed for equipment access and operation. The travel way shall be located to maximize stream shading.		X	
Mining activities: • Mining activities that are covered by the Mining Act provided that new riparian buffers that meet the requirements of Sections 7.(D) and 7.(E) of this Ordinance are established adjacent to the relocated channels • Mining activities that are not covered by the Mining Act OR where new riparian buffers that meet the requirements of Sections 7.(D) and 7.(E) of this Ordinance are not established adjacent to the relocated channels • Wastewater or mining dewatering wells with approved NPDES permit	X	X	X
Piping of a stream allowed under a permit issued by the United States Army Corp of Engineers		X	
Playground equipment: • Playground equipment on single family lots provided that installation and use does not result in removal of vegetation • Playground equipment installed on lands other than single-family lots or that requires removal of vegetation	X	X	
Ponds created by impounding streams and not used as stormwater BMPs: • New ponds provided that a riparian buffer that meets the requirements of Sections 7.(D) and 7.(E) of this Ordinance is established adjacent to the pond • New ponds where a riparian buffer that meets the requirements of Sections 7.(D) and 7.(E) of this Ordinance is NOT established adjacent to the pond		X	X
Protection of existing structures, facilities and stream banks when this requires additional disturbance of the riparian buffer or the stream channel		X	

Railroad impacts other than crossings of streams and other surface waters subject to this Ordinance.			X
Railroad crossings of streams and other surface waters subject to this Ordinance: • Railroad crossings that impact equal to or less than 40 linear feet of riparian buffer • Railroad crossings that impact greater than 40 linear feet but equal to or less than 150 linear feet or one-third of an acre of riparian buffer • Railroad crossings that impact greater than 150 linear feet or one-third of an acre of riparian buffer	X	X	X
Recreational and accessory structures in Zone Two: • Sheds and gazebos in Zone Two, provided they are not prohibited under local water supply ordinance: o Total footprint less than or equal to 150 square feet per lot. o Total footprint greater than 150 square feet per lot. • Wooden slatted decks and associated steps, provided the use meets the requirements of Sections 7.(D) and 7.(E) of this Ordinance: o Deck at least eight feet in height and no vegetation removed from Zone One. o Deck less than eight feet in height or vegetation removed from Zone One.		X X	X X
Removal of previous fill or debris provided that diffuse flow is maintained and vegetation is restored	X		
Road impacts other than crossings of streams and other surface waters subject to this Ordinance			X
Road crossings of streams and other surface waters subject to this Ordinance: • Road crossings that impact equal to or less than 40 linear feet of riparian buffer • Road crossings that impact greater than 40 linear feet but equal to or less than 150 linear feet or one-third of an acre of riparian buffer • Road crossings that impact greater than 150 linear feet or one-third of an acre of riparian buffer	X	X	X
Road relocation: Relocation of existing private access roads associated with public road projects where necessary for public safety: • Less than or equal to 2,500 square feet of buffer impact		X	X

• Greater than 2,500 square feet of buffer impact			
Stormwater BMPs: • Wet detention, bioretention, and constructed wetlands in Zone Two if diffuse flow of discharge is provided into Zone One • Wet detention, bioretention, and constructed wetlands in Zone One		X	X
Scientific studies and stream gauging	X		
Streambank or shoreline stabilization		X	
Temporary roads, provided that the disturbed area is restored to pre-construction topographic and hydrologic conditions immediately after construction is complete and replanted immediately with comparable vegetation, except that tree planting may occur during the dormant season. A one-time application of fertilizer may be used to establish vegetation: At the end of five years the restored buffer shall comply with the restoration criteria in Section 9.(C)(7) of this Ordinance: • Less than or equal to 2,500 square feet of buffer disturbance • Greater than 2,500 square feet of buffer disturbance • Associated with culvert installation or bridge construction or replacement.	X	 X X	
Temporary sediment and erosion control devices, provided that the disturbed area is restored to pre-construction topographic and hydrologic conditions immediately after construction is complete and replanted immediately with comparable vegetation, except that tree planting may occur during the dormant season. A one-time application of fertilizer may be used to establish vegetation. At the end of five years the restored buffer shall comply with the restoration criteria in Section 9.(C)(7) of this Ordinance: • In Zone Two provided ground cover is established within timeframes required by the Sedimentation and Erosion Control Act, vegetation in Zone One is not compromised, and runoff is released as diffuse flow in accordance with Section 7. (E) of this Ordinance. • In Zones one and two to control impacts associated with uses approved by Town of Kernersville or that have received a variance, provided that sediment and erosion control for upland areas is addressed, to the maximum extent practical, outside the buffer. • In-stream temporary erosion and sediment control measures for work within a stream channel that is authorized under Sections 401 and 404 of the Federal Water Pollution Control Act. • In-stream temporary erosion and sediment control measures for work within a stream channel.	X X	 X X	

Utility, electric, aerial, perpendicular crossings of streams and other surface waters subject to this Ordinance[2,3,5]: • Disturb equal to or less than 150 linear feet of riparian buffer • Disturb greater than 150 linear feet of riparian buffer	X	X	
Utility, electric, aerial, other than perpendicular crossings[5]: • Impacts in Zone Two • Impacts in Zone One[2,3]		X	X
Utility, electric, underground, perpendicular crossings[3,4,5]: • Disturb less than or equal to 40 linear feet of riparian buffer • Disturb greater than 40 linear feet of riparian buffer	X	X	
Utility, electric, underground, other than perpendicular crossings[4]: • Impacts in Zone Two • Impacts in Zone One[1]	X X		
Utility, non-electric, perpendicular crossings of streams and other surface waters subject to this Ordinance[3,5]: • Disturb equal to or less than 40 linear feet of riparian buffer with a maintenance corridor equal to or less than 10 feet in width • Disturb equal to or less than 40 linear feet of riparian buffer with a maintenance corridor greater than 10 feet in width • Disturb greater than 40 linear feet but equal to or less than 150 linear feet of riparian buffer with a maintenance corridor equal to or less than 10 feet in width • Disturb greater than 40 linear feet but equal to or less than 150 linear feet of riparian buffer with a maintenance corridor greater than 10 feet in width • Disturb greater than 150 linear feet of riparian buffer	X	X X	X X
Utility, non-electric, other than perpendicular crossings[4.5]: • Impacts in Zone Two • Impacts in Zone One[1]	X		X
Vegetation management: • Emergency fire control measures provided that topography is restored • Mowing or harvesting of plant products in Zone Two • Planting vegetation to enhance the riparian buffer	X X X X		

• Pruning forest vegetation provided that the health and function of the forest vegetation is not compromised • Removal of individual trees that are in danger of causing damage to dwellings, other structures or human life, or are imminently endangering stability of the streambank. • Removal of individual trees which are dead, diseased, or damaged. • Removal of poison ivy • Removal of invasive exotic vegetation as defined in: *Smith, Cherri L. 1998. Exotic Plant Guidelines. Dept. of Environment and Natural Resources. Division of Parks and Recreation. Raleigh, NC. Guideline #30*	X X X X		
• Vehicular access roads leading to water-dependent structures as defined in 15A NCAC 02B .0202, provided they do not cross the surface water and have minimum practicable width not exceeding ten feet.		X	
• Water dependent structures as defined in 15A NCAC 02B .0202 where installation and use result in disturbance to riparian buffers.		X	
Water supply reservoirs: • New reservoirs where a riparian buffer that meets the requirements of Sections 7.(D) and 7.(E) of this Ordinance is established adjacent to the reservoir • New reservoirs where a riparian buffer that meets the requirements of Sections 7.(D) and 7.(E) of this Ordinance is not established adjacent to the reservoir		X	X
Water wells: • Single family residential water wells • All other water wells	X	X	
Wetland, stream and buffer restoration that results in impacts to the riparian buffers: • Wetland, stream and buffer restoration that requires NC Division of Water Quality approval for the use of a 401 Water Quality Certification • Wetland, stream and buffer restoration that does not require Division of Water Quality approval for the use of a 401 Water Quality Certification	X	X	
Wildlife passage structures		X	

[1]Provided that:

- No heavy equipment is used in Zone One.

- Vegetation in undisturbed portions of the buffer is not compromised.
- Felled trees are removed by chain.
- No permanent felling of trees occurs in protected buffers or streams.
- Stumps are removed only by grinding.
- At the completion of the project the disturbed area is stabilized with native vegetation.
- Zones one and two meet the requirements of Sections 7.(D) and 7.(E)

[2]Provided that, in Zone One, all of the following BMPs for overhead utility lines are used. If all of these BMPs are not used, then the overhead utility lines shall require a no practical alternative evaluation by the Town of Kernersville, as defined in Section 9. (A).

- A minimum zone of 10 feet wide immediately adjacent to the water body shall be managed such that only vegetation that poses a hazard or has the potential to grow tall enough to interfere with the line is removed.
- Woody vegetation shall be cleared by hand. No land grubbing or grading is allowed.
- Vegetative root systems shall be left intact to maintain the integrity of the soil. Stumps shall remain where trees are cut.
- Riprap shall not be used unless it is necessary to stabilize a tower.
- No fertilizer shall be used other than a one-time application to re-establish vegetation.
- Construction activities shall minimize the removal of woody vegetation, the extent of the disturbed area, and the time in which areas remain in a disturbed state.
- Active measures shall be taken after construction and during routine maintenance to ensure diffuse flow of stormwater through the buffer.
- In wetlands, mats shall be utilized to minimize soil disturbance.

[3]Provided that poles or aerial infrastructure shall not be installed within 10 feet of a water body unless Town of Kernersville completes a no practical alternative evaluation as defined in Section 9. (A).

[4]Provided that, in Zone One, all of the following BMPs for underground utility lines are used. If all of these BMPs are not used, then the underground utility line shall require a no practical alternative evaluation by Town of Kernersville, as defined in Section 9. (A).

- Woody vegetation shall be cleared by hand. No land grubbing or grading is allowed.
- Vegetative root systems shall be left intact to maintain the integrity of the soil. Stumps shall remain, except in the trench where trees are cut.
- Underground cables shall be installed by vibratory plow or trenching.
- The trench shall be backfilled with the excavated soil material immediately following cable installation.
- No fertilizer shall be used other than a one-time application to re-establish vegetation.
- Construction activities shall minimize the removal of woody vegetation, the extent of the disturbed area, and the time in which areas remain in a disturbed state.
- Measures shall be taken upon completion of construction and during routine maintenance to ensure diffuse flow of stormwater through the buffer.
- In wetlands, mats shall be utilized to minimize soil disturbance.

[5]Perpendicular crossings are those that intersect the surface water at an angle between 75 degrees and 105 degrees.

C. Requirements for Categories of Uses

Uses designated in Section 8. (B) of this Section as exempt, allowable, and allowable with mitigation within a riparian buffer shall have the following requirements:

1. Exempt.

Uses designated as exempt are permissible without authorization by Town of Kernersville provided that they adhere to the limitations of the activity as defined in Section 8. (B) of this Section, the Table of Uses. In addition, exempt uses shall be designed, constructed, and maintained to minimize

soil disturbance and to provide the maximum water quality protection practicable, including construction, monitoring, and maintenance activities.

2. Allowable.

Uses designated as allowable may proceed provided that there are no practical alternatives to the requested use pursuant to Section 9. (A) of this Section. This includes construction, monitoring, and maintenance activities. These uses require written authorization from the Town of Kernersville.

3. Allowable with Mitigation.

Uses designated as allowable with mitigation may proceed provided that there are no practical alternatives to the requested use pursuant to Section 9. (A) of this Section and an appropriate mitigation strategy has been approved pursuant to Section 9. (C). These uses require written authorization from the Town of Kernersville.

5-1.9 PERMITS PROCEDURES, REQUIREMENTS, AND APPROVALS

A. Determination of No Practical Alternatives / Request for Authorization Certificate

1. Persons who wish to undertake uses designated as allowable or allowable with mitigation shall submit a request for a "no practical alternatives" determination to the Town of Kernersville. The applicant shall certify that the project meets all the following criteria for finding "no practical alternatives":
   a. The basic project purpose cannot be practically accomplished in a manner that would better minimize disturbance, preserve aquatic life and habitat, and protect water quality;
   b. The use cannot practically be reduced in size or density, reconfigured or redesigned to better minimize disturbance, preserve aquatic life and habitat, and protect water quality; and
   c. Best management practices shall be used if necessary to minimize disturbance, preserve aquatic life and habitat, and protect water quality.
2. The applicant shall also submit at least the following information in support of their assertion of "no practical alternatives":
   a. The name, address and phone number of the applicant;
   b. The nature of the activity to be conducted by the applicant;
   c. The location of the activity, including the jurisdiction;
   d. A map of sufficient detail to accurately delineate the boundaries of the land to be utilized in carrying out the activity, the location and dimensions of any disturbance in riparian buffers associated with the activity, and the extent of riparian buffers on the land;
   e. An explanation of why this plan for the activity cannot be practically accomplished, reduced or reconfigured to better minimize disturbance to the riparian buffer, preserve aquatic life and habitat and protect water quality; and
   f. Plans for any best management practices proposed to be used to control the impacts associated with the activity.
3. Within 60 days of a submission that addresses Section 9.(A)(2) , the Town of Kernersville shall review the entire project and make a finding of fact as to whether the criteria in Section 9.(A)(1) of this Section have been met. A finding of "no practical alternatives" shall result in issuance of an Authorization Certificate. Failure to act within 60 days shall be construed as a finding of "no practical alternatives" and an Authorization Certificate shall be issued to the applicant unless one of the following occurs:
   a. The applicant agrees, in writing, to a longer period;
   b. The Town of Kernersville determines that the applicant has failed to furnish requested information necessary to the Town of Kernersville decision;
   c. The final decision is to be made pursuant to a public hearing; or
   d. The applicant refuses access to its records or premises for the purpose of gathering information necessary to the Town of Kernersville's decision.
4. The Town of Kernersville may attach conditions to the Authorization Certificate that support the purpose, spirit, and intent of this Ordinance.

5. Any appeals of determinations regarding Authorization Certificates shall be referred to the Director of the Division of Water Quality, c/o the 401 Oversight Express Permitting Unit, or its successor. The Director's decision is subject to review as provided in G.S. 150B Articles 3 and 4.

B. Variances

1. Requirements for Variances.

Persons who wish to undertake prohibited uses may pursue a variance. The Town of Kernersville may grant minor variances. For major variances, the Town of Kernersville shall prepare preliminary findings and submit them to the Division of Water Quality, 4 01 Oversight Express Permitting Unit, or its successor for approval by the Environmental Management Commission. The variance request procedure shall be as follows:

a. For any variance request, the Town of Kernersville shall make a finding of fact as to whether there are practical difficulties or unnecessary hardships that prevent compliance with the riparian buffer protection requirements. A finding of practical difficulties or unnecessary hardships shall require that the following conditions are met:

i. If the applicant complies with the provisions of this Ordinance, he/she can secure no reasonable return from, nor make reasonable use of, his/her property. Merely proving that the variance would permit a greater profit from the property shall not be considered adequate justification for a variance. Moreover, the Town of Kernersville shall consider whether the variance is the minimum possible deviation from the terms of this Ordinance that shall make reasonable use of the property possible;

ii. The hardship results from application of this Ordinance to the property rather than from other factors such as deed restrictions or other hardship;

iii. The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, such that compliance with provisions of this ordinance would not allow reasonable use of the property;

iv. The applicant did not cause the hardship by knowingly or unknowingly violating this Ordinance;

v. The applicant did not purchase the property after the effective date of this Ordinance, and then request a variance; and

vi. The hardship is rare or unique to the applicant's property.

vii. The variance is in harmony with the general purpose and intent of the State's riparian buffer protection requirements and this Ordinance and preserves its spirit; and

viii. In granting the variance, the public safety and welfare have been assured, water quality has been protected, and substantial justice has been done.

2. Minor Variances

A minor variance request pertains to activities that will impact only Zone Two of the riparian buffer. Minor variance requests shall be reviewed and approved based on the criteria in Section 9.(B)(1) by the Town of Kernersville pursuant to G.S. 160D-Article 2. The Town of Kernersville may attach conditions to the variance approval that support the purpose, spirit, and intent of the riparian buffer protection program. Request for appeals to decisions made by the Town of Kernersville shall be made in writing to the Director of the Division of Water Quality c/o the 401 Oversight Express Permitting Unit, or its successor. The Director's decision is subject to review as provided in G.S. 150B Articles 3 and 4.

3. Major Variances

A major variance request pertains to activities that will impact any portion of Zone One or any portion of both Zones One and Two of the riparian buffer. If Town of Kernersville has determined that a major variance request meets the requirements in Section 9.(B)(1)) through 8.(C)(3), then it shall prepare a preliminary finding and submit it to the NC Environmental Management Commission c/o the Division of Water Quality, 401 Oversight Express Permitting Unit, or its successor, for approval. Within 90 days after receipt by Town of Kernersville, the Commission

shall review preliminary findings on major variance requests and take one of the following actions: approve, approve with conditions and stipulations, or deny the request. Appeals from a Commission decision on a major variance request are made on judicial review to Superior Court.

C. Mitigation

1. This item shall apply to persons who wish to impact a riparian buffer in the Jordan watershed when one of the following applies:

a. A person has received an Authorization Certificate pursuant to Section 9.(A) of this Ordinance for a proposed use that is designated as "allowable with mitigation;" or

b. A person has received a variance pursuant to Section 9. (B) of this Ordinance and is required to perform mitigation as a condition of a variance approval.

2. Issuance of the Mitigation Approval

Town of Kernersville shall issue a mitigation approval upon determining that a proposal meets the requirements set out in this Ordinance. The approval shall identify at a minimum the option chosen, the required and proposed areas, and either the mitigation location or the offset payment amount as applicable.

3. Options for Meeting the Mitigation Requirement

The mitigation requirement may be met through one of the following options:

a. Payment of a compensatory mitigation fee to the Riparian Buffer Restoration Fund pursuant to 15A NCAC 02B .0269 (Jordan Water Supply Nutrient Strategy: Riparian Buffer Mitigation Fees to the NC Ecosystem Enhancement Program) contingent upon acceptance of payments by the NC Ecosystem Enhancement Program, or to a private mitigation bank that complies with banking requirements of the US Army Corps of Engineers, currently set out at http://www.saw.usace.army.mil/WETLANDS/Mitigation/mitbanks.html or from the US Army Corps of Engineers, P.O. Box 1890, Wilmington, NC, 28402-1890, and the applicable trading criteria in Rule 15A NCAC 02B .0273;

b. Donation of real property or of an interest in real property pursuant to Section 9.(C)(6) of this Ordinance; or

c. Restoration or enhancement of a non-forested riparian buffer pursuant to the requirements of Section 9. (C)(7) of this Ordinance.

4. The Area of Mitigation

Town of Kernersville shall determine the required area of mitigation, which shall apply to all mitigation options identified in Section 9.(C)(3) of this Ordinance and as further specified in the requirements for each option set out in this Section, according to the following:

a. The impacts in square feet to each zone of the riparian buffer shall be determined by Town of Kernersville by adding the following:

i. The area of the footprint of the use causing the impact to the riparian buffer;

ii. The area of the boundary of any clearing and grading activities within the riparian buffer necessary to accommodate the use; and

iii. The area of any ongoing maintenance corridors within the riparian buffer associated with the use.

b. The required area of mitigation shall be determined by applying the following multipliers to the impacts determined in Section 9. (4)(a) of this Ordinance to each zone of the riparian buffer:

i. Impacts to Zone One of the riparian buffer shall be multiplied by three;

ii. Impacts to Zone Two of the riparian buffer shall be multiplied by one and one-half; and

iii. Impacts to wetlands within Zones One and Two of the riparian buffer that are subject to mitigation under 15A NCAC 2H .0506 shall comply with the mitigation ratios in 15A NCAC 2H .0506.

5. The Location of Mitigation

For any option chosen, the mitigation effort shall be located within the same subwatershed of the Jordan watershed, as defined in 15A NCAC 02B.0262, and the same distance from the Jordan

Reservoir as the proposed impact, or closer to the Reservoir than the impact, and as close to the location of the impact as feasible. Alternatively, the applicant may propose mitigation anywhere within the same subwatershed of the Jordan watershed, as defined in 15A NCAC 02B.0262, provided that the mitigation proposal accounts for differences in delivery of nutrients to the affected arm of Jordan Reservoir resulting from differences between the locations of the buffer impact and mitigation. Additional location requirements for the property donation option are enumerated in Section 9. (C)(6)(c)(i) of this Ordinance.

6. Donation of Property

Persons who choose to satisfy their mitigation determination by donating real property or an interest in real property shall meet the following requirements:

a. The donation of real property interests may be used to either partially or fully satisfy the payment of a compensatory mitigation fee to the Riparian Buffer Restoration Fund pursuant to 15A NCAC 02B .0273. The value of the property interest shall be determined by an appraisal performed in accordance with Section 9. (C)(6)(d)(iv) of this Ordinance. The donation shall satisfy the mitigation determination if the appraised value of the donated property interest is equal to or greater than the required fee. If the appraised value of the donated property interest is less than the required fee calculated pursuant to 15A NCAC 02B .0273, the applicant shall pay the remaining balance due.

b. The donation of conservation easements to satisfy compensatory mitigation requirements shall be accepted only if the conservation easement is granted in perpetuity.

c. Donation of real property interests to satisfy the mitigation determination shall be accepted only if such property meets all of the following requirements:

i. In addition to the location requirements of Section 9. (C)(5) of this Ordinance, the property shall be located within an area that is identified as a priority for restoration in, or is otherwise consistent with the goals of, the *Basinwide Wetlands and Riparian Restoration Plan for the Cape Fear River Basin* developed by NC Division of Water Quality pursuant to G.S. 143-214.10;

ii. The property shall contain riparian buffers not currently protected by the State's riparian buffer protection program that are in need of restoration as defined in Section 9.(7)(d) of this Ordinance;

iii. The restorable riparian buffer on the property shall have a minimum length of 1000 linear feet along a surface water and a minimum width of 50 feet as measured horizontally on a line perpendicular to the surface water;

iv. The size of the restorable riparian buffer on the property to be donated shall equal or exceed the area of mitigation responsibility determined pursuant to Section 9.(C)(4) of this Ordinance;

v. Restoration shall not require removal of man-made structures or infrastructure;

vi. The property shall be suitable to be successfully restored, based on existing hydrology, soils, and vegetation;

vii. The estimated cost of restoring and maintaining the property shall not exceed the value of the property minus site identification and transaction costs;

viii. The property shall not contain any building, structure, object, site, or district that is listed in the National Register of Historic Places established pursuant to Public Law 89-665, 16 U.S.C. 470 as amended;

ix. The property shall not contain any hazardous substance or solid waste;

x. The property shall not contain structures or materials that present health or safety problems to the general public. If wells, septic, water or sewer connections exist, they shall be filled, remediated or closed at owner's expense in accordance with state and local health and safety regulations;

xi. The property and adjacent properties shall not have prior, current, and known future land use that would inhibit the function of the restoration effort; and

xii. The property shall not have any encumbrances or conditions on the transfer of the property interests.

d. At the expense of the applicant or donor, the following information shall be submitted to the Town of Kernersville with any proposal for donations or dedications of interest in real property:

i. Documentation that the property meets the requirements laid out in Section 9.(C)(6)(c) of this Ordinance;

ii. US Geological Survey 1:24,000 (7.5 minute) scale topographic map, county tax map, USDA Natural Resource Conservation Service County Soil Survey Map, and county road map showing the location of the property to be donated along with information on existing site conditions, vegetation types, presence of existing structures and easements;

iii. A current property survey performed in accordance with the procedures of the North Carolina Department of Administration, State Property Office as identified by the State Board of Registration for Professional Engineers and Land Surveyors in "Standards of Practice for Land Surveying in North Carolina." Copies may be obtained from the North Carolina State Board of Registration for Professional Engineers and Land Surveyors, 3620 Six Forks Road, Suite 300, Raleigh, North Carolina 27609;

iv. A current appraisal of the value of the property performed in accordance with the procedures of the North Carolina Department of Administration, State Property Office as identified by the Appraisal Board in the "Uniform Standards of Professional North Carolina Appraisal Practice." Copies may be obtained from the Appraisal Foundation, Publications Department, P.O. Box 96734, Washington, D.C. 20090-6734; and

v. A title certificate.

7. Riparian Buffer Restoration or Enhancement

Persons who choose to meet their mitigation requirement through riparian buffer restoration or enhancement shall meet the following requirements:

a. The applicant may restore or enhance a non-forested riparian buffer if either of the following applies:

i. The area of riparian buffer restoration is equal to the required area of mitigation determined pursuant to Section 9.(C)(4) of this Ordinance; or

ii. The area of riparian buffer enhancement is three times larger than the required area of mitigation determined pursuant to Section 9.(C)(4) of this Ordinance;

b. The location of the riparian buffer restoration or enhancement shall comply with the requirements in Section 9.(C)(5) of this Ordinance;

c. The riparian buffer restoration or enhancement site shall have a minimum width of 50 feet as measured horizontally on a line perpendicular to the surface water;

d. Enhancement and restoration shall both have the objective of establishing a forested riparian buffer according to the requirements of this Item. Enhancement shall be distinguished from restoration based on existing buffer conditions. Where existing trees are sparse, that is greater than or equal to 100 trees per acre but less than 200 trees per acre, a buffer may be enhanced. Where existing woody vegetation is absent, that is less than 100 trees per acre, a buffer may be restored;

e. The applicant shall first receive an Authorization Certificate for the proposed use according to the requirements of Section 9. (A) of this Ordinance. After receiving this determination, the applicant shall submit a restoration or enhancement plan for approval by the Town of Kernersville. The restoration or enhancement plan shall contain the following:

i. A map of the proposed restoration or enhancement site;

ii. A vegetation plan. The vegetation plan shall include a minimum of at least two native hardwood tree species planted at a density sufficient to provide 320 trees per acre at maturity;

iii. A grading plan. The site shall be graded in a manner to ensure diffuse flow through the riparian buffer;

iv. A fertilization plan; and

v. A schedule for implementation;

f. Within one year after the Town of Kernersville has approved the restoration or enhancement plan, the applicant shall present proof to Town of Kernersville that the riparian buffer has been restored or enhanced. If proof is not presented within this timeframe, then the person shall be in violation of both the State's and the Town of Kernersville riparian buffer protection program;

g. The mitigation area shall be placed under a perpetual conservation easement that will provide for protection of the property's nutrient removal functions; and

h. The applicant shall submit annual reports for a period of five years after the restoration or enhancement showing that the trees planted have survived and that diffuse flow through the riparian buffer has been maintained. The applicant shall replace trees that do not survive and restore diffuse flow if needed during that five-year period.

5-1.10 COMPLIANCE AND ENFORCEMENT

A. Site Inspections

1. **Agents, officials, or other qualified persons** authorized by the Town of Kernersville may periodically inspect riparian buffers to ensure compliance with this ordinance.

2. **Notice of the right to inspect** shall be included in the letter of approval of each variance and buffer authorization.

3. **Authority to Enter Property and Conduct Investigations and Inspections**

Authorized agents, officials or other qualified persons shall have the authority, upon presentation of proper credentials, to enter and inspect at reasonable times any property, public or private, for the purpose of investigating and inspecting the site of any riparian buffer. No person shall willfully resist, delay, or obstruct an authorized representative, employee, or agent of Town of Kernersville, while that person is inspecting or attempting to inspect a riparian buffer nor shall any person obstruct, hamper, or interfere with any such representative while in the process of carrying out their official duties. The Town of Kernersville shall have the power to conduct such investigations as deemed reasonably necessary to carry out the duties as prescribed in this Ordinance.

4. **Notice of Violation**

a. If it is determined that a person has failed to comply with the requirements of this Ordinance, or rules, or orders adopted or issued pursuant to this Ordinance, a notice of violation shall be served upon that person. The notice may be served by any means authorized under G.S. 1A-1, rule 4. In the event service cannot be accomplished by registered or certified mail, it may be accomplished in any manner provided in rule (4) j of the North Carolina Rules of Civil Procedure.

b. The notice shall specify the violation and inform the person of the actions that need to be taken to comply with this Ordinance, or rules or orders adopted pursuant to this Ordinance. The notice shall direct the person to correct the violation within a specified reasonable time. The notice shall inform the person that any person who violates or fails to act in accordance with any of the provisions of this Ordinance or rules or orders adopted or issued pursuant to this Ordinance is subject to the civil and criminal penalties and other enforcement actions as provided in this Ordinance.

5. **Power to Require Statements**

The Town of Kernersville shall also have the power to require written statements, or the filing of reports under oath, with respect to pertinent questions relating to land-disturbing activities.

B. Civil Penalties

1. **Assessment of Penalties**

Any person who violates or fails to act in accordance with any of the provisions of this Ordinance or rules or orders adopted or issued pursuant to this Ordinance shall be subject to a civil penalty. A civil penalty for a violation may be assessed in an amount not to exceed ten thousand dollars ($10,000) per day. If any violation for which a penalty may be assessed is continuous, a civil penalty may be assessed for each day of the violation in an amount not to exceed twenty-five thousand

dollars ($25,000) per day for as long as the violation occurs. Each day of a continuing violation shall constitute a separate violation under Section 10. (B)(1).

2. Notice of Civil Penalty Assessment

The governing body of the Town of Kernersville shall provide written notice of the civil penalty amount and the basis for the assessment to the person assessed. The notice of civil penalty assessment shall be served by any means authorized under G.S. 1A-1, Rule 4, and shall direct the violator to either pay the assessment or contest the assessment, within thirty (30) days after receipt of the notice of assessment by written demand for a hearing.

3. Hearing

A hearing on the civil penalty shall be conducted by the Kernersville Board of Adjustment within thirty (30) days after the date the written demand for the hearing is received by the Town.

4. Final Decision.

The Kernersville Board of Adjustment shall issue a final decision on the civil penalty within thirty (30) days of the hearing. A copy of the final decision shall be served on the violator by any means authorized under G.S. 1A-1, Rule 4.

5. Appeal of Final Decision.

Appeal form the final decision of the governing body shall be to the Superior Court of the county in which the violation occurred. Any appeal must be filed with thirty days of receipt of the final decision. A copy of the appeal must be served on the (City manager/County board/other appropriate person) by any means authorized under G.S. 1A-1, Rule 4.

6. Demand for Payment of Penalty

An assessment that is not contested is due when the violator is served with a notice of assessment. The civil penalty must be paid within 30 days or the assessment, if not appealed, or within 30 days after the conclusion of the administrative or judicial review of the assessment. If payment is not received within 30 days after demand for payment is made, the Town of Kernersville may institute a civil action to recover the amount of the assessment. The civil action may be brought in the Superior Court where the violation occurred, or the violator's residence or principal place of business is located. Such civil actions must be filed within three (3) years of the date the assessment was due.

7. Use of Penalties

Civil penalties collected pursuant to this Ordinance shall be credited to the general fund of the Town of Kernersville as nontax revenue.

C. Criminal Penalties

1. Any person who negligently violates any provision of this Ordinance or rule or order adopted pursuant to this Ordinance, shall be guilty of a Class 2 misdemeanor which may include a fine not to exceed fifteen thousand dollars ($15,000) per day of violation, provided that such fine shall not exceed a cumulative total of two hundred thousand dollars ($200,000) for each period of 30 days during which such a violation continues.
2. Any person who knowingly or willingly violates any provision of this Ordinance or rule or order adopted pursuant to this Ordinance, shall be guilty of a Class I felony which may include a fine not to exceed one hundred thousand dollars ($100,000) per day of violation, provided that this fine shall not exceed a cumulative total of five hundred thousand dollars ($500,000) for each period of 30 days during which such a violation continues.
3. Any person who knowingly violates any provision of this Ordinance or rule or order adopted pursuant to this Ordinance, shall be guilty of a Class C felony which may include a fine not to exceed two hundred fifty thousand dollars ($250,000) per day of violation, provided that this fine shall not exceed a cumulative total one million dollars ($1,000,000) for each period of 30 days during which such a violation continues.

D. Injunctive Relief

1. Civil Action in Superior Court

Whenever the governing body of the Town of Kernersville has reasonable cause to believe that any person is violating or threatening to violate this Ordinance or any rule or order adopted or issued pursuant to this Ordinance, it may, either before or after the institution of any other action or

proceeding authorized by this Ordinance, institute a civil action in the name of the Town of Kernersville for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the Superior Court of Town of Kernersville.

2. Order to Cease Violation

Upon determination by a court that an alleged violation is occurring or is threatened, the court shall enter any order or judgment that is necessary to abate the violation, to ensure that restoration is performed, or to prevent the threatened violation. The institution of an action for injunctive relief under this section shall not relieve any party to the proceedings from any civil or criminal penalty prescribed for violations of this Ordinance.

E. Compliance with Requirements

Any person engaged in new activities as defined by this Ordinance who fails to meet the requirements of this Ordinance shall be deemed in violation of this Ordinance.

5-1.11 SEVERABILITY

If any one or more sections or portions thereof of this Ordinance are held to be invalid or unenforceable, all other sections and portions thereof shall nevertheless continue in full force and effect.

5-1.12 EFFECTIVE DATE

This Ordinance will become effective upon approval by the NC Environmental Management Commission and adoption by the Town of Kernersville Board of Aldermen.

5-1.13 REVISIONS TO THIS ORDINANCE

The Town of Kernersville shall review any revisions to the Local Riparian Buffer Protection Ordinance made by the Environmental Management Commission and, within 60 days of receipt of the recommended revisions, submit draft amendments to the Commission for its consideration and comments. Within 90 days after receipt of the Commissions' comments, the Town of Kernersville will incorporate amendments into this ordinance.

5-1.14 DEFINITIONS

For the purpose of this Ordinance, these terms shall be defined as follows:

'Access Trails' means pedestrian trails constructed of pervious or impervious surfaces and related structures to access a surface water, including boardwalks, steps, rails, and signage.

'Airport Facilities' means all properties, facilities, buildings, structures, and activities that satisfy or otherwise fall within the scope of one or more of the definitions or uses of the words or phrases 'air navigation facility', 'airport', or 'airport protection privileges' under G.S. 63-1; the definition of 'aeronautical facilities' in G.S. 63-79(1); the phrase 'airport facilities' as used in G.S. 159-48(b)(1); the phrase 'aeronautical facilities' as defined in G.S. 159-81 and G.S. 159-97; and the phrase 'airport facilities and improvements' as used in Article V, Section 13, of the North Carolina Constitution, which shall include, without limitation, any and all of the following: airports, airport maintenance facilities, any aeronautic industrial facilities that require direct access to the airfield, clear zones, drainage ditches, fields, hangars, landing lighting, airport and airport-related offices, parking facilities, related navigational and signal systems, runways, stormwater outfalls, terminals, terminal shops, and all appurtenant areas used or suitable for airport buildings or other airport facilities, and all appurtenant rights-of-way; restricted landing areas; any structures, mechanisms, lights, beacons, marks, communicating systems, or other instrumentalities or devices used or useful as an aid, or constituting an advantage or convenience to the safe taking off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport or restricted landing area; easements through, or interests in, air space over land or water, interests in airport hazards outside the boundaries of airports or restricted landing areas, and other protection privileges, the acquisition or control of which is necessary to ensure safe approaches to the landing areas of airports and restricted landing areas, and the safe and efficient operation thereof and any combination of any or all of such facilities. Notwithstanding the foregoing, the following shall not be included in the definition of 'airport facilities':

1. Satellite parking facilities;
2. Retail and commercial development outside of the terminal area, such as rental car facilities; and

3. Other secondary development, such as hotels, industrial facilities, free-standing offices and other similar buildings, so long as these facilities are not directly associated with the operation of the airport, and are not operated by a unit of government or special governmental entity such as an airport authority, in which case they are included in the definition of 'airport facilities'.

'Channel' means a natural water-carrying trough cut vertically into low areas of the land surface by erosive action of concentrated flowing water or a ditch or canal excavated for the flow of water.

'DBH' means diameter at breast height of a tree measured at 4.5 feet above ground surface level.

'Development' means the same as defined in Rule 15A NCAC 2B .0202(23).

'Ditch or canal' means a man-made channel other than a modified natural stream constructed for drainage purposes that is typically dug through inter-stream divide areas. A ditch or canal may have flows that are perennial, intermittent, or ephemeral and may exhibit hydrological and biological characteristics similar to perennial or intermittent streams.

'Ephemeral stream' means a feature that carries only stormwater in direct response to precipitation with water flowing only during and shortly after large precipitation events. An ephemeral stream may or may not have a well-defined channel, the aquatic bed is always above the water table, and stormwater runoff is the primary source of water. An ephemeral stream typically lacks the biological, hydrological, and physical characteristics commonly associated with the continuous or intermittent conveyance of water.

'Existing development' means development, other than that associated with agricultural or forest management activities that meets one of the following criteria:

1. It either is built or has established a vested right based on statutory or common law as interpreted by the courts, for projects that do not require a state permit, as of the effective date of either local new development stormwater programs implemented under Rule 15A NCAC 2B .0265 (Jordan Water Supply Nutrient Strategy: Stormwater Management for New Development) or, for projects requiring a state permit, as of the applicable compliance date established in Rule 15A NCAC 2B .0271 (Jordan Water Supply Nutrient Strategy: Stormwater Management for New Development), Items (5) and (6); or
2. It occurs after the compliance date set out in Sub-Item (4) (d) of Rule .0265 (Jordan Water Supply Nutrient Strategy: Stormwater Management for New Development) but does not result in a net increase in built-upon area.

'Greenway / Hiking Trails' means pedestrian trails constructed of pervious or impervious surfaces and related structures including but not limited to boardwalks, steps, rails, and signage, and that generally run parallel to the shoreline.

'High Value Tree' means a tree that meets or exceeds the following standards: for pine species, 14-inch DBH or greater or 18-inch or greater stump diameter; or for hardwoods and wetland species, 16-inch DBH or greater or 24-inch or greater stump diameter.

'Intermittent stream' means a well-defined channel that contains water for only part of the year, typically during winter and spring when the aquatic bed is below the water table. The flow may be heavily supplemented by stormwater runoff. An intermittent stream often lacks the biological and hydrological characteristics commonly associated with the continuous conveyance of water.

'Jordan nutrient strategy' or '**Jordan water supply nutrient strategy'** means the set of Rules 15A NCAC 2B .0262 through .0273 and .0311(p).

'Jordan Reservoir' means the surface water impoundment operated by the US Army Corps of Engineers and named B. Everett Jordan Reservoir, as further delineated for purposes of the Jordan nutrient strategy in Rule 15A NCAC 2B .0262(4).

'Jordan watershed' means all lands and waters draining to B. Everett Jordan Reservoir.

'New Development' means any development project that does not meet the definition of existing development set out in this Ordinance. "Perennial stream" means a well-defined channel that contains water year round during a year of normal rainfall with the aquatic bed located below the water table for most of the year. Groundwater is the primary source of water for a perennial stream, but it also carries stormwater runoff. A perennial stream exhibits the typical biological, hydrological, and physical characteristics commonly associated with the continuous conveyance of water.

'Perennial waterbody' means a natural or man-made basin, including lakes, ponds, and reservoirs, that stores surface water permanently at depths sufficient to preclude growth of rooted plants. For the purpose of the State's riparian buffer protection program, the waterbody must be part of a natural drainage way (i.e., connected by surface flow to a stream).

'Shoreline stabilization' is the in-place stabilization of an eroding shoreline. Stabilization techniques which include "soft" methods or natural materials (such as root wads, or rock vanes) may be considered as part of a restoration design. However, stabilization techniques that consist primarily of "hard" engineering, such as concrete lined channels, riprap, or gabions, while providing bank stabilization, shall not be considered stream restoration.

'Stream restoration' is defined as the process of converting an unstable, altered or degraded stream corridor, including adjacent riparian zone and flood-prone areas to its natural or referenced, stable conditions considering recent and future watershed conditions. This process also includes restoring the geomorphic dimension, pattern, and profile as well as biological and chemical integrity, including transport of water and sediment produced by the stream's watershed in order to achieve dynamic equilibrium. 'Referenced' or 'referenced reach' means a stable stream that is in dynamic equilibrium with its valley and contributing watershed. A reference reach can be used to develop natural channel design criteria for stream restoration projects.

'Stream' means a body of concentrated flowing water in a natural low area or natural channel on the land surface.

'Stump diameter' means the diameter of a tree measured at six inches above the ground surface level.

'Surface waters' means all waters of the state as defined in G.S. 143-212 except underground waters

'Tree' means a woody plant with a DBH equal to or exceeding five inches or a stump diameter exceeding six inches.

'Temporary road' means a road constructed temporarily for equipment access to build or replace hydraulic conveyance structures such as bridges, culverts, pipes or water dependent structures, or to maintain public traffic during construction.

CHAPTER C – ENVIRONMENTAL ORDINANCE
ARTICLE VI – RIPARIAN BUFFER PROTECTION ORDINANCE FOR LANDS WITHIN THE RANDLEMAN LAKE WATERSHED

TABLE OF CONTENTS

6-1.2 PURPOSE AND INTENT 454

6-1.3 TITLE 454

6-1.4 JURISDICTION 454

6-1.6 RELATION TO OTHER ORDINANCES 454

6-1.7 RIPARIAN AREA PROTECTION WITHIN THE RANDLEMAN LAKE RESERVOIR WATERSHED 455

A. Buffers Protected 455

B. Exemption Based on On–site Determination 455

C. Exemption when Existing Uses are Present and Ongoing 456

D. Zones of the Riparian Buffer 457

E. Diffuse Flow Requirements 457

6-1.8 POTENTIAL USES AND ASSOCIATED REQUIREMENTS 457

A. Approval for New Development 457

B. Table of Uses 458

C. Requirements for Categories of Uses 464

6-1.9 PERMITS PROCEDURES, REQUIREMENTS, AND APPROVALS 465

A. Determination of No Practical Alternatives / Request for Authorization Certificate 465

B. Variances 466

C. Mitigation ..... **Error! Bookmark not defined.**

6-1.10 COMPLIANCE AND ENFORCEMENT 471

A. Site Inspections 471

B. Civil Penalties 472

C. Criminal Penalties 472

D. Injunctive Relief 473

6-1.11 SEVERABILITY 473

6-1.12 EFFICTIVE DATE 473

6-1.13 REVISIONS TO THIS ORDINANCE 473

6-1.14 DEFINITIONS 473

6-1 GENERAL PROVISIONS

6-1.1 AUTHORITY

This Ordinance is adopted pursuant to the authority vested in the Town of Kernersville by the Session Laws and the General Statutes of North Carolina, particularly N.C. Gen. Stat §160A-174 160D-920, 160A-193, Chapter 160A, Article 19 160D Article 2, and any special legislation enacted by the General Assembly for the Town of Kernersville.

6-1.2 PURPOSE AND INTENT

The purpose of the Town of Kernersville in adopting the following Ordinance is to protect and preserve existing riparian buffers throughout the Randleman Lake Watershed as generally described in Rule 15A NCAC 02B .0250 (Randleman Lake Water Supply Watershed: Protection and Maintenance of Existing Riparian Buffers), in order to maintain their nutrient removal and stream protection functions. Additionally, this Ordinance will help protect the water supply uses of Randleman Lake Reservoir and of designated water supplies throughout the Randleman Lake watershed.

Buffers adjacent to streams provide multiple environmental protection and resource management benefits. Forested buffers enhance and protect the natural ecology of stream systems, as well as water quality through bank stabilization, shading, and nutrient removal. They also help to minimize flood damage in flood prone areas. Well-vegetated streamside riparian areas help to remove nitrogen and prevent sediment and sediment-bound pollutants such as phosphorous from reaching the streams.

6-1.3 TITLE

This Ordinance shall be known as the *Town of Kernersville Riparian Buffer Protection Ordinance for Lands within the Randleman Lake Watershed*.

6-1.4 JURISDICTION

This Ordinance shall be applied to all land in the planning jurisdiction of the Town of Kernersville that is located within the Randleman Lake Reservoir Watershed. If a parcel of land lies within the planning and development regulation jurisdiction of more than one local government, the local governments may by mutual agreement, pursuant and with the written consent of the landowner, assign exclusive planning and development regulation jurisdiction for the entire parcel to any one of those local governments. Such a mutual agreement pursuant to G.S.160D-203 shall only be applicable to development regulations and shall not affect taxation or other non-regulatory matters. The mutual agreement shall be evidenced by a resolution formally adopted by each governing board and recorded with the register of deeds in the county where the property is located within 14 days of the adoption of the last required resolution.

6-1.5 APPLICABILITY

This Ordinance applies to all landowners and other persons conducting activities in the area described in Section 4, with the exception of activities conducted under the authority of the State, the United States, multiple jurisdictions, or local units of government, and forest harvesting and agricultural activities. The NC Division of Water Resources shall administer the requirements of Rule 15A NCAC 02B .0250 and .0295 (Randleman Lake Water Supply Watershed: Protection and Maintenance of Existing Riparian Buffers and Mitigation Program Requirements for Protection and Maintenance of Riparian Buffers, respectively) for these activities.

6-1.6 RELATION TO OTHER ORDINANCES

The requirements of this Ordinance shall supersede all locally implemented buffer requirements stated in Rules 15A NCAC 02B .0214 through .0216 as applied to WS-II, WS-III, and WS-IV waters in the Randleman Lake watershed. If the provisions of this ordinance otherwise conflict with the provisions of any other validly enforceable ordinance(s) or laws, the most stringent provisions shall control. This Ordinance is not intended to interfere with, abrogate, or annul any other ordinance, rule, regulation, or other provision of law.

The existing water supply requirement in rule .0216(3)(b) of the 15A NCAC Subchapter 02B that stipulates a 100-foot vegetated buffer, adjacent to perennial streams, for all new development activities which utilize

the high density option, applies to the entire Randleman Lake watershed. The first 50 feet of these riparian areas on either side of these waters must also be protected in accordance with all the requirements of this Ordinance.

6-1.7 RIPARIAN AREA PROTECTION WITHIN THE RANDLEMAN LAKE RESERVOIR WATERSHED

A. Buffers Protected

The following minimum criteria shall be used for identifying regulated buffers:

1. This Ordinance shall apply to activities conducted within 50-foot wide riparian buffers directly adjacent to surface waters in the Randleman Lake watershed (intermittent streams, perennial streams, lakes, reservoirs, ponds and specified ditches), excluding wetlands.
2. Wetlands adjacent to surface waters or within 50 feet of surface waters shall be considered as part of the riparian buffer but are regulated pursuant to Rules 15A NCAC 2B .0230 and .0231, Rules 15A NCAC 2H .0500, 15A NCAC 2H .1300, and Sections 401 and 404 of the Federal Water Pollution Control Act.
3. For the purpose of this Ordinance, surface waters shall be subject to the requirements of this Ordinance if they are approximately shown on any of the following references, or if there is other site specific evidence that indicates to the Town of Kernersville the presence of waters not shown on any of these maps:
    a. The most recent version of the hardcopy soil survey maps prepared by the Natural Resources Conservation Service of the United States Department of Agriculture.
    b. The most recent version of the United States Geologic Survey (USGS) 1:24,000 scale (7.5 minute) quadrangle topographic maps.
    c. A map approved by the Geographic Information Coordinating Council and by the NC Environmental Management Commission. Prior to approving a map under this Item, the Commission shall provide a 30-day public notice and opportunity for comment.
    d. A map developed by the local government and approved by the NC Environmental Management Commission per 15A NCAC 02B .0250(4) (c).
4. Where the specific origination point of a stream regulated under this Item is in question, upon request of the NC Division of Water Resources or another party, the Town of Kernersville shall make an on-site determination. A Town of Kernersville representative who has successfully completed the Division's *Surface Water Identification Training Certification* course (SWITC), its successor, or other equivalent training curriculum approved by the Division, shall establish that point using the latest version of the Division publication, *Identification Methods for the Origins of Intermittent and Perennial Streams.* More information is available from the NC Division of Water Resources - 401 & Buffer Permitting Branch, or its successor. The Town of Kernersville may accept the results of a site assessment made by another party who meets these criteria. Any disputes over on-site determinations made according to this Item shall be referred to the Director of the Division of Water Resources c/o the 401 & Buffer Permitting Branch, or its successor, in writing. The Director's determination is subject to review as provided in Articles 3 and 4 of G.S. 150B.
5. Parties subject to this Ordinance shall abide by all State rules and laws regarding waters of the state including but not limited to Rules 15A NCAC 2B .0230 and .0231, Rules 15A NCAC 2H .0500, 15A NCAC 2H .1300, and Sections 401 and 404 of the Federal Water Pollution Control Act.

B. Exemption Based on On–site Determination

When a landowner or other affected party including the Division and the Town believes that the maps have inaccurately depicted surface waters, he or she shall consult the Town of Kernersville. Upon request, a Town of Kernersville representative who has successfully completed the Division of Water Quality's *Surface Water Identification Training Certification* course, its successor, or other equivalent training curriculum approved by the Division, shall make an on-site determination. The

Town of Kernersville may also accept the results of site assessments made by other parties who have successfully completed such training. Any disputes over on-site determinations shall be referred to the Director of the Division of Water Resources c/o the 401 & Buffer Permitting Branch, or its successor, in writing. A determination by the Director as to the accuracy or application of the maps is subject to review as provided in Articles 3 and 4 of G.S. 150B. Surface waters that appear on the maps shall not be subject to these buffer requirements if a site evaluation reveals any of the following cases:

a. Ditches and manmade conveyances, to include manmade stormwater conveyances, other than modified natural streams, unless the ditch or manmade conveyance delivers untreated stormwater runoff from an adjacent source directly to an intermittent or perennial stream.
b. Areas mapped as intermittent streams, perennial streams, lakes, ponds, or estuaries on the most recent versions of the United States Geological Survey 1:24,000 scale (7.5 minute quadrangle) topographic maps, hard-copy soil survey maps, or other EMC approved stream maps where no perennial waterbody, intermittent waterbody, lake, pond, or estuary actually exists on the ground.
c. Ephemeral streams.
d. Ponds and lakes created for animal watering, irrigation, or other agricultural uses that are not part of a natural drainage way that is classified in accordance with 15A NCAC 02B .0100. Ponds are part of the natural drainage way when they are hydrologically connected (i.e. the pond is fed by an intermittent or perennial stream) or when they have a direct discharge point to an intermittent or perennial stream.

C. Exemption when Existing Uses are Present and Ongoing

This Ordinance shall not apply to uses that are existing and ongoing; however, this Ordinance shall apply at the time an existing, ongoing use is changed to another use. Change of use shall involve the initiation of any activity that does not meet either of the following criteria for existing, ongoing activity:

1. It was present within the riparian buffer as of the effective date of the original Ordinance. Existing uses shall include agriculture, buildings, industrial facilities, commercial areas, transportation facilities, maintained lawns, utility lines and on-site sanitary sewage systems, any of which involve either specific, periodic management of vegetation or displacement of vegetation by structures or regular activity. Only the portion of the riparian buffer occupied by the footprint of the existing use is exempt from this Ordinance. Change of ownership through purchase or inheritance is not a change of use. Activities necessary to maintain uses are allowed provided that the site remains similarly vegetated, no impervious surface is added within 50 feet of the surface water where it did not previously exist as of the effective date of this Ordinance, and existing diffuse flow is maintained. Grading and revegetating Zone Two is allowed provided that the health of the vegetation in Zone One is not compromised, the ground is stabilized, and existing diffuse flow is maintained.
2. Projects or proposed development that are determined by the Town of Kernersville to meet at least one of the following criteria:
    a. Project requires a 401 Certification/404 Permit and these were issued prior to the effective date this Ordinance, and prior to the effective date of this Ordinance.
    b. Projects that require a state permit, such as landfills, NPDES wastewater discharges, land application of residuals and road construction activities, have begun construction or are under contract to begin construction and had received all required state permits and certifications prior to the effective date of this Ordinance;
    c. Projects that are being reviewed through the Clean Water Act Section 404/National Environmental Policy Act Merger 01 Process (published by the US Army Corps of Engineers and Federal Highway Administration, 2003) or its immediate successor and that have reached agreement with DENR on avoidance and minimization by the effective date of this Ordinance; or

d. Projects that are not required to be reviewed by the Clean Water Act Section 404/National Environmental Policy Act Merger 01 Process (published by the US Army Corps of Engineers and Federal Highway Administration, 2003) or its immediate successor if a Finding of No Significant Impact has been issued for the project and the project has the written approval of the Town of Kernersville prior to the effective date of this Ordinance.

D. Zones of the Riparian Buffer

The protected riparian buffer shall have two zones as follows:

1. **Zone One** shall consist of a vegetated area that is undisturbed except for uses provided for in the Table of Uses, Section 8. (B) of this Ordinance. The location of Zone One shall be as follows:

a. For intermittent and perennial streams, Zone One shall begin at the top of the bank and extend landward a distance of 30 feet on all sides of the surface water, measured horizontally on a line perpendicular to a vertical line marking the top of the bank.

b. For ponds, lakes and reservoirs located within a natural drainage way, Zone One shall begin at the normal water level and extend landward a distance of 30 feet, measured horizontally on a line perpendicular to a vertical line marking the normal water level.

2. **Zone Two** shall consist of a stable, vegetated area that is undisturbed except for uses provided for in the Table of Uses, Section 8. (B) of this Ordinance. Grading and revegetating in Zone Two is allowed provided that the health of the vegetation in Zone One is not compromised. Zone Two shall begin at the outer edge of Zone One and extend landward 20 feet as measured horizontally on a line perpendicular to the surface water. The combined width of Zones One and Two shall be 50 feet on all sides of the surface water.

E. Diffuse Flow Requirements

Diffuse flow of runoff shall be maintained in the riparian buffer by dispersing concentrated flow prior to its entry into the buffer and reestablishing vegetation as follows:

1. Concentrated runoff from new ditches or man-made conveyances shall be converted to diffuse flow at non-erosive velocities before the runoff enters Zone Two of the riparian buffer;
2. Periodic corrective action to restore diffuse flow shall be taken as necessary and shall be designed to impede the formation of erosion gullies; and
3. As set out in Sections 7.(D) and 8.(B) of this Ordinance, The Zones of the Riparian Buffer and Table of Uses respectively, no new stormwater conveyances are allowed through the buffers except for those specified in the Table of Uses, Section 8.(B) of this Ordinance, addressing stormwater management ponds, drainage ditches, roadside ditches, and stormwater conveyances.

6-1.8 POTENTIAL USES AND ASSOCIATED REQUIREMENTS

A. Approval for New Development

Town of Kernersville shall issue an approval for new development only if the development application proposes to avoid impacts to riparian buffers defined in Section 7. (A) of this Ordinance, or where the application proposes to impact such buffers, it demonstrates that the applicant has done the following, as applicable:

1. Determined the activity is exempt from requirements of this Ordinance;
2. Received an Authorization Certificate from the Town of Kernersville pursuant to Section 9.A of this Ordinance;

3. For uses designated as Allowable with Mitigation in the Table of Uses in Section 8.(B), received approval of mitigation plan pursuant to Section 9.(C) of this Ordinance; and
4. Received a variance pursuant to Section 9. (B).

B. Table of Uses

The following chart sets out potential new uses within the buffer and categorizes them as exempt, allowable, or allowable with mitigation. All uses not categorized as exempt, allowable, or allowable with mitigation are considered prohibited and may not proceed within the riparian buffer or outside the buffer if the use would impact the buffer, unless a variance is granted pursuant to Section 9. (C) of this Ordinance, Variances. The requirements for each category are given in Section 8. (C) of this Section following the Table of Uses.

Use ** To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in Section 8. (C) of this Ordinance.*	**Exempt***	**Allowable***	**Allowable with Mitigation***
Access trails: Pedestrian access trails leading to the surface water, docks, fishing piers, boat ramps and other water dependent activities: • Pedestrian access trails that are restricted to the minimum width practicable and do not exceed 4 feet in width of buffer disturbance, and provided that installation and use does not result in removal of trees as defined in this Ordinance and no impervious surface is added to the riparian buffer • Pedestrian access trails that exceed 4 feet in width of buffer disturbance, the installation or use results in removal of trees as defined in this Ordinance or impervious surface is added to the riparian buffer	X	X	
Airport facilities: • Airport facilities that impact equal to or less than 150 linear feet or one-third of an acre of riparian buffer • Airport facilities that impact greater than 150 linear feet or one-third of an acre of riparian buffer • Activities necessary to comply with FAA requirements (e.g. radar uses or landing strips)[1]		X X	X
Archaeological activities • In Zones 1and 2 and are designed, constructed and maintained to provide the maximum sediment removal and erosion protection, to have the least adverse effects on aquatic life and habitat, and to protect water quality to the maximum extent practical	X		
Bridges		X	
Canoe Access provided that installation and use does not result in removal of trees as defined in this Ordinance and no impervious surface is added to the buffer.	X		
Dam maintenance activities: • Dam maintenance activities that do not cause additional buffer disturbance beyond the footprint of the existing dam or those covered under the U.S. Army Corps of Engineers Nationwide Permit • Dam maintenance activities that do cause additional buffer disturbance beyond the footprint of the existing dam or those not	X	X	

covered under the U.S. Army Corps of Engineers Nationwide Permit			
Drainage ditches, roadside ditches and stormwater conveyances through riparian buffers: • New stormwater flows to existing drainage ditches, roadside ditches, and stormwater conveyances provided flows do not alter or result in the need to alter the conveyance and are managed to minimize the sediment, nutrients and other pollution that convey to waterbodies. • Realignment of existing roadside drainage ditches retaining the design dimensions, provided that no additional travel lanes are added and the minimum required roadway typical section is used based on traffic and safety considerations. • New or altered drainage ditches, roadside ditches and stormwater outfalls provided that a stormwater management facility is installed to control nutrients and attenuate flow before the conveyance discharges through the riparian buffer • New drainage ditches, roadside ditches and stormwater conveyances applicable to linear projects that do not provide a stormwater management facility due to topography constraints provided that other practicable BMPs are employed.	X	X X	X
Drainage of a pond in a natural drainage way provided that a new riparian buffer that meets the requirements of Items 7(D) and 7(E) of this Ordinance is established adjacent to the new channel.	X		
Driveway crossings of streams and other surface waters subject to this Ordinance: • Driveway crossings on single family residential lots that disturb equal to or less than 25 linear feet or 2,500 square feet of riparian buffer • Driveway crossings on single family residential lots that disturb greater than 25 linear feet or 2,500 square feet of riparian buffer • In a subdivision that cumulatively disturb equal to or less than 150 linear feet or one-third of an acre of riparian buffer • In a subdivision that cumulatively disturb greater than 150 linear feet or one-third of an acre of riparian buffer	X	X X	X
Driveway impacts other than crossing of a stream or other surface waters subject to this Ordinance			X
Fences: • Fences provided that disturbance is minimized and installation does not result in removal of trees as defined in this Ordinance • Fences provided that disturbance is minimized and installation results in removal of trees as defined in this Ordinance	X	X	
Fertilizer application: one-time application to establish vegetation	X		
Grading and revegetation in Zone Two provided that diffuse flow and the health of existing vegetation in Zone One is not compromised and disturbed areas are stabilized until they are revegetated.	X		
Greenway / hiking trails designed, constructed and maintained to maximize nutrient removal and erosion protection, minimize adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practical.		X	
Historic preservation:	X		

Designed, constructed and maintained to provide the maximum nutrient removal and erosion protection, to have the least adverse effects on aquatic life and habitat, and to protect water quality to the maximum extent practical.			
Maintenance access on modified natural streams: a grassed travel way on one side of the water body when less impacting alternatives are not practical. The width and specifications of the travel way shall be only that needed for equipment access and operation. The travel way shall be located to maximize stream shading.		X	
Mining activities: • Mining activities that are covered by the Mining Act provided that new riparian buffers that meet the requirements of Sections 7.(D) and 7.(E) of this Ordinance are established adjacent to the relocated channels • Mining activities that are not covered by the Mining Act OR where new riparian buffers that meet the requirements of Sections 7.(D) and 7.(E) of this Ordinance are not established adjacent to the relocated channels • Wastewater or mining dewatering wells with approved NPDES permit	X	X	X
Playground equipment: • Playground equipment on single family lots provided that installation and use does not result in removal of vegetation • Playground equipment installed on lands other than single-family lots or that requires removal of vegetation	X	X	
Ponds in natural drainage ways, excluding dry ponds: • New ponds provided that a riparian buffer that meets the requirements of Sections 7.(D) and 7.(E) of this Ordinance is established adjacent to the pond • New ponds where a riparian buffer that meets the requirements of Sections 7.(D) and 7.(E) of this Ordinance is NOT established adjacent to the pond		X	X
Ponds that are constructed and used for agricultural purposes: Freshwater pond to which Riparian Buffer Rules would otherwise apply if all of the following conditions are met: • The property on which the pond is located is used for agriculture as that term is defined in G.S. 106-581.1. • Except for the Riparian Buffer Rules and any similar rule adopted for the protection and maintenance of riparian buffers, the use of the property is in compliance with all other water quality and water quantity statutes and rules applicable to the property before the adoption of the Riparian Buffer Rules for the river basin or watershed in which the property is located. • The pond is not a component of an animal waste management system as defined in G.S. 143-215.10B(3). If the use of property on which a pond is located changes such that the use no longer meets the criteria as defined in G.S. 106-581.1., the Riparian Buffer Rules shall apply.	X		
Protection of existing structures, facilities and stream banks when this requires additional disturbance of the riparian buffer or the stream channel		X	

Railroad impacts other than crossings of streams and other surface waters subject to this Ordinance.			X
Railroad crossings of streams and other surface waters subject to this Ordinance: • Railroad crossings that impact equal to or less than 40 linear feet of riparian buffer • Railroad crossings that impact greater than 40 linear feet but equal to or less than 150 linear feet or one-third of an acre of riparian buffer • Railroad crossings that impact greater than 150 linear feet or one-third of an acre of riparian buffer	X	X	X
Recreational and accessory structures: • Sheds and gazebos in Zone Two, provided they are not prohibited under local water supply ordinance: o Total footprint less than or equal to 150 square feet per lot. o Total footprint greater than 150 square feet per lot. • Wooden slatted decks and associated steps, provided the use meets the requirements of Sections 7.(D) and 7.(E) of this Ordinance: o Deck at least eight feet in height and no vegetation removed from Zone One. o Deck less than eight feet in height or vegetation removed from Zone One.		X X	X X
Removal of previous fill or debris provided that diffuse flow is maintained and vegetation is restored	X		
Road impacts other than crossings of streams and other surface waters subject to this Ordinance			X
Road crossings of streams and other surface waters subject to this Ordinance: • Road crossings that impact equal to or less than 40 linear feet of riparian buffer • Road crossings that impact greater than 40 linear feet but equal to or less than 150 linear feet or one-third of an acre of riparian buffer • Road crossings that impact greater than 150 linear feet or one-third of an acre of riparian buffer	X	X	X
Road relocation: Relocation of existing private access roads associated with public road projects where necessary for public safety: • Less than or equal to 2,500 square feet of buffer impact • Greater than 2,500 square feet of buffer impact		X	X
Stormwater BMPs: • Wet detention, bioretention, and constructed wetlands in Zone Two if diffuse flow of discharge is provided into Zone One • Wet detention, bioretention, and constructed wetlands in Zone One		X	X
Scientific studies and stream gauging: In Zones One and Two if they are designed, constructed and maintained to protect water quality to the maximum extent practical.	X		
Streambank or shoreline stabilization		X	
Temporary roads provided that the disturbed area is restored to pre-construction topographic and hydrologic conditions immediately after construction is complete and replanted immediately with comparable vegetation, except that tree planting may occur during the dormant season. A one-time application of fertilizer may be used to establish			

vegetation: At the end of five years the restored buffer shall comply with the restoration criteria in Section 9.(C)(7) of this Ordinance: • Less than or equal to 2,500 square feet of buffer disturbance • Greater than 2,500 square feet of buffer disturbance • Associated with culvert installation or bridge construction or replacement.	X	X X	
Temporary sediment and erosion control devices, provided that the disturbed area is restored to pre-construction topographic and hydrologic conditions immediately after construction is complete and replanted immediately with comparable vegetation, except that tree planting may occur during the dormant season. A one-time application of fertilizer may be used to establish vegetation. At the end of five years the restored buffer shall comply with the restoration criteria in Section 9.(C)(7) of this Ordinance: • In Zone Two provided ground cover is established within timeframes required by the Sedimentation and Erosion Control Act, vegetation in Zone One is not compromised, and runoff is released as diffuse flow in accordance with Section 7. (E) of this Ordinance. • In Zones One and Two to control impacts associated with uses approved by Town of Kernersville or that have received a variance, provided that sediment and erosion control for upland areas is addressed, to the maximum extent practical, outside the buffer. • In-stream temporary erosion and sediment control measures for work within a stream channel that is authorized under Sections 401 and 404 of the Federal Water Pollution Control Act. • In-stream temporary erosion and sediment control measures for work within a stream channel.	X X	X X	
Utility, electric, aerial, perpendicular crossings of streams and other surface waters subject to this Ordinance[2,3,5]: • Disturb equal to or less than 150 linear feet of riparian buffer • Disturb greater than 150 linear feet of riparian buffer	X	X	
Utility, electric, aerial, other than perpendicular crossings[5]: • Impacts in Zone Two • Impacts in Zone One[2,3]		X	X
Utility, electric, underground, perpendicular crossings[3,4,5]: • Disturb less than or equal to 40 linear feet of riparian buffer • Disturb greater than 40 linear feet of riparian buffer	X	X	
Utility, electric, underground, other than perpendicular crossings[4]: • Impacts in Zone Two • Impacts in Zone One[1]	X X		
Utility, non-electric, perpendicular crossings of streams and other surface waters subject to this Ordinance[4,5]: • Disturb equal to or less than 40 linear feet of riparian buffer with a maintenance corridor equal to or less than 10 feet in width • Disturb equal to or less than 40 linear feet of riparian buffer with a maintenance corridor greater than 10 feet in width • Disturb greater than 40 linear feet but equal to or less than 150 linear feet of riparian buffer with a maintenance corridor equal to or less than 10 feet in width	X	X X	X

• Disturb greater than 40 linear feet but equal to or less than 150 linear feet of riparian buffer with a maintenance corridor greater than 10 feet in width • Disturb greater than 150 linear feet of riparian buffer			X
Utility, non-electric, other than perpendicular crossings[4.5]: • Impacts in Zone Two • Impacts in Zone One[1]		X	X
Vegetation management: • Emergency fire control measures provided that topography is restored • Mowing or harvesting of plant products in Zone Two • Planting vegetation to enhance the riparian buffer • Pruning forest vegetation provided that the health and function of the forest vegetation is not compromised • Removal of individual trees that are in danger of causing damage to dwellings, other structures or human life, or are imminently endangering stability of the streambank. • Removal of individual trees which are dead, diseased or damaged. • Removal of poison ivy • Removal of invasive exotic vegetation as defined in: *Smith, Cherri L. 1998. Exotic Plant Guidelines. Dept. of Environment and Natural Resources. Division of Parks and Recreation. Raleigh, NC. Guideline #30*	X X X X X X X X		
• Vehicular access roads leading to water-dependent structures as defined in 15A NCAC 02B .0202, provided they do not cross the surface water and have minimum practicable width not exceeding ten feet.		X	
• Water dependent structures as defined in 15A NCAC 02B .0202 where installation and use result in disturbance to riparian buffers.		X	
Water supply reservoirs: • New reservoirs where a riparian buffer that meets the requirements of Sections 7.(D) and 7.(E) of this Ordinance is established adjacent to the reservoir • New reservoirs where a riparian buffer that meets the requirements of Sections 7.(D) and 7.(E) of this Ordinance is not established adjacent to the reservoir		X	X
Water wells • Single family residential water wells • All other water wells	X	X	
Wetland, stream and buffer restoration that results in impacts to the riparian buffers: • Wetland, stream and buffer restoration that requires NC Division of Water Quality approval for the use of a 401 Water Quality Certification • Wetland, stream and buffer restoration that does not require Division of Water Quality approval for the use of a 401 Water Quality Certification	X	X	
Wildlife passage structures		X	

[1]Provided that:

- No heavy equipment is used in Zone One.
- Vegetation in undisturbed portions of the buffer is not compromised.
- Felled trees are removed by chain.
- No permanent felling of trees occurs in protected buffers or streams.
- Stumps are removed only by grinding.
- At the completion of the project the disturbed area is stabilized with native vegetation.
- Zones one and two meet the requirements of Sections 7.(D) and 7.(E)

[2]Provided that, in Zone One, all of the following BMPs for overhead utility lines are used. If all of these BMPs are not used, then the overhead utility lines shall require a no practical alternative evaluation by the Town of Kernersville, as defined in Section 9. (A).

- A minimum zone of 10 feet wide immediately adjacent to the water body shall be managed such that only vegetation that poses a hazard or has the potential to grow tall enough to interfere with the line is removed.
- Woody vegetation shall be cleared by hand. No land grubbing or grading is allowed.
- Vegetative root systems shall be left intact to maintain the integrity of the soil. Stumps shall remain where trees are cut.
- Riprap shall not be used unless it is necessary to stabilize a tower.
- No fertilizer shall be used other than a one-time application to re-establish vegetation.
- Construction activities shall minimize the removal of woody vegetation, the extent of the disturbed area, and the time in which areas remain in a disturbed state.
- Active measures shall be taken after construction and during routine maintenance to ensure diffuse flow of stormwater through the buffer.
- In wetlands, mats shall be utilized to minimize soil disturbance.

[3]Provided that poles or aerial infrastructure shall not be installed within 10 feet of a water body unless Town of Kernersville completes a no practical alternative evaluation as defined in Section 9. (A).

[4]Provided that, in Zone One, all of the following BMPs for underground utility lines are used. If all of these BMPs are not used, then the underground utility line shall require a no practical alternative evaluation by Town of Kernersville, as defined in Section 9. (A).

- Woody vegetation shall be cleared by hand. No land grubbing or grading is allowed.
- Vegetative root systems shall be left intact to maintain the integrity of the soil. Stumps shall remain, except in the trench where trees are cut.
- Underground cables shall be installed by vibratory plow or trenching.
- The trench shall be backfilled with the excavated soil material immediately following cable installation.
- No fertilizer shall be used other than a one-time application to re-establish vegetation.
- Construction activities shall minimize the removal of woody vegetation, the extent of the disturbed area, and the time in which areas remain in a disturbed state.
- Measures shall be taken upon completion of construction and during routine maintenance to ensure diffuse flow of stormwater through the buffer.
- In wetlands, mats shall be utilized to minimize soil disturbance.

[5]Perpendicular crossings are those that intersect the surface water at an angle between 75 degrees and 105 degrees.

C. Requirements for Categories of Uses

Uses designated in Section 8. (B) of this Section as exempt, allowable, and allowable with mitigation within a riparian buffer shall have the following requirements:

1. Exempt.

Uses designated as exempt are permissible without authorization by Town of Kernersville provided that they adhere to the limitations of the activity as defined in Section 8. (B) of this Section, the Table of Uses. In addition, exempt uses shall be designed, constructed, and maintained to minimize soil disturbance and to provide the maximum water quality protection practicable, including construction, monitoring, and maintenance activities.

2. Allowable.

Uses designated as allowable may proceed provided that there are no practical alternatives to the requested use pursuant to Section 9. (A) of this Section. This includes construction, monitoring, and maintenance activities. These uses require written authorization from the Town of Kernersville.

3. Allowable with Mitigation.

Uses designated as allowable with mitigation may proceed provided that there are no practical alternatives to the requested use pursuant to Section 9. (A) of this Section and an appropriate mitigation strategy has been approved pursuant to Section 9. (C). These uses require written authorization from the Town of Kernersville.

6-1.9 PERMITS PROCEDURES, REQUIREMENTS, AND APPROVALS

A. Determination of No Practical Alternatives / Request for Authorization Certificate

1. Persons who wish to undertake uses designated as allowable or allowable with mitigation shall submit a request for a "no practical alternatives" determination to the Town of Kernersville. The applicant shall certify that the project meets all the following criteria for finding "no practical alternatives":
   a. The basic project purpose cannot be practically accomplished in a manner that would better minimize disturbance, preserve aquatic life and habitat, and protect water quality;
   b. The use cannot practically be reduced in size or density, reconfigured or redesigned to better minimize disturbance, preserve aquatic life and habitat, and protect water quality; and
   c. Best management practices shall be used if necessary to minimize disturbance, preserve aquatic life and habitat, and protect water quality.
2. The applicant shall also submit at least the following information in support of their assertion of "no practical alternatives":
   a. The name, address and phone number of the applicant;
   b. The nature of the activity to be conducted by the applicant;
   c. The location of the activity, including the jurisdiction;
   d. A map of sufficient detail to accurately delineate the boundaries of the land to be utilized in carrying out the activity, the location and dimensions of any disturbance in riparian buffers associated with the activity, and the extent of riparian buffers on the land;
   e. An explanation of why this plan for the activity cannot be practically accomplished, reduced or reconfigured to better minimize disturbance to the riparian buffer, preserve aquatic life and habitat and protect water quality; and
   f. Plans for any best management practices proposed to be used to control the impacts associated with the activity.
3. Within 60 days of a submission that addresses Section 9.(A)(2) , the Town of Kernersville shall review the entire project and make a finding of fact as to whether the criteria in Section 9.(A)(1) of this Section have been met. A finding of "no practical alternatives" shall result in issuance of an Authorization Certificate. Failure to act within 60 days shall be construed as a finding of "no practical alternatives" and an Authorization Certificate shall be issued to the applicant unless one of the following occurs:
   a. The applicant agrees, in writing, to a longer period;
   b. The Town of Kernersville determines that the applicant has failed to furnish requested information necessary to the Town of Kernersville decision;
   c. The final decision is to be made pursuant to a public hearing; or

d. The applicant refuses access to its records or premises for the purpose of gathering information necessary to the Town of Kernersville's decision.

4. The Town of Kernersville may attach conditions to the Authorization Certificate that support the purpose, spirit, and intent of this Ordinance.

5. Any appeals of determinations regarding Authorization Certificates shall be referred to the Director of the Division of Water Quality, c/o the 401 Oversight Express Permitting Unit, or its successor. The Director's decision is subject to review as provided in G.S. 150B Articles 3 and 4.

B. Variances

1. Requirements for Variances.

Persons who wish to undertake prohibited uses may pursue a variance. The Town of Kernersville may grant minor variances. For major variances, the Town of Kernersville shall prepare preliminary findings and submit them to the Division of Water Resources, 401 & Buffer Permitting Branch, or its successor for approval by the Environmental Management Commission. The variance request procedure shall be as follows:

a. For any variance request, the Town of Kernersville shall make a finding of fact as to whether there are practical difficulties or unnecessary hardships that prevent compliance with the riparian buffer protection requirements. A finding of practical difficulties or unnecessary hardships shall require that the following conditions are met:

   i. If the applicant complies with the provisions of this Ordinance, he/she can secure no reasonable return from, nor make reasonable use of, his/her property. Merely proving that the variance would permit a greater profit from the property shall not be considered adequate justification for a variance. Moreover, the Town of Kernersville shall consider whether the variance is the minimum possible deviation from the terms of this Ordinance that shall make reasonable use of the property possible;

   ii. The hardship results from application of this Ordinance to the property rather than from other factors such as deed restrictions or other hardship;

   iii. The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, such that compliance with provisions of this ordinance would not allow reasonable use of the property;

   iv. The applicant did not cause the hardship by knowingly or unknowingly violating this Ordinance;

   v. The hardship is rare or unique to the applicant's property.

b. The variance is in harmony with the general purpose and intent of the State's riparian buffer protection requirements and this Ordinance and preserves its spirit; and

c. In granting the variance, the public safety and welfare have been assured, water quality has been protected, and substantial justice has been done.

2. Minor Variances

A minor variance request pertains to activities that will impact only Zone Two of the riparian buffer. Minor variance requests shall be reviewed and approved based on the criteria in Section 9. (A)(1) through Section 9. (A)(3) by the Town of Kernersville pursuant to G.S. 160D-Article 2. The Town of Kernersville may attach conditions to the variance approval that support the purpose, spirit and intent of the riparian buffer protection program. Request for appeals to decisions made by the Town of Kernersville shall be made in writing to the Director of the Division of Water Resources c/o the 401 & Buffer Permitting Branch, or its successor. The Director's decision is subject to review as provided in G.S. 150B Articles 3 and 4.

3. Major Variances

A major variance request pertains to activities that will impact any portion of Zone One or any portion of both Zones One and Two of the riparian buffer. If Town of Kernersville has determined that a major variance request meets the requirements in Section 9.(B)(1)), then it shall prepare a preliminary finding and submit it to the NC Environmental Management Commission c/o the Division of Water Resources, 401 & Buffer Permitting Branch, or its successor, for approval. Within 90 days after receipt by Town of Kernersville, the Commission shall review preliminary findings on major variance requests and take one of the following actions: approve, approve with conditions and stipulations, or deny the request. Appeals from a Commission decision on a major variance request are made on judicial review to Superior Court.

C. Mitigation Program Requirements for Protection and Maintenance of Riparian Buffers

(1) **Purpose.** The purpose of this section is to set forth the mitigation requirements that apply to applicants listed in Paragraph (2) of this section.

(2) **Mitigation Requirements**. Buffer mitigation is required when one of the following applies:

(a) The applicant has received an authorization certificate for impacts pursuant to Section 9. (A) of this Ordinance and is required to perform mitigation as a condition of the authorization certificate; or

(b) The applicant has received a variance pursuant to Section 9. (B) of this Ordinance and is required to perform mitigation as a condition of a variance approval.

Any applicant covered under this Paragraph shall submit to the Town of Kernersville a written mitigation proposal that calculates the required area of mitigation and describes the area and location of each type of proposed mitigation. The applicant shall not impact buffers until the Town of Kernersville approves the mitigation plan and issues written approval.

(3) **Area of Impact**. The Town of Kernersville shall determine the area of impact in square feet to each Zone as defined by this Ordinance by adding the following:

(a) The area of the footprint of the use impacting the riparian buffer;

(b) The area of the boundary of any clearing and grading activities within the riparian buffer necessary to accommodate the use; and

(c) The area of any ongoing maintenance corridors within the riparian buffer associated with the use. The Town of Kernersville shall deduct from this total the area of any wetlands that are subject to and compliant with riparian wetland mitigation requirements under 15A NCAC 02H .0506 and are located within the proposed riparian buffer impact area.

(4) **Area of Mitigation Required on Zonal Mitigation Ratios.** The Town of Kernersville shall determine the required area of mitigation for each Zone by applying each of the following ratios or multipliers to the area of impact calculated under Paragraph (3) of this section:

Basin/Watershed	Zone 1 Ratio	Zone 2 Ratio
Randleman Lake Watershed (15A NCAC 02B .0250)	3:1	1.5:1

(5) **Area of Mitigation Required on Locational Mitigation Ratios.** The applicant shall use the following locational ratios as applicable based on location of the proposed mitigation site relative to that of the proposed impact site. Locational ratios shall be as follows:

Location	Ratio
Within the 12-digit HUC	1:1
Within the eight-digit HUC[A]	1:1
Outside of the eight-digit HUC[A]	2:1

[A] Except as provided in Paragraph (6) of this Rule.

(6) **Geographic Restrictions on Location of Mitigation**. Mitigation shall be performed in the same river basin where the impact is located with the following additional specification:

Mitigation shall be performed in the same watershed where the impact is located as defined in Rule .0248 of the 15A NCAC 02B Section.

(7) **Mitigation Options for Applicants**. The applicant may propose any of the following types of mitigation:

(a) Riparian buffer restoration or enhancement pursuant to Paragraph (13) of this Section;
(b) Payment of a compensatory mitigation fee to a compensatory buffer mitigation bank pursuant to Paragraph (8) of this Section or payment of a compensatory mitigation fee to the Riparian Buffer Restoration Fund pursuant to Paragraph (9) of this Section. Payment shall conform to the requirements of G.S. 143-214.20;
(c) Donation of real property or of an interest in real property pursuant to Paragraph (10) of this Rule;
(d) Alternative buffer mitigation pursuant to Paragraph (14) of this Section; or
(e) Other buffer mitigation as approved by the Environmental Management Commission as a condition of a variance approval.

(**8)** **Purchase of Buffer Mitigation Credits from a Private or Public Compensatory Buffer Mitigation Bank.** Applicants who choose to satisfy some or all of their mitigation by purchasing mitigation credits from a private or public compensatory buffer mitigation bank shall meet the following requirements:

(a) The compensatory buffer mitigation bank from which credits are purchased shall have available riparian buffer credits approved by the Division;
(b) The compensatory buffer mitigation bank from which credits are purchased shall be located as described in Paragraphs (4), (5), and (6) of this Section; and
(c) After receiving a mitigation acceptance letter from the compensatory buffer mitigation bank, proof of payment for the credits shall be provided to the Town of Kernersville prior to any activity that results in the removal or degradation of the protected riparian buffer.

(9) **Payment to the Riparian Buffer Restoration Fund**. Applicants who choose to satisfy some or all of their mitigation requirement by paying a compensatory mitigation fee to the Riparian Buffer Restoration Fund shall meet the requirements of Rule .0601 of the 15A NCAC 02R Section. Payment made to the NC Division of Mitigation Services(DMS) shall be contingent upon acceptance of the payment by the DMS. The DMS shall consider their financial, temporal, and technical ability to satisfy the mitigation request to determine whether they shall accept or deny the request.

(10) **Donation of Property**. Applicants who choose to satisfy their mitigation requirement by donating real property or an interest in real property to fully or partially offset an approved payment into the Riparian Buffer Restoration Fund pursuant to Paragraph (9) of this Section shall do so in accordance with 15A NCAC 02R .0403.

(11) **Mitigation Site Requirements for Applicants**. For each mitigation site proposed by an applicant under Paragraphs (13) of this Rule, the Town of Kernersville shall identify functional criteria to measure the anticipated benefits of the mitigation to the adjacent water. The Town of Kernersville shall issue a mitigation determination that specifies the area, type, and location of mitigation and the water quality benefits to be provided by the mitigation site. All mitigation proposals shall meet the following criteria:

(a) The location of the buffer mitigation site shall comply with the requirements of Paragraphs (5) and (6) of this Section

(b) The mitigation proposal shall include a commitment to provide:

- a perpetual conservation easement or similar preservation mechanism to ensure perpetual stewardship that protects the mitigation site's nutrient removal and other water quality functions;
- a non-wasting endowment or other dedicated financial surety to provide for the perpetual land management and hydrological maintenance of lands and maintenance of structures as applicable; and
- financial assurance in the form of a completion bond, credit insurance, letter of credit, escrow, or other vehicle acceptable to the Town of Kernersville payable to, or for the benefit of, the Town of Kernersville in an amount sufficient to ensure that the property is secured in fee title or by easement, and that planting or construction, monitoring and maintenance are completed as necessary to meet success criteria as specified in the approved mitigation plan. This financial assurance obligation shall not apply to the NC DMS.

(c) Diffuse flow of runoff shall be maintained in the riparian buffer. Any existing impervious cover or stormwater conveyances such as ditches, pipes, or drain tiles shall be eliminated and the flow converted to diffuse flow. If the applicant determines that elimination of existing stormwater conveyances is not feasible, then they shall include a justification and shall provide a delineation of the watershed draining to the stormwater outfall and the percentage of the total drainage by area treated by the riparian buffer with the mitigation plan specified in Paragraph (13) of this Rule for Town of Kernersville approval. During mitigation plan review and approval, the Town of Kernersville may reduce credit proportionally.

(d) Sewer easement within the buffer. If the proposed mitigation site contains a sewer easement in Zone 1, that portion of the sewer easement within Zone 1 shall not be suitable for buffer mitigation credit. If the proposed mitigation site contains a sewer easement in Zone 2, the portion of the sewer easement in Zone 2 may be suitable for buffer mitigation credit if:

- the applicant restores or enhances the forested buffer in Zone 1 adjacent to the sewer easement;
- the sewer easement is required to be maintained in a condition that meets the vegetative requirements of the collection system permit; and
- diffuse flow is provided across the entire buffer width.

(e) Buffer mitigation credit, nutrient offset credit, wetland mitigation credit, and stream mitigation credit shall be accounted for in accordance with the following:

- Buffer mitigation used for buffer mitigation credit shall not be used for nutrient offset credits;
- Buffer mitigation credit shall not be generated within wetlands that provide wetland mitigation credit required by 15A NCAC 02H .0506; and
- Buffer mitigation credit may be generated on stream mitigation sites as long as the width of the restored or enhanced riparian buffer meets the requirements of Subparagraph (13)(a) of this Rule.

(12) **Riparian Buffer Mitigation Units**. Mitigation activities shall generate riparian buffer mitigation units as follows:

Mitigation Activity	Square Feet of Mitigation Buffer	Riparian Buffer Mitigation Units Generated
Restoration Site	1	1
Enhancement Site	2	1

(13) **Riparian Buffer Restoration Site or Enhancement Site.** Town of Kernersville staff shall make an on-site determination as to whether a potential mitigation site qualifies as a restoration site or enhancement site as defined in Section (14) "Definitions" of this Rule. Riparian buffer restoration sites or enhancement sites shall meet the following requirements:

(a) Buffer restoration sites or enhancement sites may be proposed as follows:

Buffer width (ft)	Proposed Percentage of Full Credit
Less than 20	0 %
20-29	75 %
30-100	100 %
101-200	33%

(b) The applicant shall submit a restoration or enhancement mitigation plan to the Town of Kernersville for written approval. The plan shall demonstrate compliance with the requirements of this Paragraph and Paragraphs (11) and (12) of this Rule and shall also contain the following:

- A map of the proposed restoration or enhancement site;
- A vegetation plan that shall detail the activities proposed to ensure a final performance standard of 260 stems per acre at the completion of monitoring. The final performance standard shall include a minimum of four native hardwood tree species or four native hardwood tree and native shrub species, where no one species is greater than 50 percent of stems. Native hardwood and native shrub volunteer species may be included to meet the final performance standard of 260 stems per acre. The Town of Kernersville may approve alternative vegetation plans upon consideration of factors, including site wetness and plant availability, to meet the requirements of this Part;
- A grading plan (if applicable). The site shall be graded in a manner to ensure diffuse flow through the entire riparian buffer;
- A schedule for implementation, including a fertilization and herbicide plan if applicable; and
- A monitoring plan to document whether the site is expected to meet the final performance standards as defined above and other anticipated benefits to the adjacent water. The plan shall include a proposed schedule and method for monitoring the vegetative status of the restoration or enhancement site for five years, including the health and average stem densities of native hardwood tree or tree and shrub species that are to be counted toward the final performance standard.

(c) Within one year after Town of Kernersville approval of the mitigation plan, the applicant shall present documentation to the Town of Kernersville that the riparian buffer has been restored or enhanced unless the applicant requests, and the Town of Kernersville agrees in writing prior to that date, to a longer time period.

(d) The applicant shall submit written annual reports, unless an alternative schedule has been approved by the Town of Kernersville during the mitigation plan approval for a period of five years after completion of the activities identified in Part (13)(b) of this Rule at the restoration site or enhancement site showing:

- compliance with the monitoring plan approved pursuant to Part (13)(b) of this Rule; and
- that diffuse flow through the riparian buffer has been maintained.

If the Town of Kernersville determines that the native hardwood tree or tree and shrub species at the site are not expected to meet the final performance standards listed in Part (13)(b) of this Rule, then the Town of Kernersville may require that the applicant replaces trees or trees and shrubs as needed during that five-year period. If the Town of Kernersville determines that diffuse flow through the buffer is not being maintained, then the Town of Kernersville may require that the applicant restores diffuse flow. If the Town of Kernersville determines that the final performance standards listed in Part (13)(b) of this Rule have not been achieved at the end of the five-year monitoring period, the Town of Kernersville may require additional years of monitoring. The Town of Kernersville shall make determinations referenced in this Subparagraph on a site specific basis based on the annual reports, any supplemental information submitted by the applicant, or a site evaluation by the Town of Kernersville.

(14) **Alternative Buffer Mitigation Options**. Any proposal for alternative buffer mitigation shall be provided in writing to the Division and shall meet the content and procedural requirements for approval by the Division. Alternative buffer mitigation options that are approved by the Division in accordance with Rule .0295 of the 15A NCAC 02B Section shall be considered acceptable by the Town of Kernersville.

6-1.10 COMPLIANCE AND ENFORCEMENT

A. Site Inspections

1. **Agents, officials, or other qualified persons** authorized by the Town of Kernersville may periodically inspect riparian buffers to ensure compliance with this ordinance.

2. **Notice of the right to inspect** shall be included in the letter of approval of each variance and buffer authorization.

3. **Authority to Enter Property and Conduct Investigations and Inspections**
Authorized agents, officials or other qualified persons shall have the authority, upon presentation of proper credentials, to enter and inspect at reasonable times any property, public or private, for the purpose of investigating and inspecting the site of any riparian buffer. No person shall willfully resist, delay, or obstruct an authorized representative, employee, or agent of Town of Kernersville, while that person is inspecting or attempting to inspect a riparian buffer nor shall any person obstruct, hamper, or interfere with any such representative while in the process of carrying out their official duties. The Town of Kernersville shall have the power to conduct such investigations as deemed reasonably necessary to carry out the duties as prescribed in this Ordinance.

4. **Notice of Violation**

a. If it is determined that a person has failed to comply with the requirements of this Ordinance, or rules, or orders adopted or issued pursuant to this Ordinance, a notice of violation shall be served upon that person. The notice may be served by any means authorized under G.S. 1A-1, rule 4. In the event service cannot be accomplished by registered or certified mail, it may be accomplished in any manner provided in rule (4) j of the North Carolina Rules of Civil Procedure.

b. The notice shall specify the violation and inform the person of the actions that need to be taken to comply with this Ordinance, or rules or orders adopted pursuant to this Ordinance. The notice shall direct the person to correct the violation within a specified reasonable time. The notice shall inform the person that any person who violates or fails to act in accordance with any of the

provisions of this Ordinance or rules or orders adopted or issued pursuant to this Ordinance is subject to the civil and criminal penalties and other enforcement actions as provided in this Ordinance.

5. Power to Require Statements

The Town of Kernersville shall also have the power to require written statements, or the filing of reports under oath, with respect to pertinent questions relating to land-disturbing activities.

B. Civil Penalties

1. Assessment of Penalties

Any person who violates or fails to act in accordance with any of the provisions of this Ordinance or rules or orders adopted or issued pursuant to this Ordinance shall be subject to a civil penalty. A civil penalty for a violation may be assessed in an amount not to exceed ten thousand dollars ($10,000) per day. If any violation for which a penalty may be assessed is continuous, a civil penalty may be assessed for each day of the violation in an amount not to exceed twenty-five thousand dollars ($25,000) per day for as long as the violation occurs. Each day of a continuing violation shall constitute a separate violation under Section 10. (B)(1).

2. Notice of Civil Penalty Assessment

The governing body of the Town of Kernersville shall provide written notice of the civil penalty amount and the basis for the assessment to the person assessed. The notice of civil penalty assessment shall be served by any means authorized under G.S. 1A-1, Rule 4, and shall direct the violator to either pay the assessment or contest the assessment, within thirty (30) days after receipt of the notice of assessment by written demand for a hearing.

3. Hearing

A hearing on the civil penalty shall be conducted by the Kernersville Board of Adjustment within thirty (30) days after the date the written demand for the hearing is received by the Town.

4. Final Decision.

The Kernersville Board of Adjustment shall issue a final decision on the civil penalty within thirty (30) days of the hearing. A copy of the final decision shall be served on the violator by any means authorized under G.S. 1A-1, Rule 4.

5. Appeal of Final Decision.

Appeal form the final decision of the governing body shall be to the Superior Court of the county in which the violation occurred. Any appeal must be filed with thirty days of receipt of the final decision. A copy of the appeal must be served on the Town Manager by any means authorized under G.S. 1A-1, Rule 4.

6. Demand for Payment of Penalty

An assessment that is not contested is due when the violator is served with a notice of assessment. The civil penalty must be paid within 30 days or the assessment, if not appealed, or within 30 days after the conclusion of the administrative or judicial review of the assessment. If payment is not received within 30 days after demand for payment is made, the Town of Kernersville may institute a civil action to recover the amount of the assessment. The civil action may be brought in the Superior Court where the violation occurred, or the violator's residence or principal place of business is located. Such civil actions must be filed within three (3) years of the date the assessment was due.

7. Use of Penalties

Civil penalties collected pursuant to this Ordinance shall be credited to the general fund of the Town of Kernersville as nontax revenue.

C. Criminal Penalties

1. Any person who negligently violates any provision of this Ordinance or rule or order adopted pursuant to this Ordinance, shall be guilty of a Class 2 misdemeanor which may include a fine not to exceed fifteen thousand dollars ($15,000) per day of violation, provided that such fine shall not exceed a cumulative total of two hundred thousand dollars ($200,000) for each period of 30 days during which such a violation continues.

2. Any person who knowingly or willingly violates any provision of this Ordinance or rule or order adopted pursuant to this Ordinance, shall be guilty of a Class I felony which may include a fine not to exceed one hundred thousand dollars ($100,000) per day of violation, provided that this fine shall not exceed a cumulative total of five hundred thousand dollars ($500,000) for each period of 30 days during which such a violation continues.

3. Any person who knowingly violates any provision of this Ordinance or rule or order adopted pursuant to this Ordinance, shall be guilty of a Class C felony which may include a fine not to exceed two hundred fifty thousand dollars ($250,000) per day of violation, provided that this fine shall not exceed a cumulative total one million dollars ($1,000,000) for each period of 30 days during which such a violation continues.

D. Injunctive Relief

1. Civil Action in Superior Court

Whenever the governing body of the Town of Kernersville has reasonable cause to believe that any person is violating or threatening to violate this Ordinance or any rule or order adopted or issued pursuant to this Ordinance, it may, either before or after the institution of any other action or proceeding authorized by this Ordinance, institute a civil action in the name of the Town of Kernersville for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the Superior Court of Town of Kernersville.

2. Order to Cease Violation

Upon determination by a court that an alleged violation is occurring or is threatened, the court shall enter any order or judgment that is necessary to abate the violation, to ensure that restoration is performed, or to prevent the threatened violation. The institution of an action for injunctive relief under this section shall not relieve any party to the proceedings from any civil or criminal penalty prescribed for violations of this Ordinance.

E. Compliance with Requirements

Any person engaged in new activities as defined by this Ordinance who fails to meet the requirements of this Ordinance shall be deemed in violation of this Ordinance.

6-1.11 SEVERABILITY

If any one or more sections or portions thereof of this Ordinance are held to be invalid or unenforceable, all other sections and portions thereof shall nevertheless continue in full force and effect.

6-1.12 EFFICTIVE DATE

This Ordinance will become effective upon approval by the NC Environmental Management Commission and adoption by the Town of Kernersville Board of Alderman.

6-1.13 REVISIONS TO THIS ORDINANCE

The Town of Kernersville shall review any revisions to the Local Riparian Buffer Protection Ordinance made by the Division of Water Quality and, within 60 days of receipt of the recommended revisions, submit draft amendments to the DWQ for its consideration and comments. Within 90 days after receipt of the DWQ's comments, the Town of Kernersville will incorporate amendments into this ordinance.

6-1.14 DEFINITIONS

For the purpose of this Ordinance, these terms shall be defined as follows:

'Access Trails' means pedestrian trails constructed of pervious or impervious surfaces and related structures to access a surface water, including boardwalks, steps, rails, and signage.

'Airport Facilities' means all properties, facilities, buildings, structures, and activities that satisfy or otherwise fall within the scope of one or more of the definitions or uses of the words or phrases 'air navigation facility', 'airport', or 'airport protection privileges' under G.S. 63-1; the definition of 'aeronautical facilities' in G.S. 63-79(1); the phrase 'airport facilities' as used in G.S. 159-48(b)(1); the phrase 'aeronautical facilities' as defined in G.S. 159-81 and G.S. 159-97; and the phrase 'airport facilities and improvements' as

used in Article V, Section 13, of the North Carolina Constitution, which shall include, without limitation, any and all of the following: airports, airport maintenance facilities, clear zones, drainage ditches, fields, hangars, landing lighting, airport and airport-related offices, parking facilities, related navigational and signal systems, runways, stormwater outfalls, terminals, terminal shops, and all appurtenant areas used or suitable for airport buildings or other airport facilities, and all appurtenant rights-of-way; restricted landing areas; any structures, mechanisms, lights, beacons, marks, communicating systems, or other instrumentalities or devices used or useful as an aid, or constituting an advantage or convenience to the safe taking off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport or restricted landing area; easements through, or interests in, air space over land or water, interests in airport hazards outside the boundaries of airports or restricted landing areas, and other protection privileges, the acquisition or control of which is necessary to ensure safe approaches to the landing areas of airports and restricted landing areas, and the safe and efficient operation thereof and any combination of any or all of such facilities. Notwithstanding the foregoing, the following shall not be included in the definition of 'airport facilities':

1. Satellite parking facilities;
2. Retail and commercial development outside of the terminal area, such as rental car facilities; and
3. Other secondary development, such as hotels, industrial facilities, free-standing offices and other similar buildings, so long as these facilities are not directly associated with the operation of the airport, and are not operated by a unit of government or special governmental entity such as an airport authority, in which case they are included in the definition of 'airport facilities'.

'Channel' means a natural water-carrying trough cut vertically into low areas of the land surface by erosive action of concentrated flowing water or a ditch or canal excavated for the flow of water.

'**Compensatory Buffer Mitigation Bank**' means a buffer mitigation site created by a mitigation provider and approved for mitigation credit by the Division through execution of a mitigation banking instrument.

'DBH' means diameter at breast height of a tree measured at 4.5 feet above ground surface level.

'Development' means the same as defined in Rule 15A NCAC 2B .0202(23).

'Ditch' means a man-made, open drainage way in or into which excess surface water or groundwater from land, stormwater runoff, or floodwaters flow either continuously or intermittently.

'**Division**' means the Division of Water Resources of the North Carolina Department of Environment and Natural Resources.

'**Enhancement Site**' means a riparian zone site characterized by conditions between that of a restoration site and a preservation site such that the establishment of woody stems (i.e., tree or shrub species) will maximize nutrient removal and other buffer functions.

'Ephemeral stream' means a feature that carries only stormwater in direct response to precipitation with water flowing only during and shortly after large precipitation events. An ephemeral stream may or may not have a well-defined channel, the aquatic bed is always above the water table, and stormwater runoff is the primary source of water. An ephemeral stream typically lacks the biological, hydrological, and physical characteristics commonly associated with the continuous or intermittent conveyance of water.

'Existing development' means development, other than that associated with agricultural or forest management activities that meets one of the following criteria:
It either is built or has established a vested right based on statutory or common law as interpreted by the courts, as of the effective date of local new development stormwater programs implemented under Rule 15A NCAC 2B.0251 (Randleman Lake Water Supply Watershed: Stormwater Requirements).

'Greenway / Hiking Trails' means pedestrian trails constructed of pervious or impervious surfaces and related structures including but not limited to boardwalks, steps, rails, and signage, and that generally run parallel to the shoreline.

'High Value Tree' means a tree that meets or exceeds the following standards: for pine species, 14-inch DBH or greater or 18-inch or greater stump diameter; or for hardwoods and wetland species, 16-inch DBH or greater or 24-inch or greater stump diameter.

'**Hydrologic Area**' means the Watershed Boundary Dataset (WBD), located at no cost at http://data.nconemap.com/geoportal/catalog/search/resource/details.page?uuid={16A42F31-6DC7-4EC3-88A9-03E6B7D55653} using the eight-digit Hydrologic Unit Code (HUC) prepared by the United States Geological Survey.

'Intermittent stream' means a well-defined channel that contains water for only part of the year, typically during winter and spring when the aquatic bed is below the water table. The flow may be heavily supplemented by stormwater runoff. An intermittent stream often lacks the biological and hydrological characteristics commonly associated with the continuous conveyance of water.

'**Locational Ratio**' means the mitigation ratio applied to the mitigation requirements based on the location of the mitigation site relative to the impact site as set forth in Section 9. (C)(5) of this Rule.

'**Mitigation banking instrument**' means the legal document for the establishment, operation, and use of a mitigation bank.

'Modified natural stream' means an on-site channelization or relocation of a stream channel and subsequent relocation of the intermittent or perennial flow as evidenced by topographic alterations in the immediate watershed. A modified natural stream must have the typical biological, hydrological, and physical characteristics commonly associated with the continuous conveyance of water.

'**Monitoring period**' means the length of time specified in the approved mitigation plan during which monitoring of vegetation success and other anticipated benefits to the adjacent water as listed in the mitigation approval is done.

'New Development' means any development project that does not meet the definition of existing development set out in this Ordinance.

'**Non-wasting endowment**' means a fund that generates enough interest to cover the cost of the long term monitoring and maintenance.

'Perennial stream' means a well-defined channel that contains water year round during a year of normal rainfall with the aquatic bed located below the water table for most of the year. Groundwater is the primary source of water for a perennial stream, but it also carries stormwater runoff. A perennial stream exhibits the typical biological, hydrological, and physical characteristics commonly associated with the continuous conveyance of water.

'Perennial waterbody' means a natural or man-made basin, including lakes, ponds, and reservoirs, that stores surface water permanently at depths sufficient to preclude growth of rooted plants. For the purpose of the State's riparian buffer protection program, the waterbody must be part of a natural drainage way (i.e., connected by surface flow to a stream).

'**Preservation Site**' means riparian zone sites that, as determined by a site visit conducted by the Town of Kernersville or the Division, are characterized by a forest consisting of the forest strata and diversity of species appropriate for the location.

'**Restoration Site**' means riparian zone sites that are characterized by an absence of trees and by a lack of dense growth of smaller woody stems (i.e., shrubs or saplings) or sites that are characterized by scattered individual trees such that the tree canopy is less than 25 percent of the cover and by a lack of dense growth of smaller woody stems (i.e., shrubs or saplings).

'**Riparian buffer mitigation unit**' means a unit representing a credit of riparian buffer mitigation as set forth in Paragraph (12) of Section (9)(C) of this Rule.

'Riparian wetland' means a wetland that is found in one or more of the following landscape positions:

(A) in a geomorphic floodplain;
(B) in a natural topographic crenulation;
(C) contiguous with an open water equal to or greater than 20 acres in size; or
(D) subject to tidal flow regimes excluding salt/brackish marsh wetlands.

'Shoreline stabilization' is the in-place stabilization of an eroding shoreline. Stabilization techniques which include "soft" methods or natural materials (such as root wads, or rock vanes) may be considered as part of a restoration design. However, stabilization techniques that consist primarily of "hard" engineering, such as concrete lined channels, riprap, or gabions, while providing bank stabilization, shall not be considered stream restoration.

'**Stem**' means a woody seedling, sapling, shrub, or tree, no less than 10 centimeters in height.

'Stream restoration' is defined as the process of converting an unstable, altered or degraded stream corridor, including adjacent riparian zone and flood-prone areas to its natural or referenced, stable conditions considering recent and future watershed conditions. This process also includes restoring the geomorphic dimension, pattern, and profile as well as biological and chemical integrity, including transport of water and sediment produced by the stream's watershed in order to achieve dynamic equilibrium. 'Referenced' or 'referenced reach' means a stable stream that is in dynamic equilibrium with its valley and contributing watershed. A reference reach can be used to develop natural channel design criteria for stream restoration projects.

'Stump diameter' means the diameter of a tree measured at six inches above the ground surface level.

'Surface waters' means all waters of the state as defined in G.S. 143-212 except underground waters

'Temporary road' means a road constructed temporarily for equipment access to build or replace hydraulic conveyance structures such as bridges, culverts, pipes or water dependent structures, or to maintain public traffic during construction.

'Tree' means a woody plant with a DBH equal to or exceeding five inches or a stump diameter exceeding six inches.

'**Urban**' means an area that is either designated as an urbanized area under the most recent federal decennial census available at no cost at http://www.census.gov/ or is located within the corporate limits of a municipality.

'**Zonal Ratio**' means the mitigation ratio applied to impact amounts in the respective zones of the riparian buffer as set forth in Paragraph (4) of Section (9)(C) of this Rule.

CHAPTER C - ENVIRONMENTAL ORDINANCE
ARTICLE VII - DAM BREACH HAZARD AREAS

7-1 GENERAL

7-1.1 PURPOSE OF REGULATION

Dam breach hazard areas are those areas located downstream of certain dams designated by the United States Soil Conservation Service, which may be flooded in case of a dam breach. The risks to life and property in such areas are similar to those in floodways and floodway fringes, although the frequency of the risk may be less and the predictability of the risk is considerably less.

7-1.2 MAPS

Dam breach hazard areas subject to regulation shall be only those areas identified on *Dam Breach Hazard Area Maps* adopted by the Planning Board and maintained in the Community Development Department. The North Carolina Office of the United States Soil Conservation Service has been requested to map the areas in Forsyth County which may be susceptible to damage from dam breaches. Administration and enforcement of the development standards in this Section will be deferred until completion of the maps.

7-1.2 DEVELOPMENT STANDARDS

The development standards applicable to floodways, in accordance with Section C.2-3 shall apply to dam breach hazard areas.

CHAPTER C - ENVIRONMENTAL ORDINANCE
ARTICLE VIII - ADMINISTRATION AND AMENDMENTS

8-1 ADMINISTRATION

To accomplish the purposes of this Ordinance and to insure compliance with these regulations, the following administrative responsibilities are assigned:

8-1.1 GENERAL RESPONSIBILITIES

The Zoning Administrator shall enforce and administer the regulations of this Ordinance, under the general direction of the manager of the adopting jurisdiction, and shall serve as secretary to the Board of Adjustment. The Community Development Director and the Planning Board are responsible for making recommendations to the Elected Body regarding *Floodway and Floodway Fringe Regulations* (Article II), *Watershed Regulations* (Article III, IV), and Dam Breach Hazard Areas (Article V). The Board of Adjustment or the Zoning Administrator may seek needed legal advice of the attorney for the adopting jurisdiction and recommendations on land use matters from the Planning Board.

8-1.2 ZONING ADMINISTRATOR

To ensure compliance with the provisions of this Ordinance, the Zoning Administrator shall:

(A) ISSUE PERMITS

The Zoning Administrator shall issue permits as required in the articles of this Ordinance.

(B) MAINTAIN RECORDS

Make and maintain records of all applications for permits submitted to the Zoning Administrator, and records of all permits and plans submitted, which shall be available for inspection at reasonable times by any interested person.

(C) INSPECT AND ENFORCE

Conduct inspections of premises and take other lawful action to obtain compliance with the provisions of this Ordinance.

8-2 AMENDMENTS

8-2.1 SUBMITTAL

Petitions to amend any provisions of this Ordinance, except the Storm Water Runoff (Article IV) provision, shall be submitted to the Planning Board. Amendments to Article IV shall be submitted directly to the Elected Body, although the Elected Body may request the Planning Board to review the proposed amendment and forward a recommendation.

8-2.2 ADVERTISING

Whenever a petition to amend this Ordinance is submitted to the Planning Board or the Elected Body, the respective board shall schedule a public hearing. Notice of the public hearing shall be advertised one time at least ten (10) days prior to the date affixed for the hearing in a newspaper of general circulation in Kernersville.

8-2.3 PLANNING BOARD REVIEW

If applicable, the Planning Board shall submit a report and recommendation to the Elected Body within one hundred and twenty (120) days after receipt by the Planning Board of the proposed amendment.

8-2.4 ELECTED BODY PUBLIC HEARING

A public hearing shall be held by the Elected Body on each proposed amendment to the Ordinance, after publication of notice, as hereinabove provided. Said proposed amendment shall be placed on the agenda of a regularly scheduled public hearing of the Elected Body within sixty (60) days of receipt of the proposed amendment or the report and recommendations of the Planning Board.

8-2.5 ELECTED BODY AUTHORITY

The Elected Body has the authority to approve, deny, or approve with modifications any proposed amendments, except that such action may not violate any provision of State or federal law.

8-3 FEES

To defray a portion of the cost of advertising, as required by law, technical services necessitated by the issuance of permits, review of proposed amendments to this Ordinance, or other requests for services in connection with administration and enforcement of this Ordinance, fees shall be charged. Said fees shall be established and modified by the Elected Body. Lists of said fees shall be maintained on file and available to the public in the office of the Zoning Administrator.

CHAPTER D - SUBDIVISION ORDINANCE

1. GENERAL PROVISIONS AND ADMINISTRATION

(A) STATUS OF SUBDIVISION REQUIREMENTS

The subdivision requirements are adopted as an ordinance by the Board of Aldermen of the Town of Kernersville.

(B) PURPOSE AND ADOPTION

The purpose of these *Subdivision Ordinance* is to provide for the orderly development of Forsyth County; for the coordination of streets within proposed subdivisions with existing or planned streets and other public facilities; for the dedication or reservation of rights-of-way or easements for street utility and other public purposes; for the avoidance of congestion and overcrowding through adequate population distribution and the development of efficient circulation patterns; and for the creation of conditions essential to public health, safety, and general welfare of the community. By adopting these rules and regulations, the Planning Board and Elected Bodies can administer land subdivision approvals vested by Chapter 677, 1947 Session Laws of North Carolina, as revised by Chapter 777, 1953 Session Laws. The Town of Kernersville hereby adopts this Ordinance the 19th day of October, 1994 and subsequent amendments thereto in accordance with Section 1(J).

(C) APPLICABILITY

These rules and regulations shall apply to the subdivision of land anywhere in Forsyth County within the zoning jurisdiction of the Town of Kernersville. If a parcel of land lies within the planning and development regulation jurisdiction of more than one local government, the local governments may by mutual agreement, pursuant and with the written consent of the landowner, assign exclusive planning and development regulation jurisdiction for the entire parcel to any one of those local governments. Such a mutual agreement pursuant to G.S.160D-203 shall only be applicable to development regulations and shall not affect taxation or other non-regulatory matters. The mutual agreement shall be evidenced by a resolution formally adopted by each governing board and recorded with the register of deeds in the county where the property is located within 14 days of the adoption of the last required resolution.

(D) GENERAL DEFINITION OF A SUBDIVISION

For the purpose of these regulations, *subdivision* shall mean all divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose of a gift, sale, or development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets. This general definition will be further defined in these regulations as:

(1) Subdivisions exempt by State law or court judgments;

(2) Minor subdivisions;

(3) Major subdivisions; and,

(4) Industrial or commercial subdivisions.

(E) APPROVING AUTHORITY AND AUTHORIZED COMMUNITY DEVELOPMENT STAFF

The Elected Body, the Town Clerk, and Community Development Staff shall be the approving authorities for various sections of these regulations. The Elected Body is authorized to approve preliminary subdivisions. Community Development Staff is authorized to approve extensions of preliminary subdivision approvals. Revised preliminary subdivision approvals and final plat approvals shall be approved by the Elected Body. No subdivision shall be created anywhere in Kernersville or applicable areas of Forsyth County until said plat has been approved by the Elected Body.

(F) PENALTIES FOR TRANSFERRING LOTS IN UNAPPROVED SUBDIVISIONS

Any owner or agent of any owner of land located within a subdivision controlled under any section of these

regulations who transfers or sells land by reference to, or exhibition of, or by other use of a deeded parcel of land or parcel of land on a plat before the deed or plat has been approved by the Elected Body or Town Clerk in accordance with these regulations, shall forfeit and pay a penalty of not less than one hundred dollars ($100) for each lot which has been duly recorded or filed in the office of the Register of Deeds. The description of the lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or remedies herein provided.

Any jurisdiction exercising subdivision authority may enjoin the transfer or sale or agreement by action for injunction brought in any court of equity jurisdiction or may recover the penalty by civil action in any court of competent jurisdiction.

(G) PRE-EXISTING SUBDIVISIONS

None of the provisions of these regulations shall apply to subdivision plats recorded prior to February 3, 1970, provided the lots met the requirements of the *Zoning Ordinance* or any other local or State land regulatory ordinances which were in effect at the time the lots were recorded.

(H) ADMINISTRATION

The Elected Body is the administering authority for any regulations contained in the *Subdivision Ordinance*. These provisions shall be considered the minimum requirements for the protection of the public health, safety, welfare, and convenience. The Elected Body reserves the right to modify or to extend these regulations as may be deemed necessary to provide reasonable service to the public. If, however, the owner or owner's agent can demonstrate to the satisfaction of the Elected Body that, because of peculiar conditions pertaining to the land, the literal enforcement of these regulations would exact undue hardship, then the Elected Body may permit such variations from the literal interpretation of these regulations as may be deemed reasonable.

(I) AMENDMENTS

Before the adoption of any amendment to these regulations/ordinances, the Elected Body shall hold a public hearing. Notice of public hearing by the elected bodies to amend the subdivision ordinance shall be given once a week for two (2) successive calendar weeks, the first notice being published at least twelve (12) days prior to the date scheduled for the public hearing by those elected bodies. The required notice in the newspaper shall consist of a reference to the section(s) of the regulations/ordinances which will change and a general description of the proposed amendment.

(J) DENIAL OF SUBDIVISION

The reason(s) for the denial of any subdivision controlled under any section of these regulations shall be stated to the owner or the owner's agent by either Community Development Staff, the Planning Board, or the Elected Body, whichever is the approving authority.

(K) APPEAL OF COMMUNITY DEVELOPMENT STAFF DENIAL OF SUBDIVISION

The denial of any subdivision controlled under any section of these regulations by Community Development Staff as an administrative decision may be appealed to the Planning Board. The appeal request must be submitted to the Community Development Staff by the filing deadline of the next meeting of the Planning Board. Application requirements include a survey or drawing to scale of the appeal request, a letter explaining the reasons for the appeal request, and a fee of fifty dollars ($50) or an amount as subsequently established by the Planning Board, payable to the Town of Kernersville in accordance to schedule J Fees and Charges. If the application is complete, the appeal request will be placed on the next meeting of the Planning Board. The Community Development Staff will present a report and recommendation on the appeal request to the Planning Board at the meeting. The owner or owner's agent shall have a total of twelve (12) minutes to present the appeal request and the reasons for such request to the Planning Board. If the appeal request is denied, the Planning Board shall state the reasons under which the appeal request is approved. The Planning Board may require conditions of approval as deemed necessary.

(L) OTHER APPLICABLE DEFINITIONS

Any terms not defined in these regulations will be assumed to have the same or similar definition(s) found in the *Unified Development Ordinances* or any other local ordinances, codes, or State law. In this Chapter, the

following definitions apply:

(1) The term "performance guarantee" shall mean any of the following forms of guarantee:

- **a.** Surety bond issued by any company authorized to do business in this State.
- **b.** Letter of credit issued by any financial institution licensed to do business in this State.
- **c.** Other form of guarantee that provides equivalent security to a surety bond or letter of credit.

(2) The performance guarantee shall be returned or released, as appropriate, in a timely manner upon the acknowledgement by the local government that the improvements for which the performance guarantee is being required are complete. If the improvements are not complete and the current performance guarantee is expiring, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period until such required improvements are complete. A developer shall demonstrate reasonable, good faith progress toward completion of the required improvements that are the subject of the performance guarantee or any extension. The form of any extension shall remain at the election of the developer.

(3) The amount of the performance guarantee shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion at the time the performance guarantee is issued. Any extension of the performance guarantee necessary to complete required improvements shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion of the remaining incomplete improvements still outstanding at the time the extension is obtained.

(4) The performance guarantee shall only be used for completion of the required improvements and not for repairs or maintenance after completion.

(5) No person shall have or may claim any rights under or to any performance guarantee provided pursuant to this subsection or in the proceeds of any such performance guarantee other than the following:

- **a.** The local government to whom such performance guarantee is provided.
- **b.** The developer at whose request or for whose benefit such performance guarantee is given.
- **c.** The person or entity issuing or providing such performance guarantee at the request of or for the benefit of the developer.

(M) VIOLATION OF THE SUBDIVISION REGULATIONS

Violations of the Subdivision Regulations shall be enforced through the provisions established in Chapter B; Article IX (9-3).

2. SUBDIVISIONS EXEMPTED BY STATE LAW OR COURT JUDGMENTS.

(A) APPLICABILITY

Subdivision regulations shall be applicable to all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations:

(1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the subdivision regulations.

(2) The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved.

(3) The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.

(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 subdivision regulations.

(5) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.

(B) APPROVAL PROCESS

A subdivision exempted by State law or court judgments shall be presented to Community Development Staff at least seven (7) working days prior to offering any portion for recording in the office of the Register of Deeds. Additional information may be needed by Community Development Staff to evaluate the proposed subdivision to see if the subdivision meets the requirements of this section. Once the additional information is received by Community Development Staff, the seven (7) day review period will begin. If the subdivision complies with this section, Community Development Staff shall provide the approval in writing on the face of the deed or plat. Once the deed or plat has been approved, the owner or owner's agent may record the deed or plat in the office of the Register of Deeds.

(C) APPLICATION REQUIREMENTS

The following are the application requirements for approval of subdivisions exempted by State law or court judgments:

(1) Original deed for the property completely executed and ready for recording in the office of the Register of Deeds; or final plat (final plats require a review by Community Development Staff in accordance with Section 4(H)(4)).

(2) Survey map of the lot(s) prepared by a surveyor licensed to practice Land Surveying in the State of North Carolina. No separate survey is required if a final plat is submitted.

(3) Application fee as adopted by the Elected Body. Fee shall be paid to Community Development Staff after the deed or plat has been reviewed and approved.

3. MINOR SUBDIVISIONS

(A) DEFINITION

A minor subdivision shall mean all divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of a gift, sale, or building development, whether immediate or future. All lots must comply with the lot size and area requirements of the *Zoning Ordinance* or any other applicable local or State land regulatory ordinances and meet any one of the following criteria:

(1) Is a division of land where the entire area is greater than five (5) acres into not more than a total of three (3) lots result from the division, where no street right-of-way dedication is involved (see exception for industrial and commercial subdivisions in Section 5(C));

(2) Is created by a private access easement established in compliance with the *Zoning Ordinance* and consists of no more than a total of three (3) lots per tract which do not front on a public street (see exception for industrial and commercial subdivisions in Section 5(C)); or,

(3) Is created by lots all of which front on an existing public street, provided that the subdivision would not impair ingress and egress to or from the rear or side of the subject tract or any adjacent property. All lots which front on a public street shall not be included in the provisions of Section 3(A)(2). Lots which are approved must front on a public street with right-of-way which meets the standards of the North Carolina Department of Transportation and/or the applicable jurisdiction. Any portion of the lot lying within the required public street right-of-way must be quitclaimed, conveyed, and dedicated as public right-of-way before receiving Community Development staff approval. The Community Development staff can only require the dedication of standard right-of-way. Additional right-of-way for future widening of roads cannot be required.

(4) No part of the tract or parcel to be divided has been divided under this subsection in the 10 years prior to division.

(B) STANDARDS FOR APPROVAL

The following are the standards for approval of minor subdivisions:

(1) Minor subdivisions may be approved provided that the subdivision:

(a) Does not violate any adopted plan, policy, or ordinance of the jurisdiction;

(b) Does not create any new public streets;

(c) Does not block or impede the extension of a public street located within a subdivision recorded on a final plat in the office of the Register of Deeds or a public street shown on a preliminary subdivision plat which is on file in the office of the Planning Board unless such extension is determined by staff to be unnecessary under one or more of the following circumstances:

(i) The road cannot physically be extended due to topography;

(ii) The road cannot be logically extended due to current lotting patterns;

(iii) If staff determines improvements at the end of the street are needed, staff may require a standard of temporary turnaround in accordance with the Engineering Division, the Fire Marshall, the North Carolina Department of Transportation (NCDOT), or other appropriate jurisdiction requirements;

(iv) If staff determines that a street closure petition is necessary, staff may require

proper street closure documents be filed with the appropriate jurisdiction.

(d) Is not located within the corridors of any planned or proposed street as shown on the adopted *Transportation Plan* of the jurisdiction;

(e) Does not leave an implied division of property which would not meet the requirements of the *Zoning Ordinance* or any other land regulatory ordinances; or,

(f) Does not land lock any tract of land.

(2) If a minor subdivision lies within a preliminary subdivision which has been approved by the Elected Body, then official action must be taken by the Elected Body to withdraw the subdivision or any portion thereof in accordance with Section 4(G) before a minor subdivision can be approved.

(3) Flag lots may be created with the following stipulations:

(a) Twenty-five (25) feet of the width of the "pole" or driveway access to the flag lot may not be used in the calculation of the lot area of the flag lot;

(b) The pole may not be used for either lot area or yard calculation of any other lot; and,

(c) If more than one flag lot is proposed to the rear of another lot or "stacked" off the street, a special use permit from the Board of Adjustment is required.

(d) No residential flag lot shall be created from a lot consisting of less than three (3) acres unless approval is granted through a special use permit from the Board of Adjustment or Subdivision Approval.

(e) The front building setback of a flag lot shall be located at either the minimum required frontage width or minimum building setback, whichever is greater.

(4) Sidewalks shall be provided in all residential subdivisions. The dedication of standard right-of-way and additional right-of-way for future road widening as indicated on the *Transportation Plan* may be required.

(5) Where more than one property accesses a public road via a private access easement, said easement shall provide a ten (10) foot by seventy (70) foot line-of-sight triangle at its intersection with the public road. Vegetation within the line-of-sight easement shall not exceed thirty (30) inches.

(C) APPROVAL PROCESS

Complete application for a minor subdivision shall be presented to Community Development Staff at least twenty-one (21) working days prior to offering any portion for recording in the office of the Register of Deeds.

(D) APPLICATION REQUIREMENTS

The application requirements for approval of minor subdivisions are the same requirements as for major subdivisions in Section 4(H)(4).

(E) MINOR SUBDIVISION EXCEPTION REQUESTS

An exception request to the minor subdivision regulations may be submitted to the Planning Board for approval. Application requirements shall be the same requirements specified in Section 1.(K). In addition to the application requirements specified in Section 1.(K), the owner or owner's agent shall state the hardship as it relates to the property for the exception request. Financial hardships will not be considered by the Planning Board. The scheduling of the exception request and the hearing procedures for the Planning Board meeting are the same requirements as specified in Section 1.(K). If the exception request is denied, the

Planning Board shall state the reasons to the owner or owner's agent. If the exception request is approved, the Planning Board shall state the hardship under which the exception request is approved to the owner or owner's agent. In approving the exception request, the Planning Board may require that the land involved in the exception request be recorded on a final plat in the office of the Register of Deeds with a statement limiting future subdivision of the property without Planning Board approval. The Planning Board may require other conditions of approval as deemed necessary.

(F) EXCEPTION DIVISIONS OF PROPERTY

Any division of property which is less than the size required for a building lot in the applicable zoning district and is not intended to become any part of a new building lot, shall be exempt from the Community Development Staff review and approval as a subdivision of land. This exception includes a division of property from a deeded lot of record or a lot recorded on a final plat. Said division of property may be conveyed by deed in the office of the Register of Deeds provided the division of property does not create any zoning deficiencies, e.g., lot area, lot width, or lot setbacks, on either of the existing lots of record.

(G) PUBLIC RECORDATION OF LANDFILLS

Developer shall file in the Register of Deeds a record a use of any site for a landfill and a rehabilitation/reuse plan for the site, prior to the issuance of a zoning or grading permit.

(H) SUBDIVIDED ZONING LOTS WITH WRITTEN AGREEMENT

When a zoning lot existing as of the effective date of this Ordinance is proposed to be subdivided into two or more zoning lots, the other requirements of the *Unified Development Ordinances* shall be applied to each of the subdivided lots, provided, however, that the residential density requirements of this Ordinance and the limits of floodway fringe encroachment provisions of Section C.2-3.2(A) may be applied, in whole or in part, to any one or more of the subdivided lots and not to the other lot(s) when such original zoning lot is subdivided under the following conditions:

(1) **Floodplain.** The original zoning lot encompasses property with designated floodplain area per Section C.2.

(2) **Allocation of Development Rights Between Seller and Purchaser.** The owner of the original zoning lot and the purchaser(s) of a subdivided part have in writing allocated development rights between or among themselves concerning the development of the original zoning lot whereby a right, or any portion thereof, to develop all, or any portion of, a subdivided part of the original zoning lot as permitted in this Ordinance is transferred to, or is retained by, the remaining portion of the original zoning lot. Development of each subdivided part pursuant to the terms of the writing shall meet or exceed the requirements of this Ordinance. The writing shall further provide that the allocation of development rights shall be appurtenant to and run with the land so benefitted and have the effect of imposing a negative easement or restriction upon the servient land.

(3) **Approval of Plat.** The writing constituting the reallocation of development rights must include, or be represented by, a plat illustrating the reallocation. To be effective, the writing and plat shall be reviewed for compliance with this Ordinance by the Review Officer, and if the writing and plat complies with this Ordinance, the Review Officer shall stamp his approval upon its face, and the writing and plat must then be recorded at the Forsyth County Register of Deeds. A violation of these requirements shall be a violation of this Ordinance and unlawful.

4. PLAT ONLY SUBDIVISIONS

(A) DEFINITION

A subdivision only requiring a plat for recordation for the division of a tract or parcel of land in single ownership if all of the following criteria are met:

(1) The tract or parcel to be divided is not exempted under Subdivision Regulation.

(2) No part of the tract or parcel to be divided has been divided under the Subdivision Regulation in the 10 years prior to division.

(3) The entire area of the tract or parcel to be divided is greater than five acres.

(4) After division, no more than three lots result from the division.

(5) After division, all resultant lots comply with all of the following:

(a) Any lot dimension size requirements of the Unified Development Ordinance.

(b) The use of the lots is in conformity with the Zoning Ordinance requirements.

(c) A permanent means of ingress and egress is recorded for each lot.

(B) APPROVAL PROCESS

Complete application for plat only subdivision shall be presented to Community Development Staff prior to offering any portion for recording in the office of the Register of Deeds.

(C) APPLICATION REQUIREMENTS

The application requirements for approval of plat only subdivisions are the same requirements as for major subdivisions in Section ~~4~~5 (H)(4).

(D) PUBLIC RECORDATION OF LANDFILLS

Developer shall file in the Register of Deeds a record a use of any site for a landfill and a rehabilitation/reuse plan for the site, prior to the issuance of a zoning or grading permit.

5. MAJOR SUBDIVISIONS

(A) DEFINITION

A major subdivision of land whether in single or multiple ownership shall mean all divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of a gift, sale, or building development, whether immediate or future and shall include all divisions of land involving the construction and dedication of a new public street or change in existing public streets. All lots must comply with the size and area requirements of the *Zoning Ordinance* or any other applicable local or state land regulatory ordinances. Preliminary subdivision approval of a plat in accordance with Section 4(C) is required by the Elected Body. Final plats must be recorded in the office of the Register of Deeds in accordance with Section 4(H) when all the requirements of these regulations have been met for the subdivision.

(B) DEVELOPMENT STANDARDS AND REQUIREMENTS FOR PRELIMINARY SUBDIVISION APPROVAL

This section lists development standards and requirements for preliminary subdivision approval. However, subdividers are invited to discuss ideas and special development problems with Community Development Staff before preparing and submitting proposals for preliminary subdivision approval.

(1) Streets or Roads

(a) All streets or roads shall be designed to become parts of the major street or road system of the jurisdiction and County, as shown on adopted plans. These streets or roads shall be coterminous with adjoining links in said system.

(b) All subdivisions shall be accessed by public streets. No subdivision will be permitted access via private streets. All streets inside preliminary subdivisions and subdivisions with final plats shall be public streets. No private streets shall be allowed inside the subdivision except those developments where private streets have been approved in accordance with the *Unified Development Ordinances*.

(c) Dedication of additional rights-of-way, widening, or other improvements to existing public streets upon which the property fronts or which provide access to new subdivisions may be required of the developer.

(d) All streets within the zoning jurisdiction of the Town of Kernersville shall meet the *Town of Kernersville Design and Construction Specifications (*Dated December 6, 2016).

(e) Except as provided for herein, all subdivisions shall be designed to utilize interconnecting streets for a consistent development pattern within the Town. The Board of Aldermen may provide for exemption from this requirement only:

(i) In cases of major streams, bodies of water, extreme height or depth of property, or other physical barrier(s), the crossing of which would provide prohibitive costs and/or extreme construction difficulties and/or detriment to the health, safety and welfare of the citizens of the Town.

(ii) In cases of an interconnection between a residentially zoned district and a commercially zoned district which would detrimentally affect the health, safety, or welfare of the citizens of the Town.

(iii) Physical connection of streets may be delayed based upon specific findings of fact by the Board of Aldermen that a specific traffic safety issue(s) of concern exists that can be rectified, abated, or eliminated by delaying the connection of streets in the new development to existing streets. Findings of fact for the delayed

connections shall consider findings from a traffic report prepared by the Town Manager and staff, which shall be included in the staff report, which includes a review of:

(1) Emergency Response Times: How much a street connection may decrease emergency response times or enhance emergency vehicle access.

(2) Excessive Block Lengths: Evaluate current neighborhood block lengths and determine if a street connection is needed.

(3) Traffic Congestion: Existing and/or anticipated street patterns warrant a street connection(s) in order to reduce traffic congestion.

(4) Pedestrian: Existing street and sidewalk patterns warrant a street connection(s) and or sidewalk connection(s) to enhance pedestrian and bicyclist activities.

(5) Coordinated Street Plan: A street connection fits into adopted street plans (Thoroughfare and Street Plan)

(6) Extraneous Traffic: Whether or not a proposed street connection(s) would encourage traffic volumes with origins and destinations outside the existing neighborhood or encourage truck traffic to pass through the neighborhood.

In all cases where street connectivity is delayed, the developer shall dedicate the necessary right-of-way and pay to the Town the estimated current cost of the street construction required for the connection of the streets. The current cost of the street construction for connectivity shall be established by the Board of Aldermen after findings of fact with input from the Public Services Department and Developer. The Town shall then make the connection(s)of streets when the Board of Aldermen determines that an acceptably safe connection(s) can be made.

The Public Services Director shall prepare a report on all projects that have been delayed during the annual budget submittal process. The report shall describe the current status of the connectivity and estimated time of completion. The Town shall then make the connection(s)of streets when the Board of Aldermen determines that an acceptably safe connection(s) can be made.

In exceptional cases, the physical connection of streets may not be required upon specific findings of fact by the Board of Aldermen that (1) a specific safety issue(s) of concern exists that cannot be rectified, abated, or eliminated **and** (2) the magnitude of the specific safety issue(s) of concern outweighs the general policy and preference of street connectivity.

Findings of fact for the exceptional cases regarding a specific safety issue(s) shall consider findings from a traffic report prepared by the Town Manager and staff that includes a review of

(1) Emergency Response Times: How much a street connection may decrease emergency response times or enhance emergency vehicle access.

(2) Traffic Congestion and Safety: Existing and/or anticipated street patterns warrant a street connection(s) in order to reduce traffic congestion and safety.

(3) Extraneous Traffic: Whether or not a proposed street connection(s) would

encourage traffic volumes with origins and destinations outside the existing neighborhood or encourage truck traffic to pass through the neighborhood.

The findings of fact for an exceptional case shall include more than additional traffic on a residential street.

In all cases of exemption from the interconnecting streets requirement, the Board of Aldermen shall make findings of facts commensurate with its approval of exemption.

The Board of Aldermen may place such other conditions or regulations for the development of the subdivision as the Board of Aldermen may deem proper for the health, safety and welfare of the citizens of the Town, including but not limited to requiring pedestrian interconnections.

(f) All subdivisions shall dedicate right-of-way and construct stub streets to any adjoining properties to facilitate traffic circulation within the context of the overall transportation network. All stub streets shall meet the design and construction criteria required by each governmental jurisdiction and shall either be constructed to the property line or have the costs of construction guaranteed with a performance surety before final plats are approved for the sections of the subdivision where said streets are located. All stub streets shall be designed, constructed, and placed in locations which will permit the future extension of these streets. Any developments proposed adjacent to recorded but unbuilt stub streets shall construct the stub street through to the nearest public street inside the adjacent development. Any exemption from this regulation shall be based on the length, cost, and construction difficulties of connecting stub streets to adjacent developments resulting from natural topographic features, constructed improvements, or existing or future location of streets or lots; such exemption shall be decided by the Community Development Director as authorized in the *Town of Kernersville Design and Construction Specifications, Street Design Standards* (Dated December 6, 2016). Said exemption shall pertain to the dedication of right-of-way and/or construction of the stub street.

(g) Blocks, or the distance between street intersections and street jogs with centerline offsets shall be determined by considering topography, road classification, speed design of road and projected traffic count.

(h) Except in unusual circumstances, cul-de-sacs or other dead-end streets, designed to be so permanently, shall not be longer than twelve hundred (1,200) feet. When topography prohibits the construction of a circular turn around a permanent T-shaped turnaround may be considered.

(i) Sidewalks shall be required in all residential subdivisions where curb and gutter streets are required.

(j) No subdivision showing reserved strips of land shall be recorded, except for Town of Kernersville public streets that stub to adjacent unincorporated areas and subdivisions for which, because of the depth of the land or the layout of streets, a new street must be constructed linearly along another person's property line (stub streets are excluded from this provision). In these cases, a one foot strip of land may be recorded on the final plat between the street and the adjoining property line provided that a document for the sale of all or part of said strip of land to the adjoining property owner shall be recorded in the office of the Register of Deeds. This document must provide for the sale of this land or any part of this land if the adjoining property owner pays one-half the cost of constructing the street per linear foot. The cost of the street must be approved by Community Development Staff and may include engineering, grading, construction, and public utilities for the affected street only. No provision can be made in the document for the resale of this land or any part of this land at an inflated price. The resale price must be the original

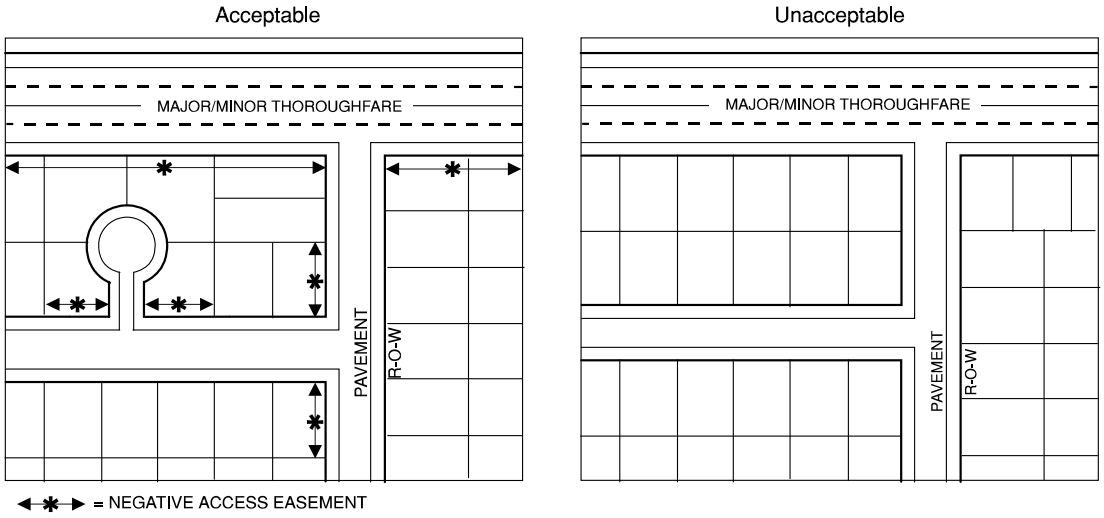
cost of the improvements. The deed book and page number of this recorded resale document must be shown on the final plat for this one-foot strip of land.

(k) The reserve strip of land shall be five (5) feet in width and located within the Town of Kernersville right-of-way. No access shall be made across the reserve strip unless the adjacent unincorporated property is annexed into the Town of Kernersville or the Board of Aldermen approve the removal of the reserve strip.

(2) Lots

(a) Lots shall conform to the *Zoning Ordinance* and any other applicable local or state land regulatory ordinances.

(b) Subdivisions shall be designed to exclude any road frontage lots on major or minor thoroughfares as shown on the adopted *Transportation Plan*. Said lots shall be served internally within the subdivision and shall have no access to the major roads. This requirement is consistent with the driveway policy of both the City of Winston-Salem and the North Carolina Department of Transportation. Any exemption from this regulation shall be based on hardships which arise from irregular shapes of property and/or any construction difficulties arising from providing internal access to these lots. Said exemptions shall be decided by the Elected Body.



(c) Along major/minor thoroughfares or at thoroughfare intersections into or within the subdivision, negative access easements will prohibit access onto thoroughfares from corner lots. Access must instead be provided to the lot on the non-thoroughfare street at the intersection. These negative access easement shall be shown on the final plat. See illustration for acceptable example in Section 4.(B)(2)(b) above.

(d) In all rectangular lots, and so far as possible in all other lots, side lot lines shall be at right angles or radial to the streets on which the lots face. Flag lots or lots which only have a narrow strip of land fronting the lot on a public street will only be approved under unusual circumstances (see Section 4.(B)(2)(e) below). If such lots are approved, the minimum frontage of the lot on the public street will be twenty-five (25) feet.

(e) Flag lots may be created with the following stipulations:

(i) Twenty-five (25) feet of the width of the "pole" or driveway access to the flag lot

may not be used in the calculation of the lot area of the flag lot;

(ii) The pole may not be used for either lot area or yard calculation of any other lot; and,

(iii) If more than one flag lot is proposed to the rear of another lot or stacked off the street, a special use permit from the Board of Adjustment is required.

(iv) No residential flag lot shall be created from a lot consisting of less than three (3) acres unless approval is granted through a special use permit from the Board of Adjustment or Subdivision Approval.

(v) The front building setback of a flag lot shall be located at either the minimum required frontage width or minimum building setback, whichever is greater.

(3) Public or Private Utilities

(a) Water.

(i) All subdivisions of land within one thousand (1,000) feet of public water shall be required to provide public water to the subdivision and install fire hydrants in accordance with the Fire Department of the applicable jurisdiction. The preliminary subdivision plat shall indicate that public water is to be used.

(ii) If public water is not available or required, the preliminary subdivision plat shall indicate the private water system to be used.

(iii) If fire hydrants are installed as part of a private water system, the system and fire hydrants shall be approved by the Fire Department of the applicable jurisdiction.

(b) Sewerage.

(i) The preliminary subdivision plat shall indicate if public sewer is to be used.

(ii) If public sewer is not available or required, the preliminary subdivision plat shall indicate the private sewer systems to be used.

(c) Drainage.

(i) The preliminary subdivision plat should consider any areas with special drainage requirements. Drainage easements shall be shown on the final plat.

(ii) If a storm water retention or detention system is required by local or State ordinance, the preliminary location of the devices to be used in the system shall be shown on the preliminary subdivision plat.

(d) Electricity, Telephone, Cable Television and Natural Gas. All distribution lines and lines providing direct service to individual properties for electricity, telephone and cable television shall be installed underground, unless required by the utility provider to be placed aboveground or:

(1) The power lines existed above ground at the time of first approval of a plat or development plan by the town, whether or not the power lines are subsequently relocated during construction of the subdivision or development plan.

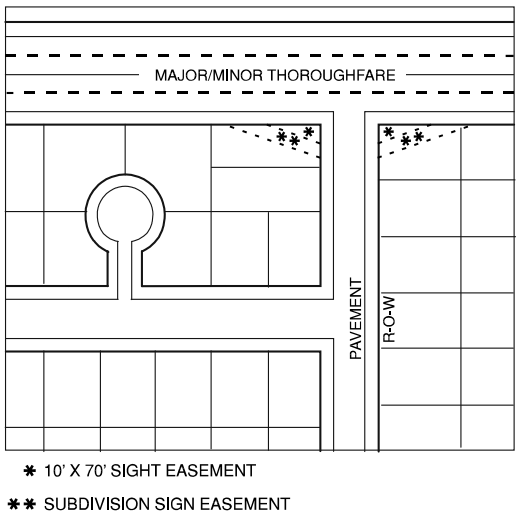
(2) The power lines are located outside the boundaries of the parcel of land that contains the subdivision or the property covered by the development plan.

(4) Other

(a) The preliminary subdivision plat shall conform to such plan or plans for the jurisdiction or portions thereof, as shall have been prepared and adopted by the Elected Body.

(b) Where the plan for the subdivision includes a lake or pond of one acre or more in size, existing or to be constructed, the preliminary subdivision plat shall show the location of dams, spillways, and other structures and the location and extent of inundation at full reservoir.

(c) Any markers, signs, or monuments with the name of the subdivision shall be issued a sign permit from the Permit & Enforcement Division prior to installation. All such signs shall be located outside public rights-of-way, outside sight easements, and at major entrances to the subdivision. If such markers are contemplated in the subdivision, the final plat shall show the locations of these easements.



(d) The boundary of the land to be subdivided shall be determined by an accurate survey in accordance with surveying laws of North Carolina or by the bearings and distances contained in the recorded deed.

(e) Where a proposed greenway, park, playground, school or other public use as shown on plans of the jurisdiction is located within a preliminary subdivision plat, the Elected Body may require reservation of such area or dedication of an easement for such use of an area within the subdivision in those cases in which the jurisdiction deems this requirement to be reasonable and acceptable for public use.

(f) Any areas which have been delineated as *Wetlands* by the United States Army Corps of Engineers shall be identified on the preliminary subdivision plat.

(g) All subdivision proposals shall comply with the following floodway or floodway fringe standards:

(i) All subdivision proposals located in the floodway fringe areas shall comply with the floodway and floodway fringe requirements of the *Environmental Ordinance*;

(ii) All subdivision proposals shall be planned and constructed so as to minimize flood damage;

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

(iv) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and,

(v) Base flood elevation data, floodway, and floodway fringe areas shall be delineated for subdivision proposals and other proposed development.

(h) Tree preservation planting areas shall be cordoned off during construction and protected from encroachment. The minimum area to be cordoned off shall consist of the critical root zone of the tree or an area ten (10) feet from the tree's trunk in all directions, whichever is the greater area. The protection measures shall be properly maintained during site development and shall not be removed prior to final landscaping. For the purposes of this section, encroachment is defined as the ground surface disturbance caused by grading: impervious surface cover; equipment, material, or earth storage; or by temporary or permanent construction vehicle access or circulation.

(i) Statements of fact for items of information deemed appropriate by the Community Development staff to be placed on the final plats may be required by the Elected Body during the review and approval of the preliminary subdivision plat. Such information or statements of fact shall be limited to the following:

(i) The location of any proposed or planned thoroughfare. If the location of such thoroughfare has not been determined, a statement as to which lots may be affected or that the entire subdivision may be affected by the thoroughfare under study may be required.

(ii) Planned public facilities identified in the Capital Improvement Program of the jurisdiction or in the *Kernersville Development Plan* or other plans of the jurisdiction;

(iii) Other information deemed to be in the public interest by the Elected Body.

(C) APPROVAL PROCESS FOR PRELIMINARY SUBDIVISION APPROVAL

The following is the process for preliminary subdivision approval:

(1) Application by the owner or owner's agent shall be made at the office of the Planning Board at least twenty-eight (28) days prior to the date on which the Planning Board holds a regular monthly meeting. The Elected Body shall act on the preliminary subdivision plat within a reasonable period of time but shall not exceed ninety (90) days from the date of application without the written consent of the subdivider.

(2) Applications for preliminary subdivision approval shall be reviewed by the Community Development staff and the Development Review Committee, who shall forward a recommendation to the Planning Board for consideration at its monthly public hearing.

(3) Modifications to the original preliminary subdivision plat may be required by Community

Development Staff prior to the Planning Board meeting. Revised plats must be received no later than seven (7) days prior to the Planning Board meeting so that the plans can be prepared and distributed for the meeting.

(4) The Planning Board shall give careful study to the preliminary subdivision plat taking into consideration the applicable recommendations of the *Kernersville Development Plan*, the plans of the jurisdictions, requirements of the community and the best possible use of the land to be subdivided, together with the prospective character, whether residential, business, or industrial. Attention shall be given to street widths, arrangement, and circulation, surface drainage and sanitation, lot sizes and arrangement, and, if acceptable to the jurisdiction, neighborhood and community requirements such as parks, schools, and playgrounds.

(5) The Elected Body may approve a preliminary subdivision plat as submitted by the applicant, approve the subdivision with conditions as authorized in Section 6-1.3(A)(1) of the *Zoning Ordinance* and as recommended by staff or added and/or revised by the Elected Body at the meeting, or deny the subdivision. If the conditions on the subdivision are accepted by the applicant, they shall become binding on the development of the subdivision. If the conditions of approval are accepted by the owner or owner's agent, the subdivision shall be approved. Otherwise the subdivision shall be denied. Failure to comply with any conditions of approval set by the Elected Body, shall result in the preliminary subdivision approval becoming null and void.

(6) The Elected Body may approve preliminary subdivisions with changes to the plat at the meeting. Such changes shall be made to the plat and new plats submitted to Community Development Staff no later than thirty (30) days after the meeting at which the plat was approved. Failure of the owner or owner's agent to submit corrected copies of the plat within the thirty (30) day period shall result in the approval by the Elected Body being null and void.

(7) A preliminary subdivision plat being reviewed by the Elected Body in which the owner or owner's agent contest a recommendation or requirement by the site plan review committees may be continued to the next regularly scheduled meeting or public hearing at the discretion of the Elected Body. This continuance could allow the board the necessary time to evaluate the applicant's concerns. The owner or owner's agent shall have a total of no more than twelve (12) minutes to present proposals to the Elected Body.

(8) Preliminary subdivision approval by the Elected Body shall constitute approval of the general widths and alignments of streets, the general dimensions and shapes of lots, and the type of public or private utilities to be used. The approval shall be valid for two (2) years and shall be noted on the plat and certified by Community Development Staff. The plat shall have the date of preliminary subdivision approval and the date of written notification to the owner or owner's agent specifying the conditions, if any, of the approval. The conditions of approval shall also be shown on the plat. Community Development Staff will distribute the approved preliminary subdivision plats to applicable governmental agencies.

(D) APPLICATION REQUIREMENTS FOR PRELIMINARY SUBDIVISION APPROVAL

The following are the application requirements for preliminary subdivision approval:

(1) **Application.** Application form for preliminary subdivisions approval completed in full (forms may be obtained at the Community Development Department).

(2) **Tax Map(s).** Tax map(s) showing the proposed property for preliminary subdivision approval and all surrounding property (may be obtained at the Forsyth County Tax Office).

(3) **Application Fee.** Application fee as adopted by the Elected Body. This fee shall be waived if the land proposed for preliminary subdivision approval is being simultaneously considered for rezoning.

(4) **Public Notice.** A notice of the public meeting shall be posted on the property at least ten (10) days prior to the date of the meeting of the Planning Board. A sign is required on the property at a conspicuous location(s). Location(s) which are not conspicuous or require additional notification to the public will be required to have directional sign(s) posted. Each sign(s) or each directional sign(s) will have a charge as determined by the Director of Community Development. The signs are, and shall remain, the property of the governmental agency which provided them, and shall be prepared, posted and reclaimed by it.

(5) **Site Plans.** Twenty (20) copies of site plans for preliminary subdivision approval shall be submitted in accordance with the requirements of this section at least twenty-eight (28) calendar days prior to the next regularly scheduled Planning Board meeting. Staff shall be provided copies of the proposed site plan by the applicant at least ten (10) working days prior to the filing deadline to determine if the required information is included and to offer other design comments prior to the formal filing deadline. Staff shall return the site plan with comments to the applicant or his agent at least three (3) working days prior to the formal submittal deadline for plans submitted. The scale of the site plan shall not be smaller than one inch represents one hundred (100) feet (1" = 100'). Any other scale must be approved by Community Development Staff.

(a) Location Map at a scale not smaller than one inch represents two thousand (2,000) feet (1" to 2,000'), indicating the location of the site and showing:

(i) The intersection of at least two (2) public streets nearest to the property; and,

(ii) North arrow.

(b) Title Block to appear in the lower right hand corner of the plat:

(i) Development name;

(ii) Name and address of owner and petitioner;

(iii) Name and address of architect, land planner, landscape architect, engineer or surveyor who prepared the plat and the Registration Seal;

(iv) Date survey was made, if applicable; if survey not required for preliminary; and,

(v) Scale, date, and north arrow.

(c) Legend (in the vacant space on right hand side of the site plan) - See *Legend Form* available in the office of the Planning Board.

(d) Property Boundaries with bearings and distances.

(e) Adjacent Property Lines with ownership indicated.

(f) Natural Features existing:

(i) Streams, drainage ways, floodway and floodway fringe boundaries and elevations,

(ii) Wooded areas and other natural features,

(iii) Topography at no greater than four (4) foot intervals when available distinction between existing and proposed topography lines to be shown according to the following: existing-light dashed lines; proposed - thin solid lines); and.

(iv) Natural features to be left undisturbed. Any existing trees to be retained shall be preserved during construction in accordance with Section 4(B)(4)(h) of these regulations.

(g) Constructed Features - existing and proposed:

(i) Rights-of-way and easements with type and widths indicated and an indication of whether public or private;

(ii) Private and public drives including pavement widths, names and an indication of whether public or private, (access drives and parking areas to be shaded in);

(iii) All major public serving utility lines visible on the site including water, sewer, power, telephone, gas, cable, or any other public utility;

(iv) Public/private water and sewer systems to be used;

(v) All other easements, parklands, playgrounds, sidewalks, and other common or public areas;

(vi) Lot lines, dimensions, and lot numbers;

(vii) Finished elevations on all center lines of new streets and of any stub streets shall be specified both on the site and at connection with adjacent property(s); and,

(viii) All streets, driveways, etc. (including pavement and right-of-way) within one hundred (100) feet of the project site.

(E) EXTENSION OF PRELIMINARY SUBDIVISION APPROVAL

(1) **General**. An extension of preliminary subdivision approval may be approved for subdivisions which have not been recorded on final plats within the two (2) year period after approval by the Elected Body. An extension of preliminary subdivision approval, if granted, shall be for one year and shall be renewable, however, no extension may be granted to extend approval beyond five (5) years after the original date of preliminary approval. Such extensions shall be considered only, when in the opinion of Community Development Staff, there is no significant change in either the basic intent, concept, and general layout as originally approved by the Elected Body or the conditions or regulations for the general area where the subdivision is proposed.

(2) **Effective Date of the *Unified Development Ordinances***. Extension of preliminary subdivision approval granted before the effective date of the *Unified Development Ordinances* (UDO) may be granted after the effective date of the *Unified Development Ordinances* under the following conditions:

(a) If a valid preliminary subdivision approval was in effect on the effective date of the *Unified Development Ordinances* and the preliminary approval expires within one year of the effective date of the *Unified Development Ordinances*, one extension may be granted. Said extension must be granted within one year of the effective date of the *Unified Development Ordinances*;

(b) If a preliminary subdivision approval has expired as of the effective date of the *Unified Development Ordinances* but the original preliminary approval was granted after the date of adoption of the *Kernersville Development Plan*, one extension may be granted. Said extension must be granted within one year of the effective date of the *Unified Development Ordinances*; or,

(c) If one or more sections of the subdivision had received final plat approval prior to the effective date of the *Unified Development Ordinances*, extensions may be granted.

(3) Approval Process. Application for an extension of preliminary subdivision approval shall be submitted to Community Development Staff. Community Development Staff shall, within five (5) working days after the receipt of the request from the owner or owner's agent, grant or deny the request for an extension of preliminary subdivision approval. If granted, a letter shall be sent to the owner or owner's agent stating the extension and the extended date of approval.

(4) Application Requirements. Application requirements for an extension of preliminary subdivision approval shall consist of a letter submitted to Community Development Staff requesting the extension from the owner or owner's agent and a fee as determined by the Elected Body.

(F) REVISED PRELIMINARY SUBDIVISION APPROVAL

Community Development Staff may grant a revised preliminary subdivision approval if Community Development Staff finds that the revision is consistent with the basic intent and concept of development exhibited in the original preliminary subdivision approval granted by the Elected Body.

This process may also be used to make minor changes or modifications to previously approved preliminary subdivision plats that could not be granted an extension of preliminary subdivision approval under Section 4(E).

(1) Approval Process. Application for a revised preliminary subdivision approval shall be submitted to Community Development Staff. Community Development Staff shall, within five (5) working days after an application is received, grant or deny the revised preliminary subdivision approval. If granted, Community Development Staff will distribute the revised preliminary subdivision plats to applicable governmental agencies and the owner or owner's agent. The original conditions of approval by the Elected Body will still be applicable. Community Development Staff may change conditions or add additional conditions for revised preliminary subdivisions approval as necessary.

(2) Application Requirements. The following are the application requirements for a revised preliminary subdivision approval:

(a) Letter from the developer/owner stating the changes in the preliminary subdivision plat;

(b) Two (2) revised copies of the preliminary subdivision plat; and

(c) Application fee as determined by the Elected Body.

(G) WITHDRAWAL OF PRELIMINARY SUBDIVISION APPROVAL

Any owner or owner's agent who does not want to subdivide the property or any portion thereof according to the preliminary subdivision approval which was granted by the Elected Body must have the preliminary subdivision approval withdrawn by the Elected Body. This provision would be applicable to properties that the owner or owner's agent may want to subdivide as either a subdivision exempted by state law or court judgment or a minor subdivision. The withdrawal request must be received by Community Development Staff by the filing deadline for the next Elected Body meeting. The withdrawal request shall be placed on the Elected Body agenda. If the withdrawal request is approved by the Elected Body, the owner or owner's agent may subdivide the property in accordance with the provisions of other sections of these regulations.

(H) RECORDING FINAL PLATS

The final or record subdivision plat shall be prepared and submitted to Community Development Staff by the owner or owner's agent and recorded in the office of the Register of Deeds within two (2) years after the approval of the preliminary subdivision plat by the Elected Body or an extension of preliminary subdivision approval as provided in Section 4(E) or a revised preliminary subdivision approval as provided for in Section 4(F) must be granted. Plat(s) will be signed by Town Clerk when all the following requirements have been

met:

(1) **Conformance of Final Plat**. The final plat shall conform to the preliminary subdivision plat and the conditions as approved by the Elected Body, the recording requirements of State law and shall meet the requirements as listed in Chapter 1235, 1959 Session Laws (General Statutes 47-30 as amended) General Assembly of North Carolina.

(2) **Required Information and Certifications**. Final plats will not be signed by Town Clerk until all of the following information or certifications are received, if applicable:

(a) **Infrastructure Improvements**. No final plat shall receive approval by Community Development Staff until the completion of streets, storm drainage, utilities, sidewalks, and all accompanying infrastructure improvements have been certified to the Community Development staff by the Public Services Director or the District Engineer of the North Carolina Department of Transportation. In lieu of improvements being completed prior to signing the final plats, the following may be considered:

(i) Once the mainline public utilities and services are in place, along with the roadway base and asphalt binder course on new roadways, the remaining infrastructure may be guaranteed through the use of a performance surety totaling 120% of the estimated cost.

(ii) Proposed building lots that are within the subdivision and have access to existing infrastructure or lots that are to be model home sites may be considered for recordation after a preliminary plat is approved by the Community Development Staff.

(b) **Public or Private Utilities**. No final plat shall receive approval unless the following public or private utilities have either been constructed or approved plans prepared and, if applicable, the execution guaranteed by a good and sufficient performance surety as discussed in Section 4(H)(2)(a)(i):

(i) For all subdivisions which propose to use public water or public sewer facilities, such public facilities shall be installed in conformance with standards specified by the Winston-Salem/Forsyth County Utility Commission and alignment must be approved by the Engineering Division.

(ii) For all subdivisions which propose to use private water systems or private septic systems, those facilities shall be installed in conformance with the standards of the Public Health Department. For private septic systems, lots will be approved only if they are at least twenty thousand (20,000) square feet in area and have been certified in writing by the Public Health Department to be *Provisionally Suitable* or *Unsuitable* for on-site sewage disposal. Larger lot sizes may be required by other local or state land regulatory ordinances.

(c) **Statement**. No subdivision shall be granted final approval until Community Development Staff has received a statement duly acknowledged before some officer authorized to take acknowledgment of deeds and signed and executed by each owner of the property and the owner's spouse, if any, (the word *owner* used herein is defined to include private corporations) to the effect that:

(i) The subdivision plan and land shown on the final plat is made with the owner's free consent and in accordance with the owner's desires;

(ii) The dedication of streets or roads shown on the plat is freely offered to the public for public use;

(iii) The property shown on the plat is not encumbered by a recorded deed of trust or mortgage or by a judgment rendered by any court. (If the property is encumbered by a recorded deed of trust or mortgage, a duly acknowledged statement containing the consent of the trustee and the holder of the lien shall be submitted. Proof of the satisfaction and discharge of any judgment shall be shown).

Such statements shall, after examination by Community Development Staff, be recorded on a separate document with the final plat or shall be shown on the face of the final plat which is recorded in the office of the Register of Deeds (see Community Development Staff for copies of appropriate dedication statements).

(d) **Platting Urban Residential Buildings**. Urban residential buildings with all units retained in common ownership may be platted without individual units defined.

(e) **Floodway and Floodway Fringe**. All floodway or floodway fringe areas and base flood elevations shall be accurately delineated and identified on the final plats according to the Federal Emergency Management Agency (FEMA) maps, where available.

(f) **Wetlands**. Any areas delineated by the United States Army Corps of Engineers as *Wetlands* shall be accurately identified on the final plat.

(g) **Utility or Other Easements**. All public or private utility easements, drainage easements, sight distance easements, and, if contemplated in the development, sign easements for subdivision markers shall be shown on the final plat.

(h) **Greenway or Other Public Easements or Dedication of Public Lands**. Any greenway or other public easements or fee simple dedication of public lands or public right-of-way required as a condition of preliminary subdivision approval shall be accurately delineated on the final plat.

(i) **Existing Trees to be Retained**. Any existing trees to be retained shall be shown on the final plat and protected in accordance with Section 4(B)(4)(h) of these regulations.

(j) **Statements of Fact**. Any statements of fact required in Section 4(B)(4)(i) and made a condition of preliminary subdivision approval, shall be shown on the final plat. Any statements of fact which may become obsolete or are no longer required for public notification, may be removed by Community Development Staff from the final plat after notification of the Planning Board. A new final plat must be recorded to remove these statements of fact.

(k) **Subdivision Phasing and Illogical Phasing Determinations by Community Development Staff**. The final plat shall represent the full plan of development for the subdivision or the subdivision may be developed in phases or sections. If developed in phases or sections, each plat shall denote phase or section numbers in numerical order as the subdivision is developed. The Community Development Staff may determine that a phase or section of the development is illogical due to its proximity to adjoining property or for other valid reasons. The reasons for any illogical phasing determination by the Community Development Staff must be stated to the owner or owner's agent. The owner or owner's agent may appeal the Community Development Staff's illogical phasing determination to the Planning Board in accordance with Section 1.(L).

(l) **Public Recordation of Landfill**. Any portion of a site used for a landfill.

(3) **Endorsement of Approval**. Upon approval of a final plat such approval shall be indicated by a statement to that effect on the print of the final plat with the signature of Town Clerk. The approval

statement shall read as follows:

FINAL SUBDIVISION PLAT APPROVAL

This is to certify that this plat meets the recording requirements of the *Subdivision Ordinance* and, if applicable, that a certificate of approval has been issued by the Division of Highways pursuant to Article 7, Chapter 136 of the General Statutes, State of North Carolina.

This the ____ day of _____, 20___.

_____
(Signed) Town Clerk

(4) Application Requirements. The following are the application requirements for final plats:

(a) Preliminary Review. Three (3) paper print copies of the proposed final plat shall be submitted to the Community Development Department for preliminary review by Town Clerk at least three (3) days prior to the desired recording date. After the preliminary review, Community Development Staff will return to the applicant a copy of the proposed plat with any changes marked along with any other information needed to approve the final plat (see Section 4(H)). The applicant shall return the marked copy to Community Development Staff when the final plat is brought in for recording to ensure all necessary corrections have been made.

(b) Final Plat. Two (2) archival mylar and three (3) paper print copies of the final plat shall be submitted for approval to the Community Development Staff. The final plat shall contain all the changes, corrections, and information required by Community Development Staff and shall conform to all the requirements of these regulations and any other recording requirements of local or State law.

(c) Application Fee. Application fee as determined by the Elected Body shall be paid prior to Community Development Staff signing the final plat.

(5) Effect of Approving and Recording the Final Plat. Approval of the final plat by Town Clerk and subsequent filing of such plat in the office of the Register of Deeds shall be deemed a dedication of all streets and other public areas for public use or public easements as shown on the plat. Recording the final plat shall have the effect of transferring:

(a) Proposed public areas other than streets in fee simple to the jurisdiction;

(b) Proposed streets in fee simple to the jurisdiction; and.

(c) Proposed streets to the purchasers of the property and to the general public in areas outside the corporate limits or areas being annexed into the corporate limits and zoning and subdivision jurisdiction of Kernersville.

6. INDUSTRIAL AND COMMERCIAL SUBDIVISIONS

(A) DEFINITION.

An industrial or commercial subdivision of land whether in single or multiple ownership shall mean all divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose of a gift, sale, or industrial or commercial building development. These subdivisions may construct new public or private streets to access new lots. All lots must comply with the size and area requirements of the *Zoning Ordinance* or any other applicable local or state land regulatory ordinances.

(B) PUBLIC STREET SUBDIVISIONS.

Preliminary subdivision approval of a plat of the Elected Body is required if new public streets are proposed. The subdivision must follow the same process and procedures as in Section 4. Major Subdivisions, however, only the applicable development standards and other requirements in that section will apply to industrial or commercial subdivisions. Final plats must be recorded in the office of the Register of Deeds when all the requirements have been met for the subdivision in accordance with Section 4(H). In lieu of infrastructure completion on Industrial and Commercial subdivisions prior to recordation of the final plat, infrastructure necessary may be secured through the use a performance surety totaling 120% of the estimated cost.

(C) PRIVATE STREET SUBDIVISIONS.

Private street industrial or commercial subdivisions shall follow the same process and procedures as in *Section 3. Minor Subdivisions.*

7. ANNOTATION OF EXCEPTIONS FOR FINAL PLATS

List of Exceptions for Final Plat Approvals. The following is a list of statements any one of which may be used when recording a final plat that is not a regulated subdivision of land as defined by these adopted regulations. The most applicable of these statements must appear on the map when it is filed with the Register of Deeds. Said final plat shall be signed by the Community Development Director or Town Clerk. Application requirements for these final plats are the same as in Section 4(H)(4).

(A) This is not a regulated subdivision of land. The purpose of this plat is to show a utility easement only, and no new property boundary is shown.

_____
Signed Town Clerk

(B) This is not a regulated subdivision of land. All parcels shown are included in an estate which has not been described by deed or plat, and no new roads are involved.

_____
Signed Town Clerk

(C) This is not a regulated subdivision of land. The purpose of this plat is to show a parcel of land, said parcel being the remainder of a larger tract and said parcel having been created by the acquisition of a part of the larger tract for a public purpose by a governmental agency.

_____
Signed Town Clerk

(D) This is not a regulated subdivision of land. The purpose of this map is to show the public acquisition by purchase of strips of land for the widening or opening of streets.

_____
Signed Town Clerk

(E) This is not a regulated subdivision of land. The purpose of this map is to show a parcel of land and a building or buildings located upon said parcel and each building contains one (1) or more condominium units for sale in accordance with State law.

_____
Signed Town Clerk

CHAPTER E – COMPREHENSIVE PLAN, OTHER PLANS, AND STUDIES
ARTICLE I - PURPOSE AND AUTHORITY

1. REQUIREMENT FOR COMPREHENSIVE PLAN

(A) Pursuant to G.S. 160D-501, a local government shall adopt and reasonably maintain a comprehensive plan as a condition of adopting and applying zoning regulations. The Town currently has an adopted comprehensive plan, the *Kernersville Development Plan*.

(B) A comprehensive plan sets forth goals, policies, and programs intended to guide the present and future physical, social, and economic development of the Town based on an analysis of present and future needs. Planning analysis may address inventories of existing conditions and assess future trends regarding demographics, economic, environmental, and cultural factors.

2. OTHER PLANS AND STUDIES

(A) The Town may prepare and adopt other plans as deemed appropriate.

(B) Other plans may include, but is not limited to, land use plans, small area plans, neighborhood plans, hazard mitigation plans, transportation plans, housing plans, and recreation and open space plans.

(C) Such plans shall be considered in review of proposed zoning amendments and development decisions based on the regulations in this ordinance.

3. ADOPTION AND EFFECT OF PLANS

(A) Plans shall be adopted by the Board of Aldermen with the advice and consultation of the Planning Board.

(B) Adoption and amendment of a comprehensive plan is a legislative decision and shall follow the process for zoning text amendments in Chapter B Section 6-2.1(A) of this Ordinance.

(C) Plans shall be advisory in nature without independent regulatory effect and do not expand, diminish or alter the scope of authority for development regulations adopted relative to the plans.

(D) The Town may undertake planning activities in coordination with other governments, state agencies, or regional agencies pursuant to G.S. 160D-503.