TOWN OF BERMUDA RUN
Zoning Ordinance

Zoning Ordinance: Adopted September 13, 2005,
as amended through March 10, 2020.

Bermuda Run Zoning Ordinance Text Amendment Record

Text Amendments from July 1, 2009 (last updated 3/10/20)			
Date	**Case #**	**Case Title**	**Amended Sections**
10/13/2009	TA 2009-01	Gateway Corridor Overlay	Chapters 3 & 4
10/13/2009	TA 2009-02	Lot Width-to-Depth Ratio (removal)	Section 3.4
12/8/2009	TA 2009-04	Sign Regulations & Design Waivers	Chapters 7, 11, & 12
5/11/2010	TA 2009-03	Building Design & GC-O Max. Setback	Sections 3.4 & 4.2
5/11/2010	TA 2009-05	CR Setbacks & Clarifications	Chapters 3 & 9
8/10/2010	TA 2010-01	GC-O Max. Setback, Parking, Landscaping	Sections 3.3 (B), 3.4, 4.4, & Chapt.5
12/14/2010	TA 2010-02	Fuel Stations, Buildings & Structures	Sections 3.5, 9.34, 9.35,12.1, 12.3
12/14/2010	TA 2010-04	Lighting Requirements	Sections 3.3 (B) (7), 6, 12.3
3/8/2011	TA 2011-01	Banquet/Event Facility Sound	Section 9.9
5/10/2011	TA 2010-03	Sign Regulations	Chapter 7, Sections 1.8.16(C)(7),12.3
5/10/2011	TA 2011-02	Development Agreement Clarification	Sections 9.40, 11.3, Chapters 11, &12
8/9/2011	TA 2011-03	Nursing Institutions	Sections 3.5 & 9.47
4/10/2012	TA 2012-01	Manufacturing	Sections 3.5 & 12.3
6/12/2012	TA 2012-03	PB & BOA Membership	Chapter 11
4/9/2013	TA 2012-02	Design Requirements, Landscaping, & General Regulations	Chapters 4, 5, 8, & 9
4/9/2013	TA 2012-04	VM, TC, & Table of Uses	Chapters 3, 6, 12
10/8/2013	TA 2013-01	VM District Additional Updates	6.7(C), Chapter 7, 9.2, 9.10, 10.1(C)(4), 12.3
5/13/2014	TA 2014-01	Multi-family Residential Building Materials	Section 4.2.2
2/10/2015	TA 2014-04	Commercial Design Standards	Chapter 4, Chapter 9, Section 11.11, 2.3
3/10/2015	TA 2015-01	Board of Adjustment & Vested Rights	Chapter 2 and Chapter 11
11/10/2015	TA 2015-02	Multi-family Residential	Chapter 3, Section 9.48
3/8/2016	TA 2015-03	Temporary Signs (Reed vs. Gilbert, AZ)	Chapters 7, 9, 12
3/8/2016	TA 2016-01	Residential Design (Session Law 2015-86)	Chapters 4 & 9
7/13/2016	TA 2016-02	Environmental Regulations	Chapter 10, Section 12.3
4/11/2017	TA 2017-02	Micro-breweries,-wineries, -distilleries	Sections 3.5, 9.36,12.3
12/12/2017	TA 2017-03	Self storage in existing buildings	Section 3.5, 9.59
4/10/2018	TA 2018-01	Use compatibility in residential districtss	Chapters 3, 5, 9, and Section 12.3
7/10/2018	TA 2018-02	TC district repeal, MP-O creation	Chapters 3, 4, 5, 6, 7, 9, 10, 12
7/10/2018	TA 2018-03	Temporary signs for temporary uses	Section 7.11
12/11/2018	TA 2018-04	Legislative and consistency updates-pedestrian infrastructure, wireless communications, protest petitions, misc. consistency updates	Sections 2.1, 3.2, 3.4(I), 3.5, 4.23., 4.4, 9.2, 9.54, 11.9, 11.11, & 12.3
4/9/2019	TA 2019-01	The 10/70 Provision	Section 10.1
4/9/2019	TA 2019-02	Warehousing, self storage	Section 3.5, 9.59
3/10/2020	TA 2020-01	Table of Uses, Gateway Corridor Overlay	Section 3.5

TABLE OF CONTENTS

CHAPTER 1 AUTHORITY AND PURPOSE. ..... Sec. 1 – Pg. 1

1.1 Authority.....Sec. 1 – Pg. 1

1.2 Purpose.....Sec. 1 – Pg. 1

1.3 Title.....Sec. 1 – Pg. 1

1.4 Jurisdiction.....Sec. 1 – Pg. 1

1.5 Zoning Maps. .....Sec. 1 – Pg. 1

1.6 Severability. .....Sec. 1 – Pg. 2

1.7 Relation to Other Ordinances .....Sec. 1 – Pg. 2

1.8 Effective Date. .....Sec. 1 – Pg. 2

CHAPTER 2 APPLICABILITY OF ORDINANCE. ..... Sec. 2 – Pg. 1

2.1 Applicability. .....Sec. 2 – Pg. 1

2.2 Vested Development Rights. .....Sec. 2 – Pg. 1

2.3 Transitional Development Rights .....Sec. 2 – Pg. 2

CHAPTER 3 ZONING DISTRICTS..... Sec. 3 – Pg. 1

3.1 Zoning Districts Established.....Sec. 3 – Pg. 1

3.2 General and Conditional Districts.....Sec. 3 – Pg. 3

3.3 Overlay Districts .....Sec. 3 – Pg. 7

3.4 Dimensional Requirements.....Sec. 3 – Pg. 9

3.5 Table of Uses. .....Sec. 3 – Pg. 17

CHAPTER 4 DESIGN STANDARDS..... Sec. 4 – Pg. 1

4.1 Purpose and Applicability.....Sec. 4 – Pg. 1

4.2 Design Standards for Buildings .....Sec. 4 – Pg. 1

4.3 Design Standards for Parking and Driveways .....Sec. 4 – Pg. 21

4.4 Design Standards for Streets and Pedestrian Amenities .....Sec. 4 – Pg. 27

CHAPTER 5 LANDSCAPING, FENCES AND WALLS. ..... Sec. 5 – Pg. 1

5.1 Landscaping. .....Sec. 5 – Pg. 1

5.2 Fences and Walls. .....Sec. 5 – Pg. 11

TABLE OF CONTENTS

CHAPTER 6 EXTERIOR LIGHTING DESIGN ..... Sec. 6 – Pg. 1

6.1 Applicability .....Sec. 6 – Pg. 1

6.2 General Requirements.....Sec. 6 – Pg. 2

6.3 Design Standards .....Sec. 6 – Pg. 2

6.4 Prohibited Lighting.....Sec. 6 – Pg. 2

6.5 Light Levels .....Sec. 6 – Pg. 3

6.6 Light Height.....Sec. 6 – Pg. 4

6.7 Backlight, Uplight, & Glare.....Sec. 6 – Pg. 4

6.8 Maintenance.....Sec. 6 – Pg. 5

CHAPTER 7 SIGNAGE ..... Sec. 7 – Pg. 1

7.1 Intent .....Sec. 7 – Pg. 1

7.2 Applicability .....Sec. 7 – Pg. 1

7.3 General Provisions.....Sec. 7 – Pg. 1

7.4 Sign Placement .....Sec. 7 – Pg. 5

7.5 Planned Development Sign Packages.....Sec. 7 – Pg. 6

7.6 Permanent Signs by Zoning District.....Sec. 7 – Pg. 7

7.7 Sign Height .....Sec. 7 – Pg. 8

7.8 Number of Signs Permitted.....Sec. 7 – Pg. 9

7.9 Sign Area by Zoning District.....Sec. 7 – Pg. 10

7.10 Permanent Signs .....Sec. 7 – Pg. 11

7.11 Temporary Signs.....Sec. 7 – Pg. 12

7.12 Prohibited Signs.....Sec. 7 – Pg. 18

7.13 Flexibility in Administration .....Sec. 7 – Pg. 19

7.14 Amortization of Nonconforming Signs .....Sec. 7 – Pg. 19

CHAPTER 8 NONCONFORMITIES..... Sec. 8 – Pg. 1

8.1. Purpose and Applicability.....Sec. 8 – Pg. 1

8.2. Nonconforming Uses .....Sec. 8 – Pg. 1

8.3. Nonconforming Structures.....Sec. 8 – Pg. 2

TABLE OF CONTENTS

8.4. Nonconforming Signs. ..... Sec. 8 – Pg. 3

8.5. Nonconforming Landscaping. ..... Sec. 8 – Pg. 3

8.6. Nonconforming Parking Areas ..... Sec. 8 – Pg. 3

8.7. Nonconforming Vacant Lots. ..... Sec. 8 – Pg. 3

8.8. Nonconforming Accessory Structures and Uses. ..... Sec. 8 – Pg. 3

8.9. Nonconforming Manufactured Home Parks. ..... Sec. 8 – Pg. 4

CHAPTER 9 ADDITIONAL CONDITIONS FOR CERTAIN USES..... Sec. 9 – Pg. 1

9.1. Accessory Communication Antennae ..... Sec. 9 – Pg. 1

9.2 Accessory Structures and Uses ..... Sec. 9 – Pg. 1

9.3. Accessory Dwelling Unit, Attached or Detached ..... Sec. 9 – Pg. 3

9.4. Adult Establishments ..... Sec. 9 – Pg. 4

9.5. Agriculture, Bonafide Farms ..... Sec. 9 – Pg. 4

9.6. Amusements, Commercial, Indoor and Outdoor ..... Sec. 9 – Pg. 5

9.7. Arenas ..... Sec. 9 – Pg. 5

9.8. Accessory Automatic Teller Machines (ATMs), Service Kiosks ..... Sec. 9 – Pg. 5

9.9. Banquet and Events Facilities, Reception Halls ..... Sec. 9 – Pg. 5

9.10. Bed and Breakfast Establishment. ..... Sec. 9 – Pg. 6

9.11 Boarding or Rooming House. ..... Sec. 9 – Pg. 6

9.12. Broadcast Studios, Radio and Television ..... Sec. 9 – Pg. 7

9.13. Car Wash ..... Sec. 9 – Pg. 7

9.14. Cemetery. ..... Sec. 9 – Pg. 7

9.15. Childcare Institution; Daycare Center. ..... Sec. 9 – Pg. 8

9.16. Church or Religious Institution, Community Scale And Neighborhood ..... Sec. 9 – Pg. 8

9.17. Civic, Fraternal, Cultural, and Community Facilities, Not Otherwise Listed; Private Non-Profit Club or Lodge ..... Sec. 9 – Pg. 9

9.18. Clubs, Private. ..... Sec. 9 – Pg. 9

9.19. College or University ..... Sec. 9 – Pg. 10

9.20. Community Center. ..... Sec. 9 – Pg. 10

TABLE OF CONTENTS

9.21. Day Care Home .....Sec. 9 – Pg. 10

9.22. Dormitory.....Sec. 9 – Pg. 10

9.23. Dry Cleaning and Laundry Plants.....Sec. 9 – Pg. 11

9.24 Farmers Market.....Sec. 9 – Pg. 11

9.25. Freight Terminals.....Sec. 9 – Pg. 11

9.26. Fuel Dealers ……..Sec. 9 – Pg. 12

9.27. Fuel Station; Retail Minor Passenger Vehicle Service.....Sec. 9 – Pg.12

9.28. Group Homes, A or B. .....Sec. 9 – Pg. 13

9.29. Habilitation Facility, A or B. .....Sec. 9 – Pg. 13

9.30 Helistops .....Sec. 9 – Pg. 13

9.31. Home Occupation .....Sec. 9 – Pg. 14

9.32. Hospital .....Sec. 9 – Pg. 15

9.33. Kennel.....Sec. 9 – Pg. 15

9.34. Laundry and Linen Supply Service .....Sec. 9 – Pg.16

9.35. Manufactured Home, Class A.....Sec. 9 – Pg. 16

9.36. Micro-brewery,-winery,-distillery. .....Sec. 9 – Pg. 17

9.37. Motor Vehicle Repair and Maintenance.....Sec. 9 – Pg. 17

9.38. Motor Vehicle Sales, Rental and Leasing.....Sec. 9 – Pg. 17

9.39. Nursery, Lawn and Garden Supply Store, Retail.....Sec. 9 – Pg. 18

9.40. Nursing Care Institutions and Congregate Care Facilities.....Sec. 9 – Pg. 18

9.41. Outdoor Display and Sales of Merchandise. .....Sec. 9 – Pg. 18

9.42. Outdoor Storage .....Sec. 9 – Pg. 19

9.43. Parking Lot or Deck.....Sec. 9 – Pg. 19

9.44. Parking of Commercial Vehicles in and adjacent to .....Sec. 9 – Pg. 20
Residentially Zoned Property

9.45. Progressive Care Community .....Sec. 9 – Pg. 20

9.46. Recreational Facilities, Golf Courses, and Driving Ranges,
Public or Private.....Sec. 9 – Pg. 21

9.47. Recreation Services, Indoors and Outdoors.....Sec. 9 – Pg. 21

9.48. Recycling Center.....Sec. 9 – Pg. 22

9.49. Residential Building, Multi-Family.....Sec. 9 – Pg. 22

TABLE OF CONTENTS

9.50. Restaurant, With/Without Drive-Through Service. ……Sec. 9 – Pg. 23

9.51. Retail Establishments……Sec. 9– Pg. 24

9.52. Schools, Elementary and Secondary, Including School Stadiums. .....Sec. 9 – Pg. 25

9.53. Schools, Vocational or Professional. .....Sec. 9 – Pg. 25

9.54. Telecommunication Towers/Wireless Support Structures .....Sec. 9 – Pg. 26

9.55. Temporary Seasonal Uses and Structures, Including Seasonal Markets. .....Sec. 9 – Pg. 39

9.56. Utilities, Above Ground.....Sec. 9 – Pg. 40

9.57. Utilities Service Area.....Sec. 9 – Pg. 40

9.58. Veterinary Services.....Sec. 9 – Pg. 40

9.59. Warehousing, Self Storage. .....Sec. 9 – Pg. 41

9.60. Waste Transfer Station, Recycling only .....Sec. 9 – Pg. 41

CHATPER 10 ENVIRONMENTAL PROTECTION. ..... Sec. 10 – Pg. 1

10.1. Compliance with Watershed Rule Required.....Sec. 10 – Pg. 1

10.2. Floodways, Floodplains, Drainage and Erosion .....Sec. 10 – Pg. 6

10.3. Stormwater Mitigation.....Sec. 10 – Pg. 6

10.4. Tree Preservation, Protection, and Removal .....Sec. 10 – Pg. 7

10.5. Encroachment into Required Buffers and Tree Save Areas ...Sec. 10 – Pg. 10

10.6. Open Space .....Sec. 10 – Pg. 11

CHAPTER 11 ADMINISTRATION ..... Sec. 11 – Pg. 1

11.1. The Staff .....Sec. 11 – Pg. 1

11.2. The Boards.....Sec. 11 – Pg. 3

11.3 Approval Processes .....Sec. 11 – Pg. 9

11.4. Zoning Permits.....Sec. 11 – Pg. 9

11.5. Extended or Unspecified Temporary Use Permits .....Sec. 11 – Pg. 15

11.6. Special Use Permits .....Sec. 11 – Pg. 16

11.7. Appeals. .....Sec. 11 – Pg. 24

11.8. Variances. .....Sec. 11 – Pg. 26

TABLE OF CONTENTS

11.9. Amendments. .....Sec. 11 – Pg. 27

11.10. Watershed Amendments and Variances. .....Sec. 11 – Pg. 33

11.11. Design Waivers.....Sec. 11 – Pg. 35

11.12 Development Agreements .....Sec. 11 – Pg. 39

11.13 Enforcement.....Sec. 11 – Pg. 41

CHAPTER 12 RULES OF CONSTRUCTION, INTERPRETATION, AND DEFINITIONS.....Sec. 12 – Pg. 1

12.1. Rules of Construction. .....Sec. 12 – Pg. 1

12.2. Interpretation.....Sec. 12 – Pg. 2

12.3. Definitions. .....Sec. 12 – Pg. 4

CHAPTER 1 AUTHORITY AND PURPOSE

1.1 Authority

These regulations are adopted pursuant to the authority vested in the Town of Bermuda Run by its charter, the Session Laws, and the General Statutes of North Carolina, particularly Chapter 160a, Article 19, Part 3 and any special local legislation enacted by the General Assembly for the Town of Bermuda Run.

1.2 Purpose

The purposes of these regulations are to: promote the health, safety, morals, and general welfare of the community; to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to maintain good air quality; to enhance and protect the physical environment; to prevent overcrowding; to avoid undue concentration of population; to facilitate the adequate and economic provision of public facilities and infrastructure; to conserve the value of buildings; and to encourage the most appropriate use of land throughout the corporate area and extraterritorial zoning jurisdiction, in accordance with adopted plans and policies.

1.3 Title

These regulations shall be known as the Zoning Ordinance of the Town of Bermuda Run, North Carolina, and may be cited as the "Zoning Ordinance." The maps referred to herein titled "Official Zoning Maps, Bermuda Run, NC" may be cited as the "zoning maps."

1.4. Jurisdiction

These regulations govern the development and use of all land and structures within the corporate limits and the extraterritorial zoning jurisdiction of the Town of Bermuda Run.

1.5 Zoning Maps

The town council, upon the recommendation of the planning board, has adopted a series of zoning maps entitled "Official Zoning Maps, Town of Bermuda Run, NC" which are retained in the office of the Town Clerk. The zoning maps set out and delineate the zoning districts established in Section 1.3. The zoning maps and notations thereon are hereby designated, established, and incorporated as a part of these regulations and shall be as much a part of these regulations as if they were fully described herein.

1.6 Severability

If any section, specific provision, or standard of these regulations, including any zoning district boundary that now exists or may exist in the future, is found by a court of

competent jurisdiction to be invalid for any reason, the decision of the court shall not affect the validity of any other section, provision, standard, or district boundary of these regulations except the provision in question. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect.

1.7 Relation to Other Ordinances

If the provisions of this ordinance conflict with the provisions of any other validly enforceable ordinance(s), the most stringent provisions shall control.

1.8 Effective Date

These regulations shall become effective upon the date of their adoption by the Town Council of the Town of Bermuda Run.

CHAPTER 2 APPLICABILITY OF ORDINANCE

2.1 Applicability

No building, structure, or land shall be used, occupied, or altered; nor shall any building, structure, or part thereof be erected, constructed, reconstructed, moved, enlarged, or structurally altered; nor shall any changed use be established for any building, structure, or land, unless in conformity with the general provisions of this ordinance and the specific provisions for the district in which it is located, except as otherwise provided by these regulations. In accordance with NCGS 160A-360, bona fide farms located within the extraterritorial jurisdiction (ETJ), except swine farms as defined by NCGS 106-802, are exempt from the zoning regulations of this Ordinance, but any use of farm property for non-farm purposes is subject to these regulations. Swine farms are not permitted within the jurisdiction of these regulations.

2.2 Vested Development Rights

(A) *In general.*
Any amendments, modifications, supplements, repeal or other changes in these regulations or the zoning maps shall not be applicable or enforceable without the consent of the owner with regard to buildings and uses:

(1) For which a building permit has been issued prior to the effective date of the ordinance making the change so long as the permit remains valid and unexpired pursuant to G.S. 160A-418 and the building permit has not been revoked pursuant to G.S. 160A-422; or

(2) For which a zoning permit has been issued prior to the effective date of the ordinance making the change so long as the permit remains valid and unexpired pursuant to this section; or

(3) For which a vested right has been established and remains valid and unexpired pursuant to this section.

(B) *Statutory Vested Rights*
The vested rights provisions of G.S 160A-385.1 shall apply. Site-specific development plans shall be vested for a period of two (2) years from the date of approval. A site-specific development plan may receive an extended vesting period of two (2) to five (5) years upon approval by the Town Council. This section shall not apply to development agreements approved in accordance with G.S. 160A-400.2-32 and Section 11.12 of this Ordinance.

(C) *Declaration of a vested right upon voluntary annexation.*
A petition for annexation filed with the Town under G.S. 160A-31 or G.S. 160A-58.1 shall contain a signed statement declaring whether or not any zoning vested right with respect to the properties subject to the petition has been established. A

statement that declares that no zoning vested right has been established under G.S. 160A-385.1 or G.S. 153A-344.1, or the failure to sign a statement declaring whether or not a zoning vested right has been established, shall be binding on the landowner and any such zoning vested right which may have existed shall be terminated.

2.3 Transitional Development Rights

Property subject to a valid site-specific development plan approved by Davie County that is in effect as of the effective date of this ordinance shall be allowed to continue to develop in compliance with the terms and conditions of that site-specific development plan for a period of five years from the effective date of this ordinance, subject to the provisions and limitations of G.S. 160A-385.1(e).

CHAPTER 3 ZONING DISTRICTS

3.1 Zoning Districts Established

(A) *Types of zoning districts*

All areas within the zoning jurisdiction of the Town of Bermuda Run are hereby divided into zoning districts within which the use of land and water areas; the location, height, bulk, appearance and use of structures; the provision of parking and loading areas; and the provision of buffers and screening areas are regulated as herein provided. Zoning districts within the town's jurisdiction fall within one (1) of the following three (3) categories.

(1) *General use zoning districts*

Each general use district category serves a different purpose and imposes its own set of requirements and restrictions on the use of land in addition to the general requirements and restrictions imposed on all land or uses within the zoning jurisdiction. A general use district may be layered with an overlay district, which is a special type of general use district.

(2) *Conditional zoning districts (CD)*

a) Most Conditional Districts are established as parallel or counterpart districts to a general use district. In such cases, references in the Zoning Ordinance to the general use district shall be construed to also include the counterpart conditional district. Conditional Districts, like general use districts, may be layered with overlay districts.

b) Each Conditional District with a counterpart general use district is intended to accomplish the purposes of the counterpart district through the development of identified uses at a specific location in accordance with this section. All regulations and uses which apply to a general use district also apply to the counterpart Conditional District and no use shall be allowed in the Conditional District that is not allowed in its counterpart general use district.

c) The Master Plan Overlay is a district in which the approval of a Conditional District is required to proceed with development in order to ensure that the conceptual plans within the Town's Comprehensive Plan are considered prior to development and that the development of one area within the overlay will not impede the orderly development of another area.

d) Additional conditions, which may be suggested by the petitioner as part of the rezoning process, shall be binding upon property within a

Conditional District in perpetuity or until the property is rezoned by the Town Council. Such conditions may include increased buffers, architectural features, access, parking, hours of operation, or any other feature of the development that is integral to meeting the spirit and intent of this ordinance or that serves to mitigate the impacts of the development on adjacent property or the community at large. Such conditions must be enforceable by the Town, presented by the petitioner during the public hearing as part of the rezoning petition, and agreed to by the Town Council during the rezoning process.

e) This is a voluntary procedure which is intended for firm development proposals. It is not intended or suited for securing early zoning for tentative or speculative proposals which may not be undertaken for some time.

(3) *Overlay districts*

Overlay districts are established to provide for certain additional requirements, to permit uses not otherwise permitted in the underlying district, to prohibit uses allowed in the underlying district, to establish special development requirements for uses permitted, or to ensure consideration of conceptual plans within the Town's Comprehensive Plan. Thus, where overlay districts exist and there is a conflict between the requirements and/or uses specified between the overlay and the underlying district, the standards of the overlay district shall prevail. Otherwise, the standards of the underlying district shall also be in effect for any area additionally zoned for an overlay district.

A zoning map change either establishing or changing any overlay district shall be subject to the same procedures and requirements as any other zoning map change.

(B) *Districts named*

District Abbreviation	District Name	Classification
OS & OS-CD	Open Space district	Residential
CR & CR-CD	Club Residential district	Residential
RM & RM-CD	Residential Mixed district	Residential
VM & VM-CD	Village Mixed-Use district	Mixed-use
CM & CM-CD	Commercial Mixed district	Mixed-use
GB & GB-CD	General Business District	Business
MH-O	Manufactured Home Overlay district	Residential Overlay
GC-O	Gateway Corridor Overlay district	Mixed-Use Overlay
MP-O	Master Plan Overlay	Master Plan Overlay

3.2 General and Conditional Districts

(A) *Open Space district (OS and OS-CD)*

(1) *Intent*
The Open Space district is provided to encourage the preservation of significant natural vistas, parkland, and landscape features and other rural heritage features through permanent conservation and to encompass floodways and low-lying floodplain areas that are undevelopable or pose significant hazards to development. The density of development is regulated based upon the amount of open space which is preserved.

(2) *Permitted uses*
Uses permitted by right, uses with conditions, and uses permitted upon the issuance of a "special" permit are listed in the Table of Uses in Section 3.5.

(3) *Dimensional requirements and supplemental standards*

a) Development in the Open Space district shall meet the general dimensional requirements listed in Section 3.4 except that minimum lot width may be reduced to 80 feet in an approved cluster subdivision.
b) A minimum of 30 percent of the total area of all new subdivisions shall be set aside as permanent open space. No open space is required for development of existing lots of record. Open space shall meet the requirements of Section 10.6.
c) For lots not located within a cluster subdivision, minimum lot size shall be 40,000 sf when there is a well and an individual septic system, 30,000 sf when there is public water and an individual septic system, and 20,000 sf when there is public water and public sewer.
d) Permitted residential density may be increased from one (1) unit per acre in cluster subdivisions containing ten or more units if open space is increased. For developments exceeding the required 30 percent open space, the number of units in the project may be increased proportionally up to a maximum of three units per acre, as shown in the following table.

Overall Maximum Density in DUA	Percent Open Space Req'd	Minimum Lot Size for SF Detached Residential	Minimum Lot Width
1.0	30%	28,800	120
1.5	40%	12,800	80
2.0	50%	12,800	80
2.5	60%	12,800	80
3.0	70+%	12,800	80

DUA=dwelling units per acre

(B) *Club Residential district (CR and CR-CD)*

(1) *Intent*

The Club Residential district is hereby created to permit the completion and conformity of the residential subdivisions comprising the original or expanded development within the area known as Bermuda Run Golf and Country Club already existing or approved in sketch plan form by the Bermuda Run Town Council prior to the effective date of these regulations or by the Davie County Board of Commissioners under the prior jurisdiction of the County. The application of the Club Residential district is not intended for development projects in the Bermuda Run jurisdiction which are not a part or extension of Bermuda Run Golf and Country Club and Bermuda Run West.

(2) *Permitted uses*

Uses permitted by right, uses with conditions, and uses permitted upon the issuance of a "special" permit are listed in the table of uses in Section 3.5.

(3) *Dimensional requirements and supplemental standards*

a) All lots shall meet the minimum dimensional requirements shown in Section 3.4.

b) Development density, amount and location of open space, arrangement of streets and lots, yard dimensions, and access to existing roads shall be controlled by the most recently approved subdivision plan (sketch, preliminary, or plat). Any modifications to an approved subdivision plan shall maintain the density of the original plan.

c) Developments in the Club Residential district which are approved but not yet built are permitted minor modifications through the administrative process; such developments, if redesigned, must conform to all of the requirements of this ordinance for the CR district or may petition for a district change according to Section 11.7.

(C) *Residential Mixed district (RM and RM-CD)*

(1) *Intent*

The Residential Mixed district is established to provide for the development of new neighborhoods and the extension of existing neighborhoods, which are structured upon a network of interconnecting pedestrian-oriented streets and other public spaces. The characteristics of a Residential Mixed development include a mixture of housing types, prominently sited community building(s), and compatible low intensity non-residential uses. Furthermore, a Residential Mixed development has a recognizable center and clearly defined edges.

(2) *Permitted uses*
Uses permitted by right, uses with conditions, and uses permitted upon the issuance of a "special" permit are listed in the table of uses in Section 3.5.

(3) *Dimensional requirements and supplemental standards*

a) All lots shall meet the minimum dimensional requirements shown in Section 3.4. There is no minimum lot size for the Residential Mixed (RM) district. Lot sizes shall be determined on a case-by-case basis and will depend on the design of the development and the types of uses proposed.

b) All Residential Mixed (RM) projects part of a rezoning request shall a maximum of 200 hundred acres in size. All proposals shall conform to these size requirements except that proposals for tracts of less than 20 acres adjoining existing RM developments may be considered as long as they demonstrate that they are, in function and design, an extension of the existing Residential Mixed district and that the addition of the tract will not cause the overall size of the RM district area to exceed 200 acres. Such developments shall meet the following requirements:

1) The area of the RM development shall be divided into blocks, streets, lots, and open space.
2) A substantial mix of housing types is permitted. Similar land uses shall front across each street. Dissimilar categories shall abut at rear lot lines.
3) All neighborhoods within a RM development shall have identifiable centers and edges.

(D) Village Mixed-Use District (VM and VM-CD)

(1) *Intent*
The Village Mixed-Use (VM) district is provided to allow for the location of shops, services, small workplaces, civic and residential buildings central to a neighborhood or grouping of neighborhoods and within walking distance of dwellings. High density residential development is encouraged to support the commercial uses within the VM district.

(2) *Permitted uses*
Uses permitted by right, uses with conditions, and uses permitted upon the issuance of a "special" permit are listed in the table of uses in Section 3.5.

(3) *Dimensional requirements and supplemental standards*
All lots shall meet the minimum dimensional requirements shown in Section 3.4.

(E) *Commercial Mixed District (CM and CM-CD)*

(1) *Intent*
The Commercial Mixed (CM) district is provided to allow for the location of retail, services, offices, and civic uses essential to the everyday needs of Town residents. Residential uses may be dispersed amongst these uses as part of mixed-use buildings or multi-family residential development.

(2) *Permitted uses*
Uses permitted by right, uses with conditions, and uses permitted upon the issuance of a "special" permit are listed in the table of uses in Section 3.5.

(3) *Dimensional requirements and supplemental standards*
All lots shall meet the minimum dimensional requirements shown in Section 3.4.

(G) *General Business District (GB and GB-CD)*

(1) *Intent*
The General Business district is established to accommodate heavy business and light industrial uses on individual tracts of land and within coordinated business/industrial parks. The General Business district may also accommodate higher density multi-family residential uses.

(2) *Permitted uses*
Uses permitted by right, uses with conditions, and uses permitted upon the issuance of a "special" permit are listed in the table of uses in Section 3.5.

(3) *Dimensional requirements and supplemental standards.*
All lots shall meet the minimum dimensional requirements shown in Section 3.4.

(F) *Town Center District (TC and TC-CD) (REPEALED)*
This district is repealed effective 07/10/2018. Any development approved prior to repeal shall follow the zoning regulations in place at the time of approval.

3.3. Overlay Districts

(A) *Manufactured Home Overlay District (MH)*

(1) *Intent*
The manufactured home overlay district is established to provide for existing and proposed neighborhoods which include or are proposed to include manufactured homes. The requirements herein are intended to insure compatibility with existing housing stock by imposing supplemental design standards for manufactured housing. It supplements the range of residential types permitted in the underlying district.

(2) *Permitted uses*
Uses permitted by right, uses with conditions, and uses permitted upon the issuance of a "special" permit are listed in the table of uses in section 3.5.

(3) *Dimensional requirements and supplemental standards*
a) The manufactured home overlay district may be applied to tracts zoned RM only. All lots shall meet the minimum dimensional requirements shown in section 3.4.
b) Existing manufactured home parks which are not subdivided into individual deeded lots may continue operation but may not be expanded except in conformance with this section and the subdivision regulations for the Town of Bermuda Run.
c) Manufactured homes shall be a minimum of fourteen feet wide and manufactured no earlier than July 13, 1994, and shall meet or exceed the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction.
d) All proposed developments shall be a minimum of two (2) acres and a maximum of 10 acres in size.

(B) *Gateway Corridor Overlay District (GC-O)*

(1) Intent
The primary purpose of the Gateway Corridor Overlay District is to make additional provisions for the preservation of scenic vistas, to enhance the compatibility and appearance of development, minimize future traffic congestion, and maintain a safe walkable community within the Planning and Zoning Jurisdiction of Bermuda Run along US Hwy 158, NC Hwy 801, and Interstate 40 and its ramps.

The purpose of the Gateway Corridor Overlay District includes the following:
a) To promote the general health, safety and welfare of the community.
b) To improve the efficient operation of traffic around the Town.

c) To promote safe and efficient movement within the Overlay District for persons using all modes of travel – motorized vehicles, bicycles and walking.
d) To create a sense of place that is aesthetically appealing and environmentally responsible.
e) To encourage innovative development projects that set standards for landscaping, community design and aesthetics.
f) To establish consistent and harmonious design standards for public improvements and private property development within the "GC-O" so as to unify the distinctive visual quality of Bermuda Run.

(2) Boundaries

The provisions of this Chapter apply to land parcels of record within the Planning and Zoning Jurisdiction of Bermuda Run being within 500 ft. from the edge of the right-of-way and referenced on the Bermuda Run Zoning Map, following road segments as of the date this ordinance is adopted. Hereafter, these road segments shall be referred to as the "Gateway Corridors":

a) U.S. Highway 158
b) NC Highway 801
c) Interstate 40 and its ramps

(3) Waivers

The Planning Board may grant a design waiver, in accordance with Section 11.11, to the requirements of this section and the maximum GC-O setback requirement set forth in Section 3.4 Table 2 for parcels or portions thereof, based on one or more of the following:

a) The property to be exempted does not have access to the Gateway Corridor and will not require access to the corridor when developed.
b) Due to site topography, development of the property to be exempted will not be visible from the corridor.
c) Due to location, size and shape of the property, development of the parcel under its current zoning and in conformity with the requirements of the GC-O would present a severe and unique hardship.

(4) Parking

a) In order to minimize the impact of glare and heat buildup, reduce impervious surface area, storm water run-off and the level of pollutants from non-point sources, no single use site, integrated center, business park or industrial park shall provide a total number of off-street parking spaces in excess of 120 percent of the minimum number off-street parking spaces required by Chapter 4 of this Ordinance.
b) All non-residential buildings should include an area for parking bicycles. All non-residential buildings should include an area for parking at least two (2) bicycles at a minimum rate of one bicycle space for every 5,000 square feet of gross floor area. This area may be a designated parking space within the parking lot near the building or an area outside the

parking lot adjacent to the building. The bike parking area must include a bike rack with locking area.

(5) Street Furnishings

Street furnishings, such as benches, planters, newspaper racks and waste receptacles shall be provided as approved by the Technical Review Committee and should be located in areas of high pedestrian activity, pedestrian route intersections, major building entrances and gathering places.

(C) *Master Plan Overlay (MP-O) -Conditional District Requirement*

(1) *Intent*

The Master Plan Overlay district is established for areas of the Town's jurisdiction for which the Comprehensive Plan provides a conceptual circulation and/or programming plan in order to ensure that due consideration is given the to the general recommended uses or internal circulation to provide for the orderly development of such area. No new development or expansion of existing buildings by greater than 20% shall occur within the Master Plan Overlay. New development and expansion of greater than 20% must receive Conditional District approval to remove the overlay in order to develop.

(2) *Permitted uses*

During the review of the Conditional District due consideration shall be given by the Planning Board and Town Council to the recommended uses shown in the conceptual plan set forth in the Comprehensive Plan. Such uses must be permitted by right or as a special use in the base zoning district requested in accordance with Section 3.5.

(3) Streets, Access Points, and Circulation

During the review of the Conditional District due consideration shall be given by the Planning Board and Town Council to the general circulation shown in the conceptual plan set forth in the Comprehensive Plan. Access points onto to state-maintained roads are subject to NCDOT approval.

3.4. Dimensional Requirements

Unless otherwise specified in this Section, all lots shall meet the dimensional standards of set forth in Tables 1 and 2 of this Section.

(A) *Street Frontage Required*

Any lot on which a building (or buildings) is to be erected or use is to be established such lot shall abut a public street with the following exceptions:

(1) Any lot for which a use or lot has been legally established prior to the effective date of this ordinance in accordance with provisions permitting establishment of use on a lot served by a private and exclusive recorded easement of at least 15 feet in width connecting said lot to a public street, may be used as if it abutted a street, provided that it is served by a driveway located on said easement.

(2) A development site consisting of one (1) or more legal lots of record which is developed under a coordinated, approved site-specific plan and which is accessed solely by driveways shall only be required to abut a public street along some portion of the development site the minimum distance of which shall be determined by the Town to be adequate for public and emergency vehicle access but which shall not be less than 35 feet.

(3) A multi-family, townhouse, condominium, or industrial development site consisting of one (1) or more legal lots of record which is developed under a coordinated, approved site specific plan may be permitted, on a case-by-case basis, to be served by a private street network and shall only be required to abut a public street along some portion of the development site the minimum distance of which shall be determined by the Town to be adequate for public and emergency vehicle access but which shall not be less than 35 feet.

(B) *Lot Size*

No building lot (development site), even though it may consist of one (1) or more adjacent lots of record, shall be reduced in size such that the requirements of this ordinance cannot be met, or the performance standards for building design cannot be respected. This prohibition shall not be construed to prevent the purchase, dedication, or condemnation of narrow strips of land for public utilities or street or sidewalk right-of-way purposes.

(C) *Yard Designation*

(1) On lots which abut more than one (1) street, the front of the lot shall be parallel to the more prominent street. Exceptions may be made to this rule by the Zoning Administrator based upon the arrangement of existing and proposed streets and drives and the orientation of buildings on adjoining lots. Where neither street is more prominent than the other, the Zoning Administrator shall decide which street shall be the front based upon these same criteria. Front

setbacks shall apply to any lot line that abuts a publicly dedicated right-of-way.

(2) Where multiple buildings are permitted on a single lot of record, each building shall generally front upon a pedestrian oriented street, either external or internal to the development; side and rear yard designations shall be determined on the basis of building orientation.

(3) On irregularly shaped lots, the location of required front, side, and rear yards will be determined by the Zoning Administrator. The determination will be based on the spirit and intent of this ordinance to achieve an appropriate spacing of buildings and orientation to the street(s).

(D) *Through Lots*

If both the front and rear yards of a lot abut public streets, then the rear building line shall respect the alignment of buildings on the back street while the front building line shall respect the alignment of buildings on the fronting street.

(E) *Height Limitation Exceptions*

(1) The height limitations of this section shall not apply to steeples, flagpoles, chimneys, water tanks, public utility poles and lines, skylights, roof structures for elevators, stairways, tanks, heating, ventilation and air-conditioning equipment, or similar equipment for the operation and maintenance of a building, and any device used to screen such structures and equipment.

(2) Telecommunication towers, where permitted, may exceed the height limit for structures when erected in accordance with this ordinance.

(3) When adjacent to a lot or lots located in a residential district, any part of a non-residential structure which extends above the height limit shall, at a minimum, be separated from adjacent residential lots by a distance equal to its height measured from the ground.

(F) *Structures and Uses Limited in Yards*

(1) No principal building or structure shall be located within any required setback or yard.

(2) No principal building or structure shall be located within any required buffer or screen.

(3) Permitted fences and walls, security gates, paths, walkways, mailboxes, utility poles, lighting fixtures, patios at grade, and similar features may be located in a required yard, so long as the sight triangle on corner lots is protected.

(4) Permitted signs may be located in an established front or side yard abutting a public street.

(5) Off-street parking areas, maneuvering areas for parking, and loading areas are prohibited in required yards. This restriction shall not apply to:

a) A driveway which crosses a required yard to provide access from a public street to a parking area; or

b) Driveways and parking areas for a detached or duplex residential dwelling; or

c) Plazas associated with civic buildings or campus quadrangles that have been designed and approved for occasional use as secondary parking areas; or

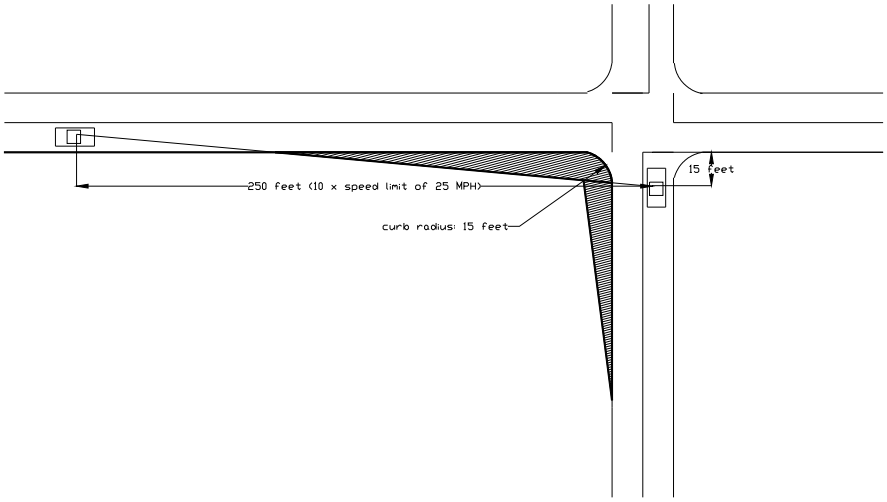
d) Yards included within specific streetscape plans adopted by the town council in which the plans include limited parking and access in adjacent yards; or

e) Front yards in the CM or GB districts which meet the requirements for front parking.

(6) Subordinate structures attached to single-family homes, such as decks, garages, porches, utility rooms, and similar features may extend into the required rear yard up to twenty-five percent of its depth, and may cover up to 20 percent of its area. Such extensions may not exceed 50 percent of the width of the dwelling at the rear building line.

(G) *Clear Sight Triangle at Intersections*

(1) A clear view at each corner of an intersection shall be maintained by establishing an unobstructed "sight triangle." The extent of the required sight triangle varies according to the speed limit of streets forming the intersection. For streets signed 35 MPH or greater, the area to be clear of view obstructions at unsignalized intersections is generally to be the triangular area formed by the point of intersection of street right-of-way lines and a point located along each right-of-way line at a distance of 35 feet from the point of intersection. For intersecting streets signed for less than 35 MPH, the shaded area in the figure below illustrates the area which must, in most instances, be clear of obstructions to driver visibility at unsignalized intersections. As indicated, the clear sight triangle will vary according to speed limit for traffic on the approaching street.



(2) No planting, structure, sign, fence, wall, man-made berm, or other obstruction to vision shall be installed, constructed, set out, or maintained so as to obstruct cross-visibility in the sight triangle between 30 inches and 72 inches above the level of the center of the intersection.

(3) The limitations of this section may be modified by the Zoning Administrator in the instances noted below, so long as adequate visibility is maintained relative to intended speed limit:
   a) Existing natural grades;
   b) Trees trimmed such that no limbs or foliage extend into the area between thirty and seventy-two inches above the level of the adjacent intersection;
   c) Fire hydrants, public utility poles, street markers, government signs, electrical junction boxes, and traffic control devices;
   d) The approved and intentional use of traffic calming techniques to reduce speed; these include, but are not limited to: a series of hill crests, neckdowns, intersection diverters, and curb bulbs.

(H) *Building Separation*

All detached principal structures in all districts shall preserve a minimum building separation of 10 feet. The requirement of the district or the existing pattern of building spacing along a street may require a greater separation or the provision of specified side yards.

(I) *Measuring Setbacks Along Certain Streets*

(1) Pursuant to North Carolina General Statutes 160A-306, the setback requirements for any lot which abuts a street as classified below shall be measured from the proposed right-of-way line as listed if the existing right-of-way is of lesser width, unless otherwise specified in the Winston-Salem

Metropolitan Planning Organization (MPO) Comprehensive Transportation Plan (CTP), adopted pursuant to NCGS 136-66.2.

Street Classification	**Distance from Street Center Line to "Proposed Right of-Way Line."**
Freeway or Expressway	125 feet
Major Arterial	50 feet
Minor Arterial	35 feet
Collector	30 feet

(2) No permanent structures or parking areas shall be located within the proposed right-of-way area. All required setbacks, streetyards, and buffer yards shall be measured from the proposed right-of-way line. The area between the existing right-of-way and the proposed right-of-way line may not be used to satisfy any minimum open space, lot size, or pervious surface requirement, or any other minimum requirements imposed by this ordinance.

Table 1. General Requirements

District	Maximum Residential Density (units per acre)[3]	Minimum Non-Residential Lot size (sq feet)[3]	Minimum Lot Width (feet) [1]	Minimum Public Street Frontage (feet)	Maximum Building Height (feet)[2]
OS	1 – 3 See section 3.2.(A)	20,000	120 unless in a cluster subdivision - see section 3.2.(A)	25	60
CR	4	20,000	85	25	60
RM	8	none	50	25	60
VM	15	none	25	25	60
CM	8	none	50	25	60
GB	15	none	50	25	60
MH-O	same as the underlying district	none	same as the underlying district	25	same as the underlying district
GC-O	same as the underlying district	none	same as the underlying district	25	same as the underlying district
MP-O	subject to Conditional District standards	subject to Conditional District standards	subject to Conditional District standards	subject to Conditional District standards	subject to Conditional District standards

[1] Minimum lot width shall not apply to townhouse developments. No lot width below 60 feet shall have a driveway directly accessing the fronting street. All driveways for lots of less than 60 feet shall access rear-loaded alleyways.

[2] No single-family residential building shall exceed 45 feet or two (2) stories plus a walk-out basement and no other building shall exceed five (5) stories.

[3] For areas lying within a state regulated watershed, maximum residential density and non-residential development built-upon limits shall be as established within the watershed regulations listed in section 10.1.

Table 2. Setback Requirements.

District	Use	Principal Structure Setbacks[1] (in Feet)					
		Front[2]		Side[3, 5]		Rear	
		Min.	Max.	Min.	Max.	Min.	Max.
OS	Residential	40	none	15	none	30	none
	Non-residential	40	none	15	none	30	none
CR	Single-family residential	30	none	10	none	20	none
	Townhouse residential	10	none	0-interior 5-exterior	none	0-interior 5-exterior	none
	Multi-family residential	10	none	0-interior 5-exterior	none	0-interior 5-exterior	none
	Progressive Care Community	10-public street 0-private street	none	0-interior 5-exterior	none	0-interior 5-exterior	none
	Non-residential	40	none	15	none	30	none
RM	Residential	10	none	0-interior 5-exterior	none	5	none
	Non-residential	10	none	0-interior 5-exterior	none	15	none
VM	Residential	10	none	0	none	0	none
	Non-residential	0	none	0	none	15	none
CM[4]	Residential	10	none	0	none	0	none
	Non-residential	0	none	0	none	15	none
GB[4]	Lots interior to district	10	none	0	none	10	none
	Lots exterior to district	30	none	30	none	30	none
MH-O	Residential	Same as underlying district					
	Non-residential	Same as underlying district					
GC-O	Residential	Same as underlying district					
	Non-residential	Underlying district	100	Same as underlying district			
MP-O	Subject to Conditional District standards	Subject to Conditional District standards	subject to Conditional District standards	subject to Conditional District standards			

1. For existing subdivisions of land, the setbacks shown on the recorded plat shall prevail. If there are no setbacks on the recorded plat, then footnote #2 shall determine the front and side setbacks of a property, and the minimum rear setback shall be established at the average rear setback of buildings on adjacent lots. It shall be the responsibility of the developer to ensure that any applicable restrictive covenants are met.
2. Minimum front setbacks established shall apply unless otherwise provided for in Section 3.4 (I). Where the standards says "0" or "none", new developments shall specify a build-to line or zone for all structures that will create an acceptable building wall pattern for the street. The front or side yard requirements for the various districts shall not apply to any lot where the front or side yard setbacks on neighboring developed lots are less than the minimum required front or side yard. This applies only if the developed lots are located wholly or in partially within 200 feet of each side of such lot and within the same block and zoning district and fronting on the same street or road as such lot. In such cases, the front or side yard on this lot may be less than the required front or side yard, but not less than the average of the existing front or side yards on the developed lots, provided that the front or side yard on such lot shall not be less than ½ of the required front or side yard setback.
3. Minimum side yard~~s~~ setbacks on corners abutting public streets shall meet the minimum front setback of the district.
4. Minimum rear and side setbacks shall be increased 20 feet if abutting a legal, conforming residential use.
5. Where the standards refer to "interior", this is the minimum setback between townhouse or multi-family units. Where the standards refer to "exterior", this is the minimum setback from property lines of adjacent development.

3.5. Table of Uses

The following table lists uses permitted in each zoning district by a) issuance of a zoning permit from the Zoning Administrator with or without conditions; and b) issuance of a special use permit (abbreviated S.U.P. in the legend included at the top of the table) from the board of adjustment. The table also denotes in which districts certain uses are not permitted and where the uses permitted within an overlay district are determined by the uses permitted in the underlying district. For the purposes of interpreting the table, the zoning districts are abbreviated as listed in Section 3.1 and are repeated as follows:

District Abbreviation	District Name	Classification
OS & OS-CD	Open Space district	Residential
CR & CR-CD	Club Residential district	Residential
RM & RM-CD	Residential Mixed district	Residential
VM & VM-CD	Village Mixed-Use district	Mixed-use
CM & CM-CD	Commercial Mixed district	Mixed-use
GB & GB-CD	General Business District	Business
MH-O	Manufactured Home Overlay district	Residential Overlay
GC-O	Gateway Corridor Overlay district	Mixed-Use Overlay
MP-O	Master Plan Overlay	Subject to Conditional District

Table 3. Table of Uses

P = Permit from Zoning Administrator S = S.U.P. from Board of Adjustment P/C = Permit from Zoning Administrator; use must meet additional conditions S/C = S.U.P from Board of Adjustment; use must meet additional conditions "-" = Not permitted "U" = Uses determined by underlying district	DISTRICTS								Additional Conditions
	RESIDENTIAL			OVERLAY		MIXED-USE		BUS.	
USES	**OS**	**CR**	**RM**	**MH-O**	**GC-O**	**VM**	**CM**	**GB**	
AGRICULTURAL USES									
Agricultural industry	-	-	-	-	-	-	-	-	
Agriculture, bona fide farms, including processing or sale of products grown on the same zoning lot, excluding agricultural industry	P/C	-	-	U	-	-	-	-	9.5
Agriculture associated with permitted micro-breweries and micro-distilleries								P/C	9.36
Agriculture associated with permitted wineries	S								9.36
Agriculture implement sales and service	P/C	-	-	U	-	-	-	P/C	
Livestock sales and auctions	-	-	-	-	-	-	-	-	
COMMERCIAL USES									
Adult establishments	-	-	-	U	-	-	-	P/C	9.4
Amusements, commercial, indoor	-	-	-	U	-	-	P/C	P/C	9.6
Amusements, commercial, outdoor	-	-	-	U	-	-	-	P/C	9.6
Arts and crafts studio	S	-	S	U	U	P	P	P	
Automatic teller machines (ATMs)	-	-	P/C	U	U	P/C	P/C	P	9.8
Banking and financial services	-	-	-	U	U	P	P	P	
Bed and breakfast establishment	S/C	S/C	S/C	U	U	P/C	P/C	-	9.10
Broadcast studios, radio and television	-	-	-	U	-	-	-	P/C	9.12
Building materials supply	-	-	-	U	-	-	-	P/C	9.42
Car wash	-	-	-	U	U	-	P/C	P/C	9.13
Clubs, private	-	S/C	-	U	U	P/C	P/C	-	9.18
Construction vehicle and heavy machinery sales, repair, leasing, maintenance, and storage	-	-	-	U	-	-	-	P/C	9.42
Copy shops and business service centers	-	-	-	U	U	P	P	P	
Dry cleaning and laundry services	-	-	-	U	U	P	P	P	
Electronic gaming operation	-	-	-	-	-	-	-	-	
Farmers market	S/C	-	-	U	U	P/C	P/C	P/C	9.24
Feed and seed stores	S/C	-	-	U	U	-	-	P/C	9.42
Flea markets	-	-	-	-	-	-	-	-	
Food and beverage store	-	-	-	U	U	P	P	P	
Fuel dealer	-	-	-	-	-	-	P/C	P/C	9.26
Fuel station	-	-	-	U	U	P/C	P/C	P/C	9.27
Home occupation	P/C	P/C	P/C	U	P/C	P/C	P/C	-	9.31
Hotel	-	-	-	U	U	P	P	P	

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	RESIDENTIAL			OVERLAY		MIXED-USE		BUS.	
USES	OS	CR	RM	MH-O	GC-O	VM	CM	GB	
Junkyard	-	-	-	-	-	-	-	-	
Kennel	P/C	-	-	U	U	-	-	P/C	9.33
Laundry and linen supply service	-	-	-	U	P	P	P	P	9.34
Micro-brewery, -winery, & -distillery	-	-	-	U	U	P/C	P/C	P/C	9.36
Motel	-	-	-	U	U	-	-	P	
Motor vehicle paint or body shop	-	-	-	U	-	-	-	P	
Motor vehicle repair and maintenance	-	-	-	U	U	-	-	P/C	9.37, 9.42
Motor vehicle sales, rental and leasing	-	-	-	U	U	-	-	P/C	9.38
Motor vehicle storage yard	-	-	-	-	-	-	-	-	
Nursery, lawn and garden supply store, retail	P/C	-	-	U	U	-	P/C	P/C	9.39, 9.42
Outdoor display and sales of merchandise	-	-	-	U	U	P/C	P/C	P/C	9.41
Parking lot or deck	-	-	P/C	U	U	P/C	P/C	P/C	9.43
Pawn shop	-	-	-	-	-	-	-	-	
Raceways and drag strips	-	-	-	-	-	-	-	-	
Restaurant, with drive-through service	-	-	-	U	U	-	P/C	P/C	9.50
Restaurant, without drive-through service	-	-	-	U	U	P	P	P/C	9.50
Retail, general	-	-	-	U	U	P	P	P	
Retail, minor passenger vehicle service	-	-	-	U	U	-	P	P	9.27
Retail, non-store	-	-	-	U	U	-	P	P	
Retail store, large	-	-	-	U	U	-	S/C	-	9.51
Retail store medium	-	-	-	U	U	P/C	P/C	P/C	9.51
Retail store, small	-	-	-	U	U	P/C	P/C	P/C	9.51
Riding stables	P	-	-	U	-	-	-	-	
Shopping center, large	-	-	-	U	U	S	S	S	
Shopping center, medium	-	-	-	U	U	P	P	P	
Shopping center, small	-	-	-	U	U	P	P	P	
Shooting range (indoor)	-	-	-	-	U	-	-	S	
Shooting range (outdoor)	-	-	-	-	-	-	-	-	
Studios (art, dance, music, or photographic)	S	-	S	U	U	P	P	P	
Theater, indoor	-	-	-	U	U	P	P	-	
Theater, drive-in	-	-	-	-	-	-	-	-	
Vacation rental residence	-	-	-	-	-	-	-	-	
Veterinary services	S/C	-	-	U	U	P/C	P/C	P/C	9.58

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	RESIDENTIAL			OVERLAY		MIXED-USE		BUS.	
USES	**OS**	**CR**	**RM**	**MH-O**	**GC-O**	**VM**	**CM**	**GB**	
INDUSTRIAL USES									
Abattoirs	-	-	-	-	-	-	-	-	
Asphalt and concrete plant and contractors	-	-	-	-	-	-	-	-	
Auto wrecking yards, building material salvage yards, general salvage yards, scrap metal processing yards	-	-	-	-	-	-	-	-	
Building contractors, general (excluding professional offices)	-	-	-	U	-	-	-	P/C	9.42
Building contractors, heavy (excluding professional offices)	-	-	-	U	-	-	-	P/C	9.42
Bulk storage of petroleum products	-	-	-	U	-	-	-	-	
Dry cleaning and laundry plants	-	-	-	U	-	-	-	P	9.23
Feed and flour mills	-	-	-	-	-	-	-	-	
Freight Terminals	-	-	-	U	-	-	-	P/C	9.25
Laboratory (analytical, experimental testing, research and development)	-	-	-	U	U	-	-	P	
Laboratory, medical or dental	-	-	-	U	U	P	P	P	
Landfill, land clearing and inert debris	-	-	-	-	-	-	-	-	
Landfill, construction and demolition	-	-	-	-	-	-	-	-	
Landfill, sanitary	-	-	-	-	-	-	-	-	
Manufacturing A	-	-	-	U	-	-	-	P	
Manufacturing B	-	-	-	-	-	-	-	S	
Manufacturing C	-	-	-	-	-	-	-	-	
Meat packing plant	-	-	-	-	-	-	-	-	
Motor vehicle dismantling and wrecking yard	-	-	-	-	-	-	-	-	
Printing or binding	-	-	-	U	U	-	-	P	
Quarries or other extractive industries	-	-	-	-	-	-	-	-	
Saw mills	-	-	-	-	-	-	-	-	
Storage and salvage yard	-	-	-	-	-	-	-	-	
Tire recapping shops	-	-	-	-	-	-	-	-	
Warehousing (excluding self-storage)	-	-	-	U	-	-	-	P/C	
Warehousing, self-storage	-	-	-	U	U	P/C	P/C	P	9.59
Waste incineration	-	-	-	-	-	-	-	-	
Waste transfer station, recycling only	-	-	-	U	-	-	-	S/C	9.60
Wholesale trade A	-	-	-	U	-	-	-	P	
Wholesale trade B	-	-	-	-	-	-	-	-	
Wine center	-	-	-	U	U	P/C	P/C	P/C	
Winery	S	-	-	U	U	-	-	S	

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	RESIDENTIAL			OVERLAY		MIXED-USE		BUS.	
USES	OS	CR	RM	MH-O	GC-O	VM	CM	GB	
GOVERNMENTAL & INSTITUTIONAL USES									
Childcare institution	P/C	-	S/C	U	U	P/C	P/C	-	9.15
Church or religious institution, neighborhood scale	P	-	S	U	U	P	P	P	9.16
Church or religious institution, community scale	P/C	-	S/C	U	U	P/C	P/C	P/C	9.16
Civic, fraternal, cultural, and community facilities, not otherwise listed	P/C	-	S/C	U	U	P/C	P/C	P/C	9.17
Club or lodge, private non-profit	P/C	-	S/C	U	U	P/C	P/C	P/C	9.18
College or university	P/C	-	-	U	U	P/C	P/C	P/C	9.19
Community center	P/C	P/C	P/C	U	U	P/C	P/C	P/C	9.20
Congregate care facility	S/C	S/C	S/C	U	U	P/C	P/C	-	9.40
Correctional institution	-	-	-	-	-	-	-	-	
Daycare center	P/C	-	S/C	U	U	P/C	P/C	P/C	9.15
Daycare home	P/C	-	P/C	U	U	P/C	P/C	-	9.21
Emergency shelters	P	P	P	U	U	P	P	P	
Funeral homes	-	-	-	U	U	P/C	P/C	P/C	
Government offices, courthouses, and similar governmental facilities not otherwise listed	P	-	S	U	U	P	P	P	
Group care facility	-	-	-	-	-	-	-	-	
Group homes A	P/C	P/C	P/C	U	U	P/C	P/C	P/C	9.28
Group homes B	S/C	-	S/C	U	U	P/C	P/C	P/C	9.28
Habilitation facility, A	P/C	-	S/C	U	P/C	P/C	P/C	P/C	9.29
Habilitation facility, B	-	-	-	U	U	P/C	P/C	P/C	9.29
Institutional uses, not otherwise listed	S	-	-	U	U	S	S	P	
Library, public	P	-	S	U	U	P	P	P	
Museum or art gallery	S	-	S	U	U	P	P	P	
Nursing care institution	S/C	S/C	S/C	U	U	P/C	P/C	-	9.40
Post office	-	-	-	U	U	P	P	P	
Postal facility, neighborhood	P	P	P	U	U	P	P	P	
Progressive care community	P/C	P/C	P/C	U	U	P/C	P/C	P/C	9.45
Public safety stations including police, fire, and rescue services	P	P	P	U	U	P	P	P	
Public works facility	S	-	-	U	-	-	-	P	
Schools, elementary and secondary, including school stadiums	P/C	S/C	S/C	U	U	P/C	P/C	P/C	9.52
Schools, vocational or professional	S/C	-	-	U	U	P/C	P/C	P/C	9.53

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	RESIDENTIAL			OVERLAY		MIXED-USE		BUS.	
USES	**OS**	**CR**	**RM**	**MH-O**	**GC-O**	**VM**	**CM**	**GB**	
Telecommunication Towers/Wireless Support Structures	S/C	-	-	U	-	-	-	S/C	9.54
Utilities, above ground	P/C	P/C	P/C	U	U	P/C	P/C	P/C	9.56
Utilities, below ground	P	P	P	U	U	P	P	P	
Utility service area	P/C	P/C	P/C	U	U	P/C	P/C	P/C	9.57
Yard waste composting	S	-	-	U	-	-	-	P	
PROFESSIONAL OFFICE & MEDICAL USES									
Clinics	-	-	-	U	U	P	P	P	
Health services, miscellaneous	-	-	-	U	U	P	P	P	
Hospital	-	-	-	U	U	P/C	P/C	P/C	9.32
Medical and surgical offices	-	-	S	U	U	P	P	P	
Offices, professional	-	-	S	U	U	P	P	P	
Optical services	-	-	S	U	U	P	P	P	
Orthopedic supply houses	-	-	-	U	U	P	P	P	
Pharmacy	-	-	-	U	U	P	P	P	
Arenas	S/C	-	-	U	U	-	S/C	S/C	9.7
Banquet & events facilities, reception halls	P/C	S/C	S/C	U	U	P/C	P/C	P/C	9.9
Golf courses and driving ranges, public or private	S/C	S/C	P/C	U	U	P/C	P/C	P/C	9.46
Open space (see Section 10.6)	P	P	P	U	U	P	P	P	10.6
Public parks	P	-	P	U	U	P	P	P	
Recreational amenity centers, neighborhood	P/C	S/C	P/C	U	U	P/C	P/C	P/C	9.46
Recreation services, indoors	S/C	-	S/C	U	U	P/C	P/C	P/C	9.47
Recreation services, outdoors	P/C	S/C	S/C	U	-	P/C	P/C	P/C	9.47
Recreational vehicle park	-	-	-	-	-	-	-	-	
RESIDENTIAL USES									
Accessory dwelling unit, attached	P/C	P/C	P/C	U	U	P/C	P/C	-	9.3
Accessory dwelling unit, detached	P/C	P/C	P/C	U	U	P/C	P/C	-	9.3
Boarding or rooming house	-	-	-	U	U	P/C	P/C	-	9.11
Dormitory	S/C	-	-	U	U	P/C	P/C	P/C	9.22
Manufactured home, Class A	-	-	-	P/C	-	-	-	-	9.35
Manufactured home, Class B	-	-	-	-	-	-	-	-	
Manufactured home, temporary	-	-	-	-	-	-	-	-	
Manufactured home park	-	-	-	-	-	-	-	-	
Manufactured home subdivision	-	-	-	P	-	-	-	-	
Residential, duplex	P/C	-	P/C	U	U	P/C	P/C	-	
Residential, multi-family	-	S/C	S/C	U	U	P/C	P/C	P/C	9.49

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	RESIDENTIAL			OVERLAY		MIXED-USE		BUS.	
USES	**OS**	**CR**	**RM**	**MH-O**	**GC-O**	**VM**	**CM**	**GB**	
Residential, single-family	P	P	P	U	U	P	P	-	
Residential, townhouse	-	P/C	P/C	U	U	P/C	P/C	-	
SERVICE USES									
Cemetery	P/C	-	-	U	U	-	-	-	9.14
Personal services	-	-	S	U	U	P	P	P	
Services A, business	-	-	-	U	U	P	P	P	
Services B, business	-	-	-	U	-	-	-	P/C	9.42
Transit stop	-	-	-	-	-	P	-	P	
Transit terminal	-	-	-	-	-	P	-	P	
MISCELLANEOUS USES									
Accessory communication antennae	P/C	P/C	P/C	U	U	P/C	P/C	P/C	9.1
Accessory structures and uses	P/C	P/C	P/C	U	U	P/C	P/C	P/C	9.2
Airports	-	-	-	-	-	-	-	-	
Fairgrounds	-	-	-	-	-	-	-	-	
Hazardous waste management facility	-	-	-	-	-	-	-	-	
Helistop	-	-	-	U	U	-	P/C	P/C	9.30
Outdoor storage associated with permitted uses	P/C	-	-	U	U	-	S/C	P/C	9.42
Private landing strips	P	-	-	U	-	-	-	P	
Recycling center	-	-	-	U	-	-	-	P/C	9.48
Service kiosks	-	-	-	U	U	P/C	P/C	P/C	9.8
Temporary seasonal uses and structures, including seasonal markets	P/C	-	-	U	U	P/C	P/C	P/C	9.55

CHAPTER 4. DESIGN STANDARDS

4.1 Purpose and Applicability

The purpose of this Chapter is to provide site and building design standards and to:

- Ensure that new development, renovations, and reconstructions are designed, sized, and sited to complement the area in which they are located and the character of the town in general;
- Minimize traffic hazards and situations which endanger public safety;
- Protect existing development and property values through the promotion of high standards of design and compatibility; and
- Provide for a high quality of life for our citizens by promoting a variety of housing styles, transportation choices, and well-planned parks and open spaces;

The standards of this Chapter shall apply in all zoning districts unless otherwise noted to the following:

- New construction
- Expansions of greater than 20% of the existing building
- Changes of use

4.2 Design Standards for Buildings

The purpose of this Section is to ensure architectural compatibility and the establishment and preservation of architectural character throughout the Town. Enumerated in the following sections are general requirements for all buildings as well as requirements specific to building use, typology, and location.

4.2.1 General Guidelines for All Buildings

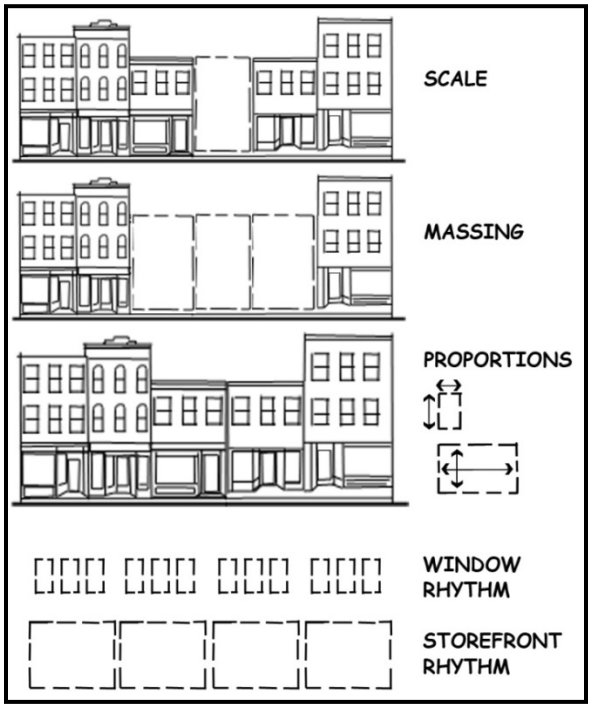


FIGURE 4.1: SCALE, MASSING, PROPORTION, & RHYTHM

(A) Only one principal building and its customary accessory building(s) may be erected on any lot, except that multiple buildings may be erected on a single lot as permitted by use and district regulations.

(B) Adjacent buildings shall be compatible in regards to scale, massing, proportion, rhythm, and materials.

(C) The primary entrance shall be oriented on the front façade facing the primary public street, except that buildings interior to a development may be arranged to front a common courtyard, parking area, driveway, or private street.

(D) The front façade of the principal structure shall be parallel to the front lot line and street. Any side of a building that faces an arterial or collector street that is not screened from view by a berm shall be treated as a front façade.

(E) Additions to existing non-residential and multi-family residential buildings shall match the materials of the building. If the existing building is constructed of non-conforming materials, then the addition shall incorporate a permitted material into the design of the addition and the front façade.

(F) Manufactured housing shall not be used as permanent structures except in the MH district.

(G) Modular buildings shall not be used as permanent structures unless such are placed on a permanent masonry foundation and meet all of the other design standards for buildings in the district in which they are located.

(H) Prominently visible roof-mounted mechanical or utility equipment shall be screened. The method of screening or painting shall be architecturally integrated with the structure in terms of materials, color, shape and size. Roof-mounted equipment shall be located out of the line of sight, where feasible.

4.2.2 Multi-family Residential Buildings

These requirements shall apply to all new residential construction and redevelopment.

(A) Wall Materials

(1) Exterior walls of multi-family residential buildings shall be at least 50% brick, stone, or other materials similar in appearance and durability. Vinyl siding, cast concrete, stucco, and wood may be used as minority elements or accent materials on walls that are visible from the public street provided that they do not compose greater than 50% of the façade.

Mostly Brick and Stone with Vinyl Accents

All Vinyl Siding

(2) Two (2) wall materials may be combined horizontally on one façade. The heavier material should be below.

(B) Roofs

(1) Roof materials shall be asphalt shingles, standing seam metal, slate, tile, or similar materials.

(2) The primary roof of a multi-family residential building shall be pitched and shall have a slope of between 4:12 and 12:12. Secondary roofs may be flat and shall have a parapet wall with a cap.

(3) Architectural elements such as height variations, dormers, cupolas, towers, and other similar elements shall be incorporated into the roof design in order to add visual interest to large expanses of roof area that are visible from a public street.

(4) Roofs shall be in scale with the building and shall have an overhang of nine (9) inches or more to facilitate proper water run-off.

Proportional roof with variation and overhang

Shallow roof with no variation or side overhang

(C) Building Facades

(1) Multiple-car garages on the front façade of any multi-family dwelling unit should utilize separated individual doors.

Single-Car Garage on Front Facade

Two-Car Garage on Front Facade

(2) Wall and roof articulations shall be designed into all multi-family residential buildings not less than every 40 feet along a building façade.

With Wall and Roof Articulation

No Wall and Roof Articulation

(3) Exterior stairs and open circulation corridors for multi-family residential structures shall not be located on the front façade.

4.2.3 Non-residential & Mixed-Use Buildings

(A) Materials

(1) Front facades and exterior walls visible from the public right(s)-of-way shall be at least 75% brick or stone. Brick and stone shall not be painted. Vinyl siding, cast concrete, stucco, exterior insulation and finishing systems (EIFS), wood, and fiber cement board may be used on building walls not visible from a public street or as minority elements or accent materials on walls that are visible from the public street provided that they do not compose greater than 25% of the façade. Materials that are fabricated to have the same appearance, texture, and durability as a primary building material shall be permitted, unless otherwise noted. All other materials not expressly permitted are prohibited.

(2) Two (2) wall materials may be combined horizontally on one façade. The heavier material should be below.

(3) All accessory buildings shall be complementary in appearance and architecture to the principal structure.

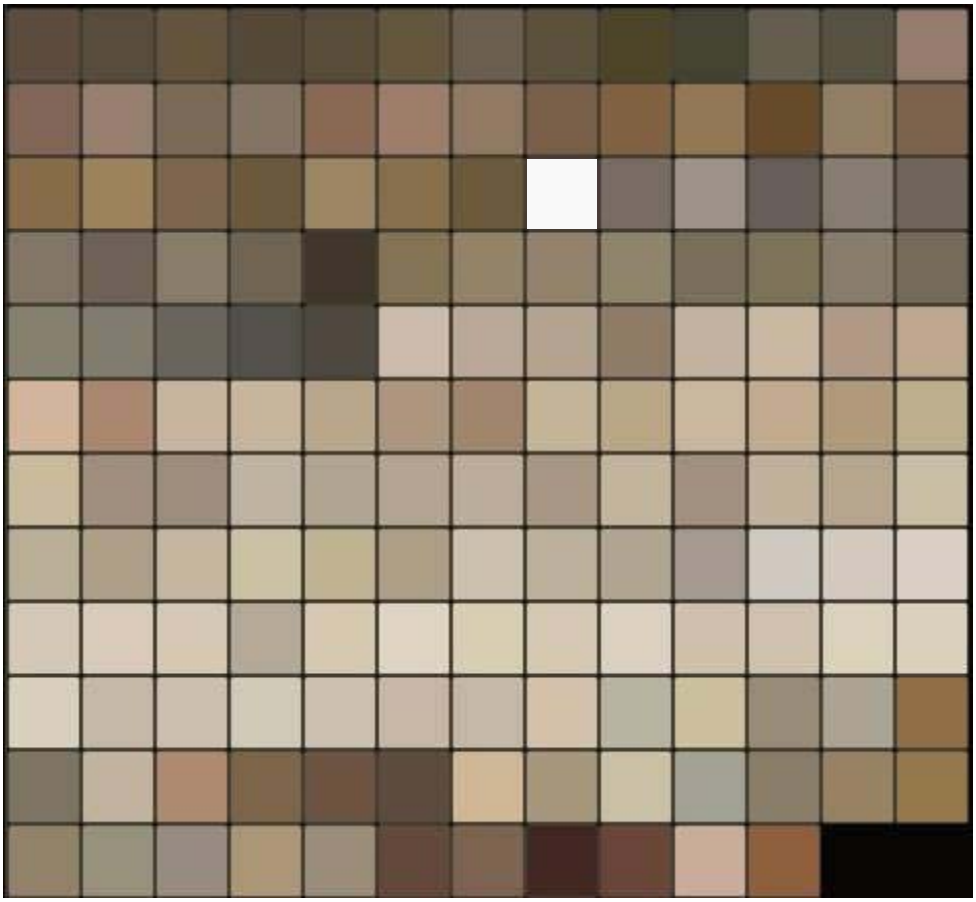
Brick Facade

Standard Concrete Block and Metal Facades

(B) Color

(1) Wall colors shall be muted, white, earth tone, or neutral colors (See Figure 4.2). The use of fluorescent or neon colors are prohibited.

FIGURE 4.2: MUTED, WHITE, EARTH TONE, NEUTRAL COLORS



Earth tone, Neutral Colors

High-intensity Colors

(2) Roof colors shall be variations of black, brown, bronze, or copper, unless the site is on the National Register of Historic Places and is complying with the Secretary of Interior Standards.

Variations of black, brown, bronze or copper

Other colors including red, blue, & green

(3) Variations in color tone are encouraged in order to articulate entryways, architectural features and public amenities so as to give greater recognition to these features.

(4) Color palettes shall result in a unified development but avoid repetitiveness. A maximum of three (3) colors may be used on the exterior of any façade plus one (1) additional color for trim or cornice work.

(5) These standards do not apply to signs or awnings which may be any color except fluorescent or neon.

(C) Roofs

(1) Pitched roofs shall be simple hip, shed or gable forms. Mansard roofs are prohibited. Pitched roofs should be clad in standing seam metal, slate, architectural asphalt shingles, or similar material.

(2) Pitched roof forms shall utilize eaves which overhang the building wall a minimum of 12 inches.

(3) Pitched roofs greater than 50 feet in length shall include changes in form or height that align with the modulation of the building wall in accordance with Subsection (D) (1).

(4) Pitched roofs for one-story buildings shall have a slope of between 4:12 and 8:12. Pitched roofs for one-and-a-half (1 ½) or multiple story buildings shall have a slope of between 6:12 and 12:12.

(5) Flat roofs and roof pitches of less than 4:12 shall incorporate a parapet wall on all sides of the building. Parapet walls should have decorative cornices or caps.

(6) Parapet walls exceeding 100 feet in length along the primary façade(s) of a building shall include at least one pitched roof element. Such minor pitched roof element(s) shall occupy a minimum of 10% of the width of the building façade.

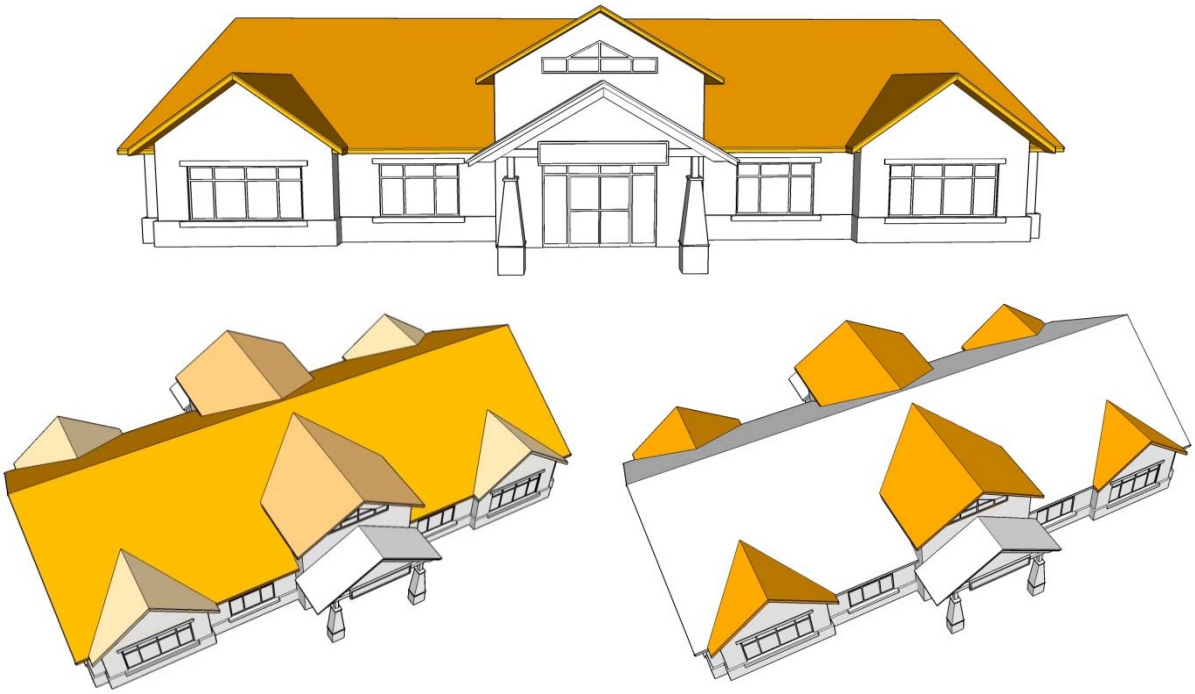
(7) Parapet walls on primary facades exceeding 50 feet in length shall contain at least one (1) change in height of at least three (3) feet, through the use of a stepped wall or the inclusion of a minor pitched roof form.

(8) Parapet walls may not exceed 10 feet in height at any point along the wall.

(9) Roof lines shall be varied to reduce the scale of structures and to add visual interest. Architectural embellishments such as dormers, cupolas, towers, and other similar elements shall be incorporated into roof design in order to add visual interest to large expanses of roof area that are visible from a public street.

(10) The use of solar panels to utilize solar energy generation for non-residential uses is encouraged. Solar panels located on flat roofs shall be fully screened by the parapet wall. Solar panels on pitched roofs shall not be located on the roof surface of the front façade. A maximum of 50% or 800 square feet, whichever is less, of the pitched roof surface area of building sides may be covered by solar panels. Solar panels shall not project at any point more than one (1) foot from the surface of the roof. Solar panels shall not contrast with the color of the roof surface. See Section 9.2 (H) for additional standards.

FIGURE 4.3: ROOF FORM



The illustrations above demonstrate proper use of a pitched roof on a modulated building wall. As the illustration shows, the pitched roof form is enhanced with minor pitched roof elements and changes in height that correspond to changes in in the base wall plane.

The illustration above demonstrates the proper inclusion of minor pitched roof forms on a building with a parapet wall.

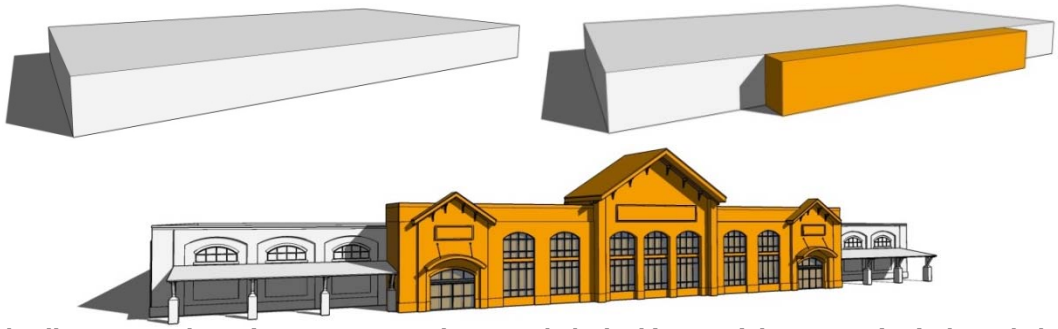
Continuous parapet

Non-continuous false front parapet

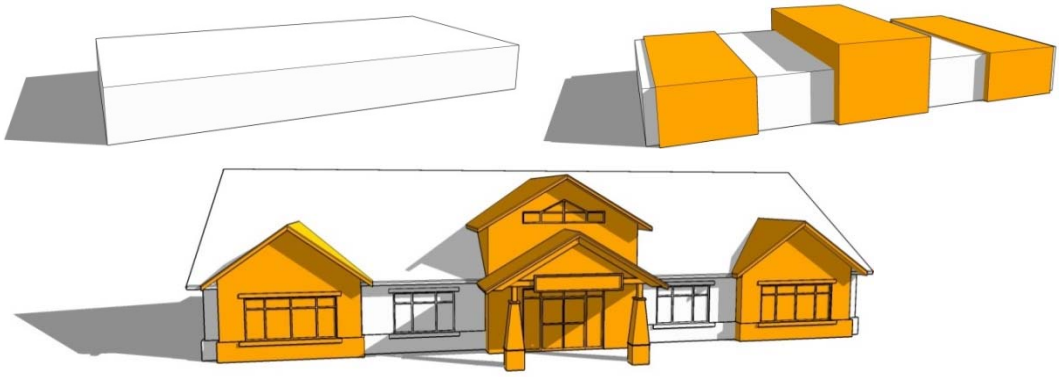
(D) Building Facades

(1) Facades greater than 25 feet in length should incorporate recesses and projections from the base wall plane along at least 35% of the length of the façade. Projections or recessions used to meet this requirement shall project or recede a minimum of one (1) foot from the base wall plane.

FIGURE 4.4: BUILDING MODULATION



The illustrations above demonstrate compliance with the building modulation standards through the use of a single projection from the base wall plane.



The illustrations above demonstrate compliance with the building modulation standards through the use of multiple projections from the base wall plane

Façade with Recesses & Projections

Façade without Recesses & Projections

(2) Buildings shall be vertically articulated by using a minimum of three (3) techniques such as the following, or by an equally effective method that achieves the stated goal:

(a) Using different colors of materials along the vertical wall plane, with darker colors used on lower surfaces and lighter colors used on higher surfaces

(b) Projecting the base of the building outward from the façade to create an architecturally distinct ledge along the base

(c) Recessing upper stories on multi-story buildings

(d) On multi-story buildings, using features that project perpendicularly to the building wall to divide the base of the building from upper stories

(e) Using a pitched roof form over the entire structure

(f) Including minor pitched roof forms on buildings with parapet walls

(g) Using stepped parapet walls

(h) Providing towers or similar features that extend vertically above the top of the building wall

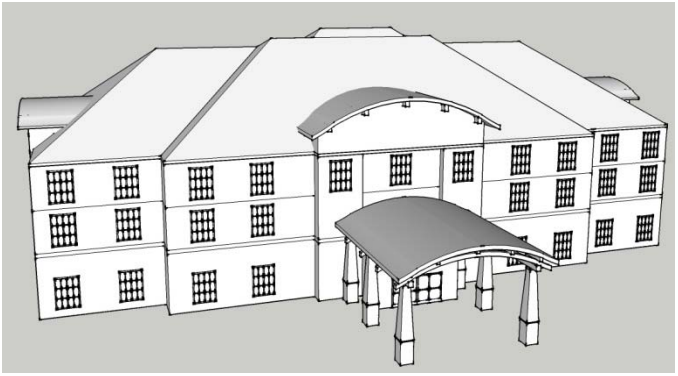
(i) Varying the height of different portions of a building

(j) Using tall windows, particularly when coupled with an arched frame at the top

(k) Using distinct masonry patterns or inlays that extend vertically along the building wall

(l) Using pilasters or engaged columns that extend vertically along the building wall

FIGURE 4.5: VERTICAL ARTICULATION



(3) Ground floor building walls shall be articulated in a manner that provides visual interest and emphasizes the human scale by using one (1) or more of the below referenced techniques, or by an equally effective method that achieves the stated goal. A minimum of 75% of the width of the horizontal wall plane of the front façade(s) shall contain articulating features. A minimum of 50% of the width of the horizontal wall plane of secondary building walls shall contain articulating features. Features used to satisfy these requirements shall not be separated by a gap wider than 10 feet between the outer edges of each individual feature.

(a) Awnings

(b) Trellises

(c) Arcades

(d) Recessed storefronts

(e) Arbors

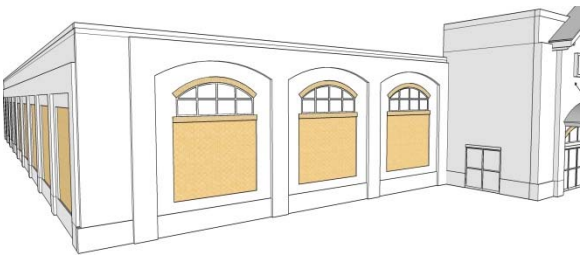
(f) Porticos

(g) Decorative masonry patterns

(h) Decorative metalwork

(i) Decorative inlays of brick, masonry, wood, stone or tile

FIGURE 4.6: HORIZONTAL ARTICULATION



These illustrations demonstrate how individual features provide horizontal articulation on buildings. The highlighted features include awnings, an arcade, and decorative inlayed brick.

(4) Primary customer entrances shall be clearly defined by distinct architectural features. Each primary entrance shall be defined by a minimum of two (2) of the following features, or by an equally effective method that achieves the stated goal.

(a) Awnings or porticos

(b) Recesses/projections of the building wall

(c) Arcades

(d) Raised corniced parapets over the entry

(e) Pitched roof forms

(f) Arched architectural features

(g) Display windows

(h) The use of cladding materials around the entrance that are visually distinct from other materials on the building wall.

(i) Masonry, tile, metal or glass inlays around the entrance.

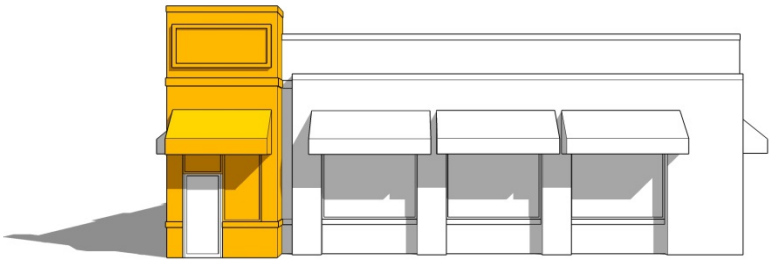
(j) Columns or similar vertical features

(5) A clear visual division shall be maintained between street level and upper level floors. Buildings with uses serving the public shall have recessed or covered doorways at each public building entrance.

(6) Additions and new construction within non-residential and mixed use developments shall maintain the existing building wall pattern by extending the building front or similar design feature from side lot line to side lot line.

FIGURE 4.7: BUILDING ENTRANCES

The illustrations above highlight the elements that emphasize the primary entrance into the building. These elements include a portico, projection from the base wall plane, and projecting gable roof forms.



(E) Windows

(1) No building front shall remain unbroken or unpierced by a window or functional general access doorway for more than 25 feet.

(2) Windows and general access doorways shall constitute at least 30% but not more than 75% of the street level front façade. Windows on subsequent levels shall constitute a minimum of 10% of the front façade area. Windows and doorways shall be aligned vertically and horizontally on the same floor and between floors.

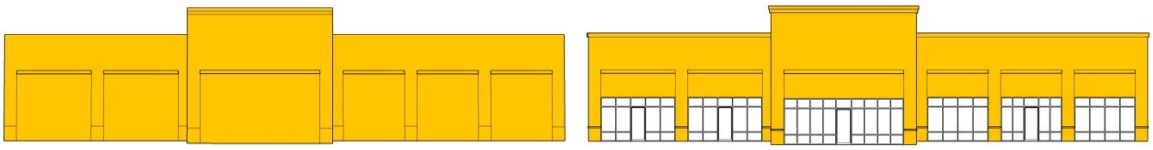
(3) Windows shall be proportioned to emphasize the vertical rather than the horizontal dimension of the opening so that the height is greater than the width. When a horizontal window is used, internal framing shall be used to divide the window into vertically proportioned elements.

(4) Windows shall be-transparent, non-mirrorized glass and shall be a minimum of 12 inches above the adjacent grade. Only transparent glass with a minimum 60% visible light transmission ratio is allowed for use in upper story windows. Any tinting color shall be a variation of brown or black.

(5) Frames and sashes for windows shall be of wood, vinyl or prefinished metal and shall have stone, brick, or cast concrete lintels and sills.

(6) Window glass shall be set back from the building face a minimum of two (2) inches, rather than flush.

FIGURE 4.8: WINDOWS



The illustration above highlights those areas of the building that are counted toward the minimum window standards. The illustration above highlights the effective use of vertically proportioned windows. The arched tops emphasize the height of the window and articulate the vertical dimension of the building wall.

The illustration above demonstrates the vertical alignment of upper and lower story windows on a multi-story building. This repetitive vertical alignment helps to articulate the vertical wall planes.

Adequate window area

Windows covered for interior display

(F) Awnings

(1) When used, awnings should be placed at the top of window or doorway openings, and should not extend beyond such openings.

(2) No awning shall extend more than two-thirds the width of the sidewalk or nine (9) feet, whichever is less. In no case, shall any awning extend beyond the street curb or interfere with street trees or public utilities.

(3) Awnings shall be self-supporting from the wall. No supports should rest on or interfere with the use of pedestrian walkways or streets.

(4) Awnings and canopies shall be made of canvas, metal, copper, or similar material. Vinyl may only be used if it has a canvas appearance.

(5) Multiple awnings on a single building shall match in color and material. Awning color shall not be fluorescent or neon.

(6) Awnings shall not be backlit or outlined with neon, LED or other lighting.

(7) Awnings shall be maintained in good repair with no tears, peeling paint, or rust.

Canvas awnings over window openings

Backlit vinyl awning covering length of building

FIGURE 4.9: AWNINGS

The illustrations above demonstrate the improper use (top) and proper use (bottom) of awnings. The awnings on the bottom illustration only cover the window and door openings.

(G) Orientation of Certain Features

(1) Buildings shall be oriented in a manner that drive-through windows, menu/ordering areas and automobile service bay doors are not directly visible from the primary fronting street when viewed at a point in the street that is directly perpendicular to the center of the primary façade.

(2) Building walls that contain utility and service areas shall be oriented so that they are not visible from adjacent public streets or internal access drives (except dedicated service drives).

No drive-through window or ordering station on front facade

Drive-through ordering station on front facade

Service bays on secondary building wall

Service bays on primary building wall

(H) Building Lighting

In addition to the lighting requirements of Chapter 6, the following requirements shall apply to properties in the GC-O:

(1) In order to maintain an attractive image, exterior building lighting should be appropriate to the building's architectural style and provide an even illumination level.

(2) Exterior lighting should highlight building elements or other distinctive features rather than attract attention to the light fixture itself. Lighting that attracts attention to itself, such as neon tubing surrounding display windows or, flashing, pulsating, glaring or similar dynamic lighting is prohibited.

(3) Light fixtures attached to the exterior of a building shall be architecturally compatible with the style, materials, colors and details of the building. The type of light source used on the exterior of buildings, signs, parking areas, pedestrian walkways and other areas of a site, and the light quality produced, shall be the same or compatible.

(I) Mechanical Equipment, Utilities, & Service Areas

(1) Any side of a non-residential building that is not intended to serve the public shall be screened from public view and view of adjacent properties to the extent that all loading, storage, solid waste, maintenance equipment, and similar items are not visible to the public.

(2) Mechanical equipment and utility equipment at ground level shall be placed away from public streets and buildings on adjacent sites. All equipment shall be substantially screened from public view.

(3) Mechanical equipment and antennas located on rooftops shall be camouflaged as a normal architectural feature of the building, or hidden by a decorative cornice or parapet wall.

(4) All utility lines serving new development shall be placed underground.

(5) All trash and recycling receptacles and storage areas shall be located away from public streets and be screened entirely from public view. Such screening enclosures shall be comprised of materials that match the primary building and shall include opaque gates to completely enclose the receptacles. Chain link fencing with slats is not permitted.

Screened ground-level equipment

Unscreened ground-level equipment

Screened roof-top equipment

Unscreened roof-top equipment

4.3 ys

4.3.1 Parking

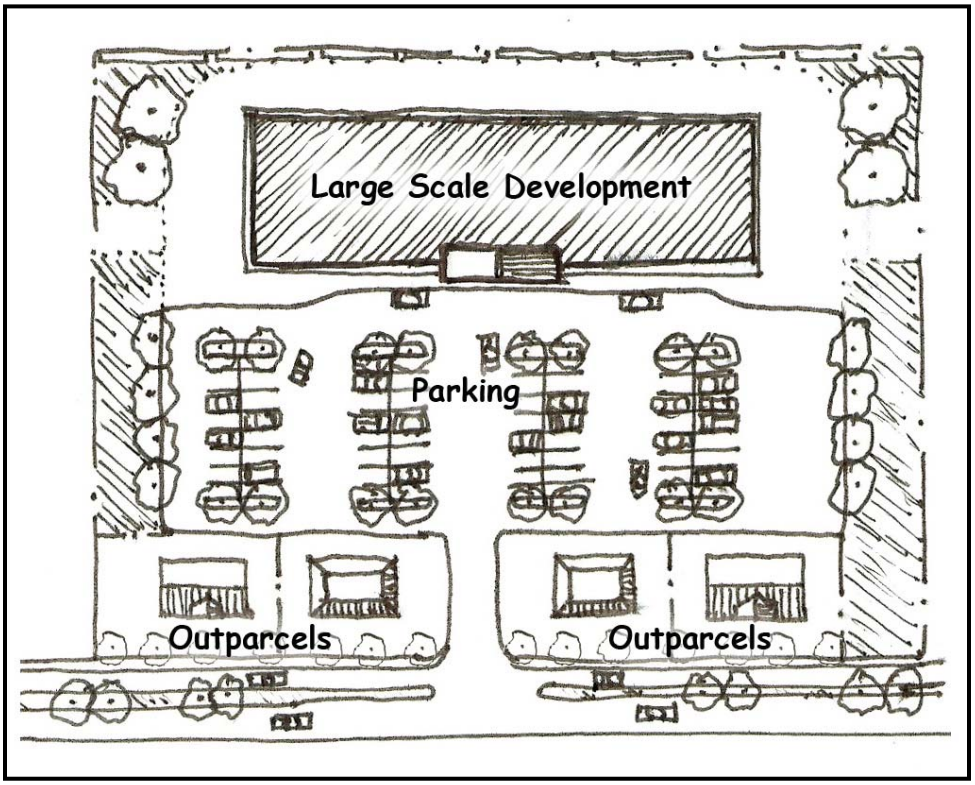
(A) Location & Design

(1) Required parking shall be provided on-site or adjacent to the development site requiring the parking. Shared parking areas are encouraged and shall be permitted whenever the Administrator determines that the minimum parking requirements can be met for each use.

(2) Parking for multi-family residential and non-residential uses shall be located primarily to the rear of the principal building and may be accessed from the front, side, or rear of the property.

(3) No more than two (2) rows of parking shall be located between the primary façade and the street. (This does not apply to industrial buildings in the GB district that do not front on a major or minor arterial.) For large-scale developments with large parking areas that have more than two (2) rows of parking in front, parking may be shared and screened with outparcel buildings as shown in the figure below.

FIGURE 4.10: LARGE-SCALE DEVELOPMENT PARKING



(4) In the Master Plan Overlay (MP-O) district, onsite parking shall be located to the rear of the principal building, and may be accessed from the front, side, or rear of the property. None of the parking provided shall be located between a primary façade and a public street. Any lot with frontage on the arterial streets NC Highway 801 or US Highway 158 may adhere to the requirements of subsection (3) above for the portion of the property with arterial frontage.

(5) Parking lots and parking garages shall not abut an intersection of arterial streets or occupy lots which terminate a vista (a distant view through or along a street or public space.)

(6) New parking areas on adjacent sites shall be connected unless the Town determines that topography or other natural features prevents it.

(7) All off-street parking shall be served by interior circulation drives. No private off-street parking spaces shall connect to public streets.

(8) No more than two (2) parking aisles (defined as a travel lane and the parking located on each side) shall abut. Otherwise, parking aisles shall be separated from each other by planted medians which may include pedestrian walkways. Parking lots shall be designed to allow pedestrians to safely move from their vehicles to the building (s). On small lots, this may be achieved by providing a sidewalk at the

perimeter of the lot. On larger lots, corridors within the parking area should channel pedestrians from the car to the perimeter of the lot or to the building. These corridors may be delineated by a paving material which differs from that of vehicular areas and planted to provide shade. Small posts or bollards may be included.

Planted Median with Pedestrian Walkway

No Parking Aisle Separation

(9) No more than 30 parking spaces shall be contained within one parking aisle.

(10) No parking aisle serving the general public that contains more than 10 parking spaces shall dead end, except that the Administrator may approve dead end aisles for up to 20 spaces on small lots where expected traffic is minimal. Any parking aisle that dead ends shall be provided a suitable turnaround.

(B) Paving & Curbing

(1) All parking areas shall be paved with asphalt, concrete, or brick pavers except for areas used for overflow, special events, and peak parking. The use of pervious pavement or pavers is strongly encouraged. Any site that utilizes pervious pavement or pavers over at least 50% of the total parking area may reduce required landscaping by up to 10%. Paved parking spaces shall be clearly marked.

(2) Any non-paved surface used for overflow, special events, and peak parking that cannot be maintained with healthy, living, turf grass or similar ground cover shall be paved or maintained with gravel.

(3) All paved parking areas shall be constructed with curb and gutter. This requirement may be waived for development sites if sheet flow drainage is directed into rain gardens or other bioretention cells constructed to the standards of *Low Impact Development (LID): A Guidebook*, North Carolina State University.

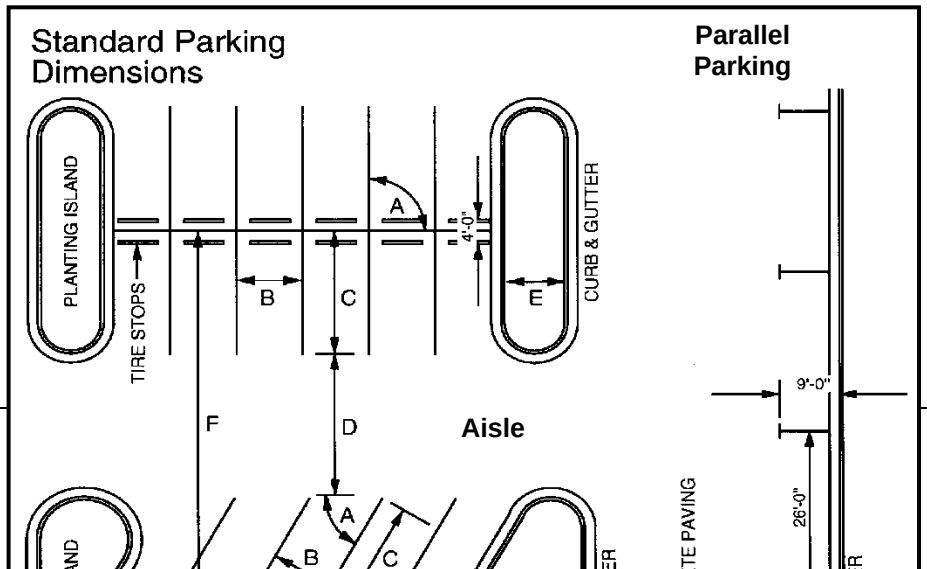
(C) Parking Dimensions

Parking shall meet the following dimensional requirements. See table and figure below.

Angle (A)	Stall Width (B)	Stall Depth (C)	Aisle Width (D)		Planting Island Width (E)	Parking Bay Width (F)	
			One-way aisle	*Two-way aisle*		*One-way aisle*	*Two-way aisle*
0°*	9.0 ft.	26.0 ft.	12.0 ft.	20.0 ft.	7 ft.	30 ft.	38 ft.
45°	9.0 ft.	18.0 ft.	12.0 ft.	24.0 ft.	7 ft.	44 ft.	56 ft.
60°	9.0 ft.	18.0 ft.	18.0 ft.	24.0 ft.	7 ft.	46 ft.	58 ft.
90°	9.0 ft.	18.0 ft.	Not permitted	24.0 ft.	7 ft.	Not permitted	60.0 ft.

*0° parking space is a parallel parking space

FIGURE 4.11: PARKING DIMENSIONS



This figure identifies the points of measurement for the table above including (A) angle, (B) stall width, (C) stall depth, (D) aisle width, (E) planting island width, and (F) parking bay width.

(D) Number of Spaces Required

The table below indicates the minimum number of parking spaces required for different uses. The maximum number of spaces shall not exceed 20% more than the number of minimum parking spaces. Shared parking areas are encouraged and shall be permitted whenever the Administrator determines that the minimum parking requirements can be met for each use.

Use	Minimum Number of Parking Spaces
Residential Uses	
Single-family residential	2 per unit
Two-family residential (duplex)	2 per unit
Multi-family residential	1.5 per unit
Commercial Uses	
Car wash	2 stacking spaces per bay
Hospitals	1 per bed
Hotels & Inns	1 per room
Medical Office	1 per 250 square feet of gross floor area
Professional Office	1 per 300 square feet of gross floor area
Residential Care Facilities	1 per 2 beds
Restaurant	1 per 3 seats
Restaurant drive-through	5 stacking spaces (separate from drive aisles for parking areas)
Retail	1 per 300 square feet of gross floor area

Service uses	1 per 300 square feet of gross floor area
Civic Uses	
Religious Institution	1 per 4 seats
Civic & Assembly uses	1 per 4 seats or 1 per 50 square feet of gross floor area if no seats are provided
Child Care Institution	1 per classroom + 1 per 10 students
Elementary & Middle Schools	1.5 per classroom
High Schools & Colleges	10 per classroom
Other Uses	
Warehouse & Industrial uses	1 per 1,000 square feet of gross floor area or 1 per employee at peak shift, whichever is greater
Mixed Use	Use minimums for each respective use
Other	1 per 500 square feet of gross floor area, or minimum of most similar use as determined by the Administrator

4.3.2 Driveways

(A) Access Management

(1) All vehicular access to a development containing multiple destinations (e.g. malls, strip centers, multiple building developments, etc.) shall be provided by means of shared driveways, side streets, or frontage roads.

(2) Wherever practicable, driveways shall be aligned with driveways and street intersections on the opposite side of the public street.

(3) No new driveway on any development site shall be created less than 80 feet from a street intersection except where such prohibition would deny access to the property or where a safe site distance cannot be achieved otherwise.

(4) The number of driveways with public street intersections along major arterial streets with a posted speed limit in excess of 30mph and an average daily traffic volume greater than 5,000 ADT shall be minimized, but in no case shall be more than one (1) driveway per street frontage on a lot or development except that one (1) driveway may be located every 700 feet. All driveways that access development from a state-maintained road shall be subject to the requirements of NCDOT.

(B) Paving & Dimensions

(1) All driveways to paved parking areas shall be paved. All driveways to unpaved parking areas shall have a minimum 10-foot deep apron made of asphalt, concrete, pavers, or similar material approved by the Town.

(2) Curb and gutter shall be required along driveways for which curb and gutter are provided for the parking areas.

(3) Driveways providing access to a street right-of-way for single-family or two-family residential dwellings shall have a minimum length of 20 feet as measured from the edge of the right-of-way toward the interior of the lot. No portion of a driveway which lies within a structure covered by a roof and/or enclosed by walls shall count toward the minimum 20-foot driveway length.

(4) The following minimum and maximum widths apply to driveways:

Driveway type	Minimum Width	Maximum Width
One-way residential	10 feet	24 feet
One-way non-residential	12 feet	24 feet
Two-way	18 feet	24 feet (unless otherwise required by NCDOT)

4.4 Design Standards for Streets and Pedestrian Amenities

4.4.1 General

(A) All new streets shall be constructed in accordance with the Town of Bermuda Run Subdivision Ordinance.

(B) Any new or expanding development along a thoroughfare designated in the Winston-Salem Metropolitan Planning Organization (MPO) Comprehensive Transportation Plan (CTP) shall dedicate the right-of-way necessary to meet the minimum right-of-way requirements for the designated cross section in the CTP.

(C) The standards of this Section are derived from the *Walkable Bermuda Run Plan* adopted in March 2009 and the recommendations of the Town of Bermuda Run Comprehensive Plan.

(D) All pedestrian and bicycle improvements shall meet AASHTO standards unless otherwise specified by NCDOT.

(E) Existing streets shall be classified as follows:

Table 1: Bermuda Run Street Classifications		
Existing Arterial Streets	**Existing Collector Streets**	**Existing Local Streets**

• NC Highway 801 • US Highway 158	• Bermuda Run Drive • Bing Crosby Boulevard • Bridge Street • Commerce Drive • Glen Arbor Drive • Gun Club Road • Kinderton Boulevard • Kinderton Way • Medical Drive • Old Towne Drive • Orchard Park Drive • Peachtree Lane • Riverbend Drive • Town Park Drive • Yadkin Valley Road • Royal Troon Way	All other existing public streets

4.4.2 Applicability

(A) All pedestrian improvement shall be installed (or bonded as allowed by the Town) as required by this section, where new development or expansions of greater than 20 percent are proposed.

(B) Only developments along existing streets where curb and gutter exist shall be required to install sidewalks along the existing street in accordance with Section 4.4.4.

(C) Shared use paths shall be installed in accordance with Section 4.4.5.

(D) Greenways shall be required to be dedicated to public use and constructed, in conformance with Section 4.4.8, the Yadkin River Greenway Feasibility Study and the Town of Bermuda Run Comprehensive Plan.

(E) All new duplex and multi-family residential developments with less than five (5) units per acre shall be exempt from meeting the standards set forth herein along any existing street.

(F) New single-family residential subdivisions shall be required to meet all sidewalk standards set forth herein for any new street constructed and to extend facilities along existing streets abutting the new subdivision whenever such streets intersect the new street(s) and such extensions will connect the new subdivision to an existing or planned

sidewalk network. Where more than one existing street abuts the property, the Planning Board may waive the requirement for facilities along one of these streets.

(G) Existing non-residential development shall be exempt from the requirements set forth herein; however, unless otherwise exempt, redevelopment of the site into a new commercial retail or office use shall subject the new development to all requirements that may apply.

(H) All properties within the Open Space district are exempt from the requirements set forth herein.

(I) Bicycle lanes shall not be required along any existing street, but may be constructed by the town or NCDOT as funding permits.

(J) The Town Council may, at its discretion, require any petitioner requesting voluntary annexation to install sidewalks, signage, or pedestrian crossings consistent with the standards set forth herein as a condition of annexation. The council may also alter or waive any standard, which, in its opinion, cannot reasonably be met by the petitioner.

4.4.3 Waivers

The Planning Board may waive any of the requirements contained within this Section, in accordance with Section 11.11, where such waiver is consistent with the vision of the *Walkable Bermuda Run Plan* and does not disrupt or impair the non-motorized network. Waivers shall be limited to the following:

(A) Infill development in neighborhoods or on streets where the sidewalks and bicycle facilities should match the dominate pattern on the street or in the neighborhood.

(B) Physical features of the area including the availability of existing or new public rights-of-way (including NCDOT encroachment), grades, rocks/ledges, specimen trees or other important natural features which should be preserved, etc. In these cases, the Planning Board may approve alternate locations, buffer widths, path widths, pavement, or path types.

(C) Sidewalks along cul-de-sacs may be waived if the Planning Board determines that street characteristics and nearby facilities will provide adequate levels of service for pedestrians.

(D) Whenever the developer can demonstrate that imminent road or public improvements planned by NCDOT, the Town, or a public utility would compromise or destroy a required sidewalk, path, or greenway, construction of the facility may be delayed up to

two (2) years as long as the improvements are guaranteed with a surety bond, letter of credit or similar instrument acceptable to the Town.

(E) Whenever a new development occurs on a corner lot or is otherwise bounded by two or more existing streets, the Planning Board may waive the requirement for improvements on all but one of these streets where it determines that the requirement for extension along more than one street will not provide connectivity to a larger network of facilities.

(F) The Planning Board may also waive any of the requirements contained within this Section if, and to the extent that, the Board finds that to require a developer to construct the facilities called for in this plan along an existing street would be to impose an obligation that is not roughly proportional to the need for such facilities created by the proposed development.

4.4.4 Sidewalks

(A) Sidewalks shall be installed on both sides of all streets, except local streets in the OS district.

(B) Sidewalks shall be the minimum width as indicated in the table below:

Table 2: Minimum Sidewalk Width

Zoning District	Street Type	Minimum Sidewalk Width
GB	Collector	6 feet
	Local	6 feet
CM	Collector	6 feet
	Local	6 feet
VM	Collector	6 feet
	Local	6 feet
RM	Collector	6 feet
	Local	6 feet
CR	Collector	6 feet
	Local	6 feet
OS	Collector	6 feet
	Local	n/a

(C) Sidewalks shall be constructed of concrete, brick, or stone paving materials on a case-by-case basis or when consistent with an adopted Town streetscape plan.

(D) Sidewalks shall remain clear of obstructions. Outside of the throughway, the Town may permit sandwich board signs, street furniture, planters, and similar items to be placed on the sidewalk on a case-by-case basis whenever such items would not pose a threat to the health, safety or general welfare of the public using the sidewalk or adjacent street. Application to place any such items on a public sidewalk shall be made in writing to the Town Manager prior to placement.

(E) Vertical clearance along all sidewalks shall be at least eight (8) feet.

4.4.5 Shared Use Paths

(A) Where new development is occurring, a shared use path shall be installed along the north side of US Highway 158 and the west side of NC Highway 801, except that sidewalks shall be installed along NC Highway 801 between Yadkin Valley Road and Peachtree Lane and along US Highway 158 between Medical Drive and Peachtree Lane. Shared use paths shall be a minimum width of eight (8) feet. The shared use path along US Highway 158, shall be located within the recorded 50-foot buffer and landscape area between Royal Troon Lane and Talbert Court.

(B) Shared use paths shall be paved with asphalt. Shared use paths, may be constructed using boardwalks in wet areas.

(C) Vertical clearance along all shared use paths shall be at least 10 feet.

(D) Use of shared use paths shall be limited to non-motorized users, except as noted herein, and may include but are not necessarily limited to: bicyclists, in-line skaters, roller skaters, scooters (non-motorized only), wheelchair users (both nonmotorized and motorized), four-wheel electric golf carts, personal transporters and pedestrians, including walkers, runners, people with baby strollers, people walking dogs, and similar types of users.

(E) Unless otherwise designated and approved by the town, all shared use paths shall be designed for two-way travel.

(F) Where shared use paths run immediately adjacent to US 158, NC 801, or other roadways:

(1) Driveway cuts across the path shall be limited and shall be clearly marked for both the user of the path and the motorist entering or exiting the driveway.
(2) Path termini shall direct bicycle traffic to the appropriate side of the street.
(3) Sight distances applicable to the roadway shall also be applicable to the shared use path.

4.4.6 Bike Lanes

(A) Bikes shall share the road along all collector streets in the CR and OS districts and local streets in accordance with Section 4.4.10. New vehicle travel lanes and improvements shall be wide enough (12-14 feet) to accommodate the cyclist. Where bikes share the road, signs shall be installed along roads at regular intervals reminding motorists to watch for cyclists.

(B) Unless a shared use path is installed, bike lanes shall be designated and installed on arterials by NCDOT or the Town as funding and right-of-way permit.

(C) Vertical clearance along all bike paths shall be at least 10 feet.

4.4.7 Street Buffers

(A) Street buffers shall be located in the street right-of-way between sidewalks or paths and vehicle travel lanes shall meet the following width standards:

Table 3: Minimum Buffer Width

Zoning District	Street Type	Minimum Buffer Width
All Districts	Arterial	7 feet
GB	Collector	6 feet

	Local	6 feet
CM	Collector	6 feet
	Local	6 feet
VM	Collector	6 feet
	Local	6 feet
RM	Collector	6 feet
	Local	4 feet
CR	Collector	6 feet
	Local	4 feet
OS	Collector	6 feet
	Local	0 feet

(B) Buffers along collector streets shall be planted with canopy trees. Planting requirements for street trees shall meet the standards of Chapter 5.

(C) Buffers in the Town Center district may include below ground utilities and, on the day of trash pickup, trash cans. Street furniture (benches, waste receptacles, etc.) and mail boxes are permitted provided they are free of advertising or attribution.

(D) Signage in the buffer is prohibited, except for traffic or identification signs erected by the Town or NCDOT.

(E) Parking in buffers shall be prohibited.

(F) Street buffers may be reduced by the Administrator to four (4) feet upon recommendation by the Technical Review Committee (TRC) where existing conditions prevent a larger buffer.

4.4.8 Greenways

(A) Greenways shall be dedicated to public use and installed by the developer for any new development located along a designated greenway path as shown in the Town of Bermuda Run Comprehensive Plan. The Town may accept the greenway for maintenance upon satisfactory inspection of installation.

(B) Greenways shall be at least 10 feet in width and be located in an public easement or right-of-way.

(C) Greenways shall be paved with asphalt, concrete, or finely crushed stone or granite screening (rock dust). Boardwalks may also be used in wet areas.

(D) A minimum 10-foot vertical clearance shall be maintained for the travel way and a two (2)-foot shoulder along all greenways.

(E) Greenways shall meet AASHTO design requirements for shared use paths.

4.4.9 Signalization, Crossings and Traffic Calming

(A) All sidewalks, bike lanes, and shared use paths shall use pavement markings, signage and signalization that conforms to the standards set forth in the *Manual on Uniform Traffic Control Devices*.

(B) All road crossings shall be designed to safely and conveniently accommodate all users of the facility intersecting the roadway.

(C) Midblock crossings shall be required along local streets and collector streets where the Town determines that the length of the street and/or the amount of non-motorized traffic demand such a crossing and where such crossing can be installed safely.

(D) Traffic calming design and devices are encouraged and may be required along certain streets where the Town or NCDOT determines that the potential speed of motorized traffic may be dangerous or discouraging to non-motorized traffic.

4.4.10 Street Cross-Section Requirements

Zoning District	Street Type	Facility Recommendations			
		Type and Location	Min. Path Width	Min. Bike Lane Width	Min. Buffer Width
All Districts	Arterials (158 & 801)	Shared use path on one side	8 feet	5 feet marked	7 feet
GB	Collector	Sidewalk and marked bike lanes on both sides	6 feet	5 feet marked	6 feet
	Local	Sidewalks on both sides	6 feet	Bikes share outside lane	6 feet
CM	Collector	Sidewalk and marked bike lanes on both sides	6 feet	5 feet marked	6 feet
	Local	Sidewalks on both sides	6 feet	Bikes share outside lane	6 feet
VM	Collector	Sidewalk and marked bike lanes on both sides	6 feet	5 feet marked	6 feet
	Local	Sidewalks on both sides	6 feet	Bikes share outside lane	6 feet

RM	Collector	Sidewalk and marked bike lanes on both sides	6 feet	5 feet marked	6 feet
	Local	Sidewalks on both sides	6 feet	Bikes share outside lane	4 feet
CR	Collector	Sidewalk and marked bike lanes on both sides	6 feet	Bikes share outside lane	6 feet
	Local	Sidewalks on both sides	6 feet	Bikes share outside lane	4 feet
OS	Collector	Sidewalk and marked bike lanes on both sides	6 feet	Bikes share outside lane	6 feet
	Local	n/a	n/a	Bikes share outside lane	n/a

CHAPTER 5. LANDSCAPING, FENCES AND WALLS

5.1 Landscaping

(A) *Purpose*

The purpose of this Section is to:

- Maintain and enhance Bermuda Run's existing tree coverage;
- Promote careful landscaping of outdoor areas;
- Soften and enhance the manmade environment; and
- Promote the design and construction of appropriate walls and fences.

(B) *Applicability*

The standards of this Chapter shall apply in all zoning districts to the following, except single-family residential detached homes on existing lots of record, unless otherwise noted:

- New construction
- An increase in building size or parking spaces by greater than 20 percent
- Changes in use

(C) *In general*

(1) Commercial outparcels shall be landscaped while vacant to maintain an attractive appearance. Landscaping shall consist of turf grass, shrubs, trees, or any other vegetative cover that will stabilize the soil and create an attractive appearance.

(2) All required plantings installed shall be nursery grown stock that is free from disease or growth problems and shall comply with the latest edition of the *American Standards for Nursery Stock*, published by the American Nurserymen's Association.

(3) Only landscaping and approved fences and walls shall be permitted within a required buffer or streetyard area, except that sidewalks and other pedestrian walkways, bicycle paths, aboveground utilities, drainageways, and approved signs shall be permitted where they do not comprise more than 20 percent of the total area of the required buffer or streetyard.

(4) Clustering and/or random spacing of plants and trees is encouraged to produce a natural appearance in the landscape, except where uniformity is required for opaque screening.

(5) Landscaping, including berms, shall be installed and maintained so as not to interfere with the sight distance requirements of this ordinance or the sight distance needs of drivers in parking areas, at entrance and exit locations, and at street intersections.

(6) Small trees are permitted to be substituted for required large trees whenever the larger tree would interfere with existing overhead utility lines. See NC Cooperative Extension publication HIL 8616: *Urban Trees for Use Under Utility Lines,* revised 11-93, for a list of recommended species.

(7) Locally-adapted species shall be used for all required plantings and drought tolerant plants shall be used whenever practicable. See NC Cooperative Extension publication AG-508-03: *Drought-Tolerant Plants for North Carolina*.

(8) Native species of trees and shrubs and related cultivars shall be used whenever practicable.

(9) Monoculture and over planting shall be avoided except that a single species of tree may be planted in formal parks or in conjunction with a streetscape plan.

(10) No required planting area shall contain less than 50 square feet and no planting area shall be less than eight (8) feet in diameter around a required tree, unless otherwise specified herein.

(11) All landscaping shall be coordinated throughout a development site.

(12) The exterior lighting plan shall be coordinated with the landscaping plan to ensure pedestrian areas are well lit and that any conflict between trees and lighting is avoided. Accent lights on landscape features are encouraged to add interest and focal points.

(13) The Zoning Administrator may approve revisions to an approved landscaping plan in order to accommodate seasonal planting problems or a lack of plant availability as long as:
   a) There is no reduction in the quantity of plant material.
   b) There is no significant change in the size or location of plant materials.
   c) The new plants are of the same general category and have the same general design characteristics as the materials being replaced.

(D) *Plant size and specifications*

Type	**Minimum Height at Maturity (ft)**	**Minimum Height at Planting**	**Minimum Caliper[1] at Planting (in)**	**Minimum Spacing (ft on center)**
Large Tree	40	8 feet	2	20
Small Tree	15	6 feet	1.5	10
Large Shrubs	8	4 feet	n/a	4
Medium Shrubs	4	2 feet	n/a	2
Small Shrubs[2]	2	18 inches	n/a	2

[1] Caliper shall be measured six (6) inches above the ground.
[2] Shrubs do not include ground covers.

(1) All shrubs shall reach a minimum height of 36 inches within three years after installation and shall retain foliage to within six inches above ground level.

(2) Whenever trees are required for screening and in buffers and parking lot landscaping, a minimum of 50 percent shall be canopy trees, and a minimum of 20 percent shall be evergreen.

(3) Whenever shrubs are required for screening, they shall be of a type that retains their foliage to within six (6) inches of the ground on a year-round basis.

(4) A minimum of 75 percent of all shrubs required shall be evergreen.

(E) *Installation and maintenance*

(1) All required plantings shall be installed in a manner that ensures the availability of sufficient soil and water for healthy growth and that is not intrusive to above or below ground utilities.

(2) All landscape materials required or committed voluntarily by the developer shall be properly maintained by the property owner. Maintenance includes all actions necessary to keep landscaping materials healthy, neat and orderly in appearance, and free of litter and debris. Any landscaping lost or diseased shall be removed and replaced unless, in the opinion of the Town, the maturity of the remaining vegetation sufficiently fulfills the intent of this ordinance.

(3) To insure compliance with this ordinance and to encourage required vegetation to be installed during the appropriate season, a letter of compliance may be accepted by the Town in lieu of installation prior to the issuance of a certificate of occupancy for the site. This letter shall be in the form of an affidavit signed by the property owner and shall:

a) Acknowledge that such owner is aware of any landscaping and/or screening requirements which apply to the property; and

b) Stipulate that he/she will comply with those requirements by a specific date within the next appropriate planting season, but in no case more than nine (9) months after the date of the affidavit, unless otherwise approved by the Zoning Administrator; and

c) Acknowledge that failure to comply with the provisions of this section within the time frame specified in the letter shall constitute a violation of this ordinance which shall subject the property owner to any and all enforcement actions permitted by law.

(4) Necessary pruning and trimming shall be in accordance with the *American National Standards for Tree Care Operations: Tree Shrub and Other Woody Plant Maintenance – Standard Practices (Pruning)*, and shall not be interpreted to include topping of trees through removal of crown material or the central leader, or any other similarly sever procedures such as lollipopping, meatballing, or

hatracking that cause irreparable harm to the natural form of the tree, except where such procedures are necessary to maintain public overhead utilities. Any such activity shall be a violation of this ordinance and additional plant material may be required by the Zoning Administrator or designee to replace or supplement the damaged plant material.

(F) *Existing vegetation*

(1) Except when necessary to provide access to a site or to insure the safety and security of people and property, any existing healthy trees that are eight (8) inches or greater in DBH (diameter at breast height) and located within a public right-of-way or undeveloped setback area shall be retained unless approved for removal by the town. In addition, every reasonable effort shall be made to protect and retain existing trees and shrubs not growing within planned roadways, drainageways, building foundation sites and construction activity areas. See Section 10.4 for additional requirements.

(2) Existing trees and shrubs that are preserved may be used to satisfy the tree requirements of these standards as long as they are: a) free from disease or growth problems; b) clearly shown on the site plan; c) approved by the Zoning Administrator prior to grading and development; and d) are adequately protected during grading and development of the site. Credit for preserving existing trees shall be given at a rate of one required tree per each 4-inch DBH of existing tree preserved. The Zoning Administrator may waive planting requirements if he determines that a densely vegetated area to be preserved sufficiently fulfills the intent of this ordinance.

(3) Large, healthy specimen trees and significant tree stands on the site shall be identified prior to development and preserved whenever practicable. See section 10.4 for additional requirements.

(4) Protective measures, as outlined below, shall be taken to minimize damage to existing trees and other vegetation to be retained.
   a) Site plans shall show the location of trees and shrubs to be retained and the locations of protection fencing.
   b) Prior to construction, grading or other land disturbing activity, protective barriers shall be placed around the root protection area of all trees and shrubs to be saved. For trees, the root protection area shall not be less than the drip line.
   c) No soil disturbance or compaction, stock piling of soil or other construction materials, vehicular traffic, or storage of heavy equipment are allowed in the areas designated for protection.
   d) Root pruning shall be kept to an absolute minimum.
   e) Pruning of existing trees shall be done according to the *National Arborists' Association Standards* in a manner that preserves the character of the tree.

f) No ropes, signs, wires, electrical device or other material shall be secured or fastened around or through a tree or shrub designated for protection.

g) If a single tree or small group of trees of significant size is identified for protection, lightning protection measures are recommended to help insure their protection during storms.

h) Should preserved trees or shrubs die at any time during or immediately after construction, the developer or owner must replace the trees or shrubs with landscaping equal to the tree preservation credit within one (1) year of completion of the project.

(G) *Streetyards*

(1) Streetyards shall be required along all arterial and collector streets except that along streets that are scheduled for widening by the Town or the state in the near future which might affect the location of the right-of-way, the Zoning Administrator may allow the developer to delay all or a portion of the streetyard requirements. Whenever a delay is allowed, a letter of compliance from the owner pursuant to this section shall be required.

(2) Where the location of existing buildings on a site reduces the area available for a streetyard, streetyard requirements shall be met to the maximum extent practicable. Where implementation of the streetyard requirements on an existing site undergoing expansion or redevelopment would require the removal of required parking spaces, the Zoning Administrator may approve a reduction of up to 20 percent of the required parking spaces in order to accommodate required landscaping.

(3) Along streets that are well-forested or new streets that are to be maintained in a forested condition by the developer, the requirements of this section may be reduced or eliminated upon approval of the Zoning Administrator to minimize grading and enhance preservation of existing, mature trees.

(4) All required streetyards shall be no less than eight (8) feet in width at any point and average 10 feet in width, as measured perpendicularly to the street, along the entire length of the property.

(5) The planting schedule for streetyards shall be as follows:

Type	Minimum Number Per 100 Linear Feet
Large Trees	3
Small Trees	4
Large Shrubs	15
Small or Medium Shrubs	20

[1] Fractions generated by applying the minimum number of plants required per 100 linear feet to the actual linear footage of an area shall be rounded up to the nearest whole number.

(6) The area between trees and shrubs in a streetyard shall be completely filled in with perennials, annual flowers, ornamental grasses, turf grasses, a minimum of three inches of landscaping mulch, or a combination thereof.

(7) Berms shall be permitted to augment required streetyard plantings as follows:

a) Medium or small shrubs may be installed in lieu of the required large shrubs if the combined height of the berm and the shrubs will be at least six (6) feet in three (3) years.
b) A minimum of 50 percent of all required trees and shrubs shall be planted along the street front portion of the berm.

(8) Where parking lots abut or are within 30 feet of a street right-of-way, see section 5.1(I) (5).

(H) *Street trees*

(1) Street trees shall be planted along both sides of all public streets in new single-family detached residential developments.

(2) Street trees shall be exempt from the evergreen requirement listed in 5.1.(J)(4) and shall be large deciduous species planted 40 feet on center. At the time of planting, each tree shall be two (2) inches or greater in diameter measured six (6) feet above ground level, and each shall be a minimum of eight (8) feet in height above grade. Small maturing trees planted a maximum of 30 feet on center may be used to meet street tree requirements only where overhead utility lines along existing streets prevent or interfere with the maturing of large trees.

(3) The planting area for street trees shall be a minimum of five (5) feet in width as measured perpendicularly from the street.

(4) On any street for which a streetscape plan has been adopted by the Town Council, the streetscape plan shall control.

(5) Along streets that are well-forested or new streets that are to be maintained in a forested condition by the developer, the requirements of this section may be

reduced or eliminated upon approval of the Zoning Administrator to minimize grading and enhance preservation of existing, mature trees. Tree planting requirements may be modified where extreme topography would require excessive grading to meet the specific standards above.

(I) *Parking lot landscaping*

(1) The following standards shall apply to parking areas with 12 or more spaces, unless otherwise noted. In an expansion, only the area of expansion is required to be included in the calculation; however, the landscaping may be provided anywhere within the parking area.

(2) Trees and shrubs shall be planted along the exterior property boundary outside of all rights-of-way and easements, all internal driveways and streets, and within the parking lots around parking aisles according to the following specifications at the time of planting.

Type	Minimum Number Per 100 Linear Feet[1]
Large trees	2
Small trees	2
Large Shrubs	15
Small or Medium Shrubs	20

[1] Fractions generated by applying the minimum number of plants required per 100 linear feet to the actual linear footage of an area shall be rounded up to the nearest whole number.

a) Except where streetyards and bufferyards are required, any required planting yard shall be a minimum of 10 feet in width when abutting a property boundary, measured perpendicular to the property boundary. In no case shall a planting yard or area containing a large canopy tree (whether planted or existing) contain less than 125 square feet of total area.

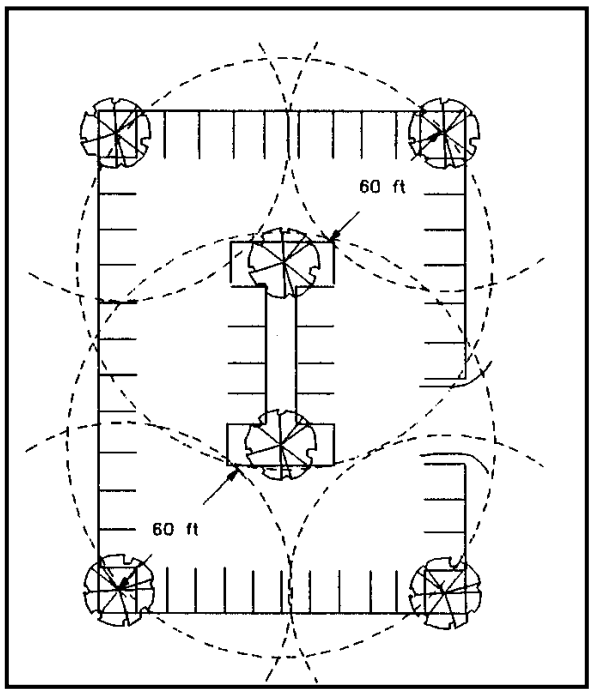
b) A maximum of 20 percent of a required planting yard may be used for walkways, fountains, walls, or wall planters, but may not be used for parking, driveways, streets, motor vehicle display, outdoor storage, private utility service, service areas or similar uses.

(3) Planting areas shall be a minimum of seven (7) feet in width, measured from back-of-curb to back-of-curb, when used to separate and screen parking aisles.

(4) A minimum five (5) foot planted area shall be provided between any new building and any paved surface.

(5) No parking space shall be located more than 60 feet from the base of a canopy tree.

Figure 5.1



(6) Whenever parking lots abut or lie within 30 feet of a street right-of-way, an opaque masonry (excluding concrete block) wall or fence a minimum of three (3) feet in height shall be installed, in addition to any other landscaping requirement, adjacent to or within a required streetyard or adjacent to a street right-of-way where no streetyard is required except that:

a) A hedge may be substituted for the wall or fence in any district as long as the hedge is a minimum of two (2) feet in height at the time of planting, has the ability to achieve a height of three (3) feet during its first full growing season; and

b) A vegetated berm, a minimum of three (3) feet tall, may be substituted for the wall, fence, or hedge.

(J) Landscape buffers

The purpose of a landscape buffer is to help provide transition between different types of land uses, to break up or soften the appearance of paved surfaces, and to provide the shade and greenery necessary to create a livable urban environment. A minimum 30-foot wide opaque buffer shall be required between all non-residential or multi-family residential uses and single-family residential uses within any zoning district.

(1) Buffers shall be required whenever new development is approved or an existing non-residential use is expanded by more than 20 percent.

(2) Planting requirements in buffer areas may be altered on a case-by-case basis by the Zoning Administrator in locations where the required buffer is wholly or partially within an existing easement.

(3) Along areas that are scheduled for easement or right-of-way acquisition or expansion by the town or the state in the near future, the Zoning Administrator may allow a postponement of all or a portion of the buffer planting. Whenever postponement is allowed, a letter of compliance from the property owner pursuant to this section shall be required.

(4) The landscape buffer is intended to be opaque and shall contain at minimum:

Type	Minimum Number Per 100 Linear Feet[1]
Large trees	3
Small trees	4
Large evergreen shrubs	40

[1] Fractions generated by applying the minimum number of plants required per 100 linear feet to the actual linear footage of an area shall be rounded up to the nearest whole number.

(K) *Berms*

Berms may be used to help satisfy property parking lot landscaping or buffer requirements. Berms shall:

(1) Have a minimum height of three (3) feet, a minimum crown width of two (2) feet, and a side slope with a width to height ratio of no greater than three to one (3:1) if less than four feet in height and a width to height ratio of no greater than four to one (4:1) if more than four (4) feet in height. If berm slope is greater than three to one (3:1), slopes must be treated with groundcover or other plant material to eliminate erosion.

(2) Be designed and constructed with an undulating appearance which mimics as much as is practicable a natural topographical feature of the site.

(3) Be substantially planted and covered with live vegetation. No berm shall consist entirely of turf grass, ground cover, mulch or similar material.

(4) Be fully installed, planted and stabilized.

(5) Be designed to prevent standing water or to impede the flow of stormwater from adjacent properties.

(6) Be free of structures or merchandise, including fences, unless otherwise approved by the Town.

(L) *Exceptions to required buffers and planting yards*

(1) Fences and walls of uniform design and material shall be allowed to replace required shrubbery in any landscape buffer or property boundary planting yards when, in the opinion of the Zoning Administrator, such fence or wall will achieve

the same effect as the shrubbery and will contribute positively to the overall design of the property.

(2) Buffer width requirements may be reduced by 50 percent when a six (6) foot continuous opaque fence, wall or berm is approved and constructed within the landscape buffer. All required plantings shall be placed on the exterior side of such fence, wall or berm.

(3) In the event unusual topography or elevation of a development site, the size of the parcel to be developed, the soil or sub-surface condition of the site would make strict adherence to the requirements of this part serve no meaningful purpose or would make it physically impossible to install and maintain the required buffer plantings, the Zoning Administrator may alter the requirements of this part as long as the existing features of the development site comply with the spirit and intent herein. Such an alteration may occur only at the request of the property owner who shall submit a plan to the Zoning Administrator showing existing site features that would buffer or screen the proposed use and any additional buffer materials the property owner will plant or construct to buffer the proposed use.

5.2 Fences and Walls

(A) *In general*

The following standards shall apply to all fences and walls in all zoning districts unless otherwise noted.

(1) Fences and walls shall be erected and maintained in a safe manner and good order. Fences and walls not erected or maintained in a safe manner or good order through neglect, lack of repair, manner of construction, method of placement, or otherwise deemed unsafe by the town shall be repaired, replaced, or removed.

(2) Fences and walls shall not contain advertising, signs, logos or other lettering unless expressly permitted by the Zoning Administrator.

(3) Where a fence or wall is used as part of required screening, all required vegetation shall be planted on the exterior side of the fence or wall (exterior to the lot).

(4) Fences and walls shall be installed and maintained so as not to interfere with the sight distance requirements of this ordinance or the sight distance needs of drivers in parking areas, at entrance and exit locations, and at street intersections.

(5) Fences and walls shall be constructed such that the “finished” part of the fence or wall is located to the exterior of the property.

(6) Nothing in this subsection shall preclude the installation of temporary fences around construction works, erected or maintained pursuant to the NC Building Code or Soil Erosion and Sedimentation Control Act requirements.

(7) Fences and walls within a development shall be compatible in design and material.

(B) *Height and Materials*

Fences and walls shall meet the height and material requirements in the table below. The requirement of this subsection shall not apply to properties in the OS district.

	CR, RM Districts		VM District		CM, GB Districts	
	Front Yards	**Side & Rear Yards**	**Front Yards**	**Side & Rear Yards**	**Front Yards**	**Side & Rear Yards**
Min. Height	2 feet	n/a	2 feet	n/a	n/a	n/a
Max. Height[1]	3 feet	6 feet	3 feet	6 feet	4 feet	8 feet
Permitted Materials[2]	• black aluminum • brick • stone • stucco • vinyl • wrought iron	• black aluminum • brick • composite wood • stone • stucco • vinyl • wrought iron	• black aluminum • brick • stone • stucco • vinyl • wrought iron	• black aluminum • brick • composite wood • stone • stucco • vinyl • wrought iron	• black aluminum • brick • stone • vinyl • wrought iron	• black aluminum • brick • coated chain link • composite wood • stone • vinyl • wrought iron

1: Unless a higher fence exists on a common property line of an adjacent lot, in which case the proposed fence can be no higher than that fence

2: The following uses may use coated chain link within any zoning district: recreation facilities, public facilities, utilities.

(C) *Design*

(1) Materials may include a combination of the listed permitted materials for each fence type. Residential front yard fences shall not be opaque.

(2) Coated chain link fences shall be supplemented with landscaping to the outside of the fence.

(3) Barbed wire on top of chain link fences is permitted for rear yard fences not visible from a street in the GB district only.

(4) Fences and walls shall incorporate decorative caps.

(5) Columns shall serve as visual breaks in the fence or wall and shall be incorporated a minimum of every 20 feet.

Aluminum Fence and Brick Columns with Decorative Caps

Vinyl Fence and Columns with Decorative Caps

Fence with no Visual Breaks

CHAPTER 6 EXTERIOR LIGHTING DESIGN

6.1 Applicability

(A) Parking areas, sidewalks, and building entrances shall be lighted in order to contribute to the security of the property and to facilitate the safe passage of persons using these areas after dark. However, measures shall be provided to minimize light spillover onto adjacent properties and glare toward motor vehicle operators.

(B) The owner of any existing development approved for voluntary annexation shall, to the maximum extent practicable, be required to adjust all exterior lighting to conform to these standards.

(C) The following types of lighting shall be exempt from the standards of this Section:

(1) Underwater lighting used for the illumination of swimming pools and fountains;
(2) The lighting of governmental flags;
(3) Lighting used for nighttime street and utility construction and repair shall not be subject to these lighting standards, but shall comply with the street lighting policy of the town;
(4) Lighting used for agricultural purposes or in conjunction with a bona fide farm operation, except that such lighting shall be designed and sited to prevent light trespass onto public streets or adjacent occupied lots;
(5) Emergency lighting, used by police, firefighting, or medical personnel, or at their direction for as long as the emergency exists; and
(6) Lighting attached to or associated with single-family residential structures customarily used for security and safety, provided that light does not cause light trespass or glare onto adjacent properties.

6.2 General Requirements.

(A) Lighting design shall be coordinated throughout a development site.

(B) All light fixtures shall be located, aimed or shielded so as to minimize stray light trespassing across property boundaries and be directed in a way so as not to jeopardize traffic safety.

(C) In conjunction with the submittal of a photometric lighting plan for review by the Zoning Administrator, every lighting system design and installation shall be certified as conforming to all applicable restrictions herein by a professional that is Lighting Certified (LC) by the National Council on Qualifications for the Lighting Professions (NCZLP) or a Professional Engineer (PE).

6.3 Design Standards

(A) Effective pedestrian lighting helps people feel safe and comfortable while walking in neighborhoods, stores, and other destinations. To accomplish this, the daytime appearance of the light poles and fixtures and the nighttime appearance of the illumination should reflect the needs and characteristics of each development, neighborhood and its master plan.

(B) Pedestrian scale lighting shall have a character compatible with the nature of the area and complementary to the building architecture. Pedestrian-scale lighting shall be provided at pedestrian intersections, public spaces and along paths to parking lots and other destinations.

(C) Additional lighting and electrical hookups shall be provided at gathering areas.

(D) Lighting shall not be mounted on wood poles, and all light poles and fixtures shall be black. This standard shall not apply to properties in the General Business (GB) district that are not within the Gateway Corridor Overlay (GC-O).

6.4 Prohibited Lighting

(A) Flashing, colored or obtrusive lighting.

(B) Flood or spot lamps aimed higher than 45 degrees above straight down (half-way between straight down and straight to the side).

(C) Barn lights

(D) Non-shielded wall packs

(E) The use of laser source light or any similar high intensity light for outdoor advertising or entertainment, when projected above the horizontal.

(F) The operation of searchlights for advertising purposes.

6.5 Light Levels

All site lighting shall be designed so that the initial level of illumination as measured in foot-candles (fc) meets the standards in the table below with minimum and maximum levels measured on the pavement within the lighted area.

Type of Lighting	Light Level (in foot-candles)		
	Minimum	**Maximum**	**Other Requirements**
Architectural lighting	0.0	5.0	Shall be extinguished between 11:00 p.m. (or when the business closes, whichever is later) and sunrise.
Canopy area lighting	2.0	24.0	Fixtures, including lenses shall be recessed into the canopy.
Landscape or decorative lighting	0.2	5.0	Shall be extinguished between 11:00 p.m. (or when the business closes, whichever is later) and sunrise.
Multi-family residential parking lot	0.5	8.0	
Non-residential parking lots	0.5	10.0	
Non-residential & multi-family residential entrances	1.0	15.0	
Sidewalks	0.5	15.0	
Sports facility lighting	IES guidelines RP-6 for sports lighting level of play-lighting level to be maintained instead of initial		Shall be extinguished after 11:00 p.m. or following a scheduled event that was unable to conclude before this time due to unusual circumstances.
Storage area, security lighting	0.5	10.0	
Vehicle sales & display	0.5	24.0	Shall be turned off at 11:00 p.m. or within thirty minutes after closing of the business, whichever is later.
Property line adjacent to residential zoning	0.0	0.5	
Property line adjacent to non-residential zoning	0.0	5.0	
Property line adjacent to street	0.0	5.0	

6.6 Light Height

(A) No freestanding light poles shall exceed a maximum of 25 feet mounting height except that sports facility lighting shall not be limited but shall be the minimum necessary to provide proper illumination of the active play area and surrounding spectator areas.

(B) Pedestrian-scale lighting shall be 15 feet or less in height.

(C) All attached light fixtures shall be placed at the minimum height necessary to achieve their purpose.

6.7 Backlight, Uplight, and Glare

In accordance with the IES TM-15 Luminaire Classification System for Outdoor Luminaires the following levels of backlight, uplight, and glare (BUG) shall be met for all lights. All lights less than two (2) mounting heights from the property line shall be mounted with backlight mounted toward the property line.

(A) **Lighting Zone 1:** Residential areas (does not apply to individual single-family residential & two-family residential homes)

Distance from Property Line (based on the mounting height of the light fixture)	**Backlight**	**Uplight**	**Glare**
Greater than 2 mounting heights	B3	U0	G1
1 to 2 mounting heights	B2	U0	G0
0.5 to 1 mounting height	B1	U0	G0
Less than 0.5 mounting height (adjacent to street)	B0	U0	G0
Less than 0.5 mounting height	B0	U0	G0

(B) **Lighting Zone 2:** Parking areas & entrances of multi-family residential, institutional, and commercial uses located within the OS, CR, or RM zoning districts

Distance from Property Line (based on the mounting height of the light fixture)	**Backlight**	**Uplight**	**Glare**
Greater than 2 mounting heights	B4	U1	G2
1 to 2 mounting heights	B3	U1	G1
0.5 to 1 mounting height	B2	U1	G0
Less than 0.5 mounting height (adjacent to street)	B1	U1	G0
Less than 0.5 mounting height	B0	U1	G0

(C) **Lighting Zone 3:** Parking areas & entrances of multi-family residential, institutional, and commercial uses located within the VM, CM, or GB zoning districts

Distance from Property Line (based on the mounting height of the light fixture)	**Backlight**	**Uplight**	**Glare**
Greater than 2 mounting heights	B5	U2	G3
1 to 2 mounting heights	B4	U2	G1
0.5 to 1 mounting height	B3	U2	G1
Less than 0.5 mounting height (adjacent to street)	B2	U2	G0
Less than 0.5 mounting height	B1	U2	G0

6.8 Maintenance

(A) All light fixtures that are required to be shielded shall be installed and maintained in such a manner that the shielding is effective as required.

(B) Anything other than routine servicing and same-type lamp replacement of any exterior lighting shall require town approval prior to installation.

CHAPTER 7 SIGNAGE

7.1 Intent

The standards of this section shall apply to all signs in all zoning districts, unless otherwise noted, for the following purposes:

- To ensure that signage is designed and placed to complement the character of the town
- To minimize the distractions and obstruction of view that contribute to traffic hazards and endanger public safety
- To protect existing development and promote high standards of quality in new development by requiring appropriately designed, placed, and sized signage,
- To provide an effective guide for communicating identification through signage while preventing signs from dominating the visual appearance of the areas in which they are located
- To promote economic development

7.2 Applicability

(A) It shall be unlawful to construct, install, enlarge, modify, move or replace any sign or cause the same to be done, without first obtaining a zoning permit for such sign from the town, unless otherwise stated in this Chapter.

(B) Any modification to a nonconforming sign shall require the sign to be brought into conformity with the requirements of the ordinance.

(C) Official signs installed by units of local government having jurisdiction within the Town of Bermuda Run, agencies of the State of North Carolina and federal government agencies are exempt from the regulations established by this Ordinance, provided that such signs fully conform to all safety provisions established by this Ordinance.

7.3 General Provisions

The following provisions shall apply to all signs.

(A) *Construction standards*

(1) All signs shall be constructed and installed in accordance with the applicable provisions of the North Carolina State Building Code.

(2) All temporary signs shall be constructed of materials and printed on by inks capable of withstanding normal weather conditions.

(3) All signs, except for banners, flags, temporary signs, and window signs conforming in all respects with the requirements of this ordinance shall be constructed of permanent materials and shall be permanently attached to the

ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure.

(B) *Electrical standards*

All illuminated signs shall be installed in accordance with the applicable provisions of the North Carolina State Electrical Code and all detached signs shall be illuminated by an underground electrical source

(C) Discontinuation of sign use.

If a sign advertises or identifies a business, service, commodity, attraction, or other enterprise or activity that is no longer operating or being offered or conducted, then that sign and sign structure shall be considered discontinued regardless of reason or intent and shall be removed by the owner of the property within 180 days of discontinuance

(D) *Maintenance of signs*

All signs shall be maintained in good structural and aesthetic condition. Deficiencies such as chipped paint, broken plastic, missing letters and exposed light bulbs shall be evidence of a lack of maintenance.

(E) *Maintenance of landscaping around sign base*

All landscaping areas around the base of freestanding sign shall be maintained, trimmed, and kept free of weeds. Any dead plants shall be removed and replaced within 90 days. Landscaping areas shall incorporate mulch or pine needles as a ground cover.

(F) *Obstructions prohibited*

No sign shall be placed so as to obstruct the clear sight triangle at a street intersection nor shall any sign obstruct the view of motorists entering or leaving an off-street parking area.

(G) *Sign design.*

(1) Sign material, style and color shall complement the building façade in terms of design, scale, color, and materials.

(2) Colors for freestanding ground-mounted signs and wall signs shall be limited to two (2) colors plus the background color. Fluorescent and high intensity colors are prohibited. This shall not apply to federally registered trademarks. While not a requirement, it is recommended that signs have a darker background with lighter colors to improve visibility, especially at night.

(3) Freestanding ground-mounted signs shall be monument style with the base of the sign being no more than 12 inches above the adjacent grade. All monument signs shall be designed with decorative caps or finials on top. The base of the sign shall be surrounded by landscaping including a variety of annuals and perennials that do not obstruct the sign face.

Monument sign with no decorative cap and no Landscaping

Monument sign with Decorative Cap and Landscaping

(4) Business owners are strongly encouraged to use the *Town of Bermuda Run Sign Design Guidelines* to improve sign visibility, legibility, appearance, and landscaping and to complement the character of the Town.

(H) *Sign lighting.*

(1) Monument signs shall not be internally illuminated.

Internally Illuminated Monument Sign

Externally Illuminated Monument Sign

(2) Wall signs shall not be internally illuminated unless they are designed with channel letters. Box signs or cabinet signs are not permitted as wall signs.

Internally Illuminated Cabinet Wall Sign

Externally Illuminated Wall Sign

Internally Illuminated Channel Letters Wall Sign

(3) Neon, argon and similar lighting fixtures shall not be used anywhere on the exterior of a building; however, one (1) neon sign if non-flashing and non-moving may be mounted on the inside of windows, provided that the sign is not larger than six (6) square feet or 25 percent of the window, whichever is less.

(4) If externally illuminated, any lighting directed toward the sign is shielded so as to illuminate only the face of the sign.

(G) *Computation of sign height.*
The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of:

(1) Existing grade prior to construction; or

(2) The newly established grade after construction, exclusive of any filling, berming, mounding, or excavating. In cases in which the normal grade cannot

reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the lot, whichever is lower.

(H) *Computation of area of individual signs.*
The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets these zoning regulations and is clearly incidental to the display itself.

(I) *Computation of area of multi-faced signs.*
The sign area for a sign with more than one (1) face shall be computed by adding together the area of all sign faces visible from any one (1) point at the same time, and when such sign faces are part of the same sign structure and are not more than 42 inches apart, the sign area shall be computed by the measurement of one (1) of the faces.

(J) *Forfeiture of illegal signs placed on or over public property.*
Any sign installed or placed on or over public property, except in conformance with the requirements of this ordinance, shall be forfeited to the public and be subject to confiscation and disposal. In addition to other remedies provided by this ordinance, the town shall have the right to recover from the sign owner and/or installer the full costs of removal and disposal of such sign.

7.4 Sign Placement

The following provisions shall apply to the placement of all signs in all districts.

(A) *In general.*

(1) Signs must be located entirely on private property, unless otherwise permitted by this ordinance.

(2) No sign may cause an obstruction as specified in 7.3(D).

(3) Signs shall relate in their placement and size to other building elements without obscuring building elements such as architectural features and decorative details.

(B) *Wall signs.*

(1) Wall mounted signs shall not extend above the eave or parapet of any building.

(C) *Freestanding signs.*

(1) All parts of freestanding signs must be set back a minimum of five (5) feet from the side property lines and two (2) feet from the right-of-way.

(2) No freestanding sign shall be located closer than 15 feet from another structure on the same zoning lot.

(3) No portion of a freestanding sign, including projections, may extend into or over an existing public right-of-way, unless expressly permitted by this ordinance.

(D) *Temporary signs.*

(1) Temporary signs shall be located on private property unless expressly permitted by this ordinance to be posted on public property.

(2) All temporary signs shall be anchored, attached, or otherwise affixed to a structure or support so that the sign cannot be easily dislodged by strong winds or heavy rains.

7.5. Planned Development Sign Packages

As an option to the sign standards as set forth in this Chapter, shopping centers, commercial subdivisions, business parks, mixed use developments, or similar developments shall be allowed to submit an application for a comprehensive sign package. Applications for Planned Development Sign Packages shall be reviewed as Design Waivers by the Planning Board in accordance with the procedures as set forth in Section 11.11 of this Ordinance. The sign package must show all the proposed permanent signage for the overall development. In developing the signage package, the applicant is not limited to any dimensional regulations, except that the overall concept should:

(A) Give consideration towards establishing a visually continuous theme throughout the development.

(B) Design all signage to be of compatible scale with the proposed buildings, overall development, and surrounding property.

(C) Complement the character of the town.

7.6 Permanent Signs by Zoning District

Signs shall be permitted and prohibited within certain zoning districts as follows:

Permanent Signs by Sign Type and Zoning District

SIGN TYPE	OS	CR	RM	VM	CM	GB
Canopy/awning	Z	-	Z	Z	Z	Z
Development Entryway	Z	Z	Z	Z	Z	Z
Directional[1]	Z	Z	Z	Z	Z	Z
Directory	Z	Z	Z	Z	Z	Z
Flag	P	P	P	P	P	P
Incidental	P	P	P	P	P	P
Kiosk	Z	-	Z	Z	Z	Z
Marquee	-	-	-	-	-	-
Monument	Z	Z	Z	Z	Z	Z
Outdoor advertising	-	-	-	-	-	-
Planned development	W	W	W	W	W	W
Portable	-	-	-	-	-	-
Suspended	-	-	-	Z	Z	-
Wall	-	-	Z	Z	Z	Z
Window	P	P	P	P	P	P

P = permitted without a permit if otherwise in conformance with this section.
Z = permitted only upon issuance of a valid zoning permit
W=Planned development sign packages permitted with issuance of Design Waiver
"-" = not permitted
Sign types not specifically listed in this table are not permitted.

7.7 Sign Height

Maximum sign height shall be limited by the type of sign and the zoning district in which it is located, as follows:

Maximum Sign Height by Sign Type (in feet)

SIGN TYPE	OS	CR	RM	VM	CM	GB
Canopy/awning	-	-	-	na	na	na
Development Entryway	6	6	6	8	8	8
Directional	-	-	-	6	6	6
Directory	-	-	-	4	4	6
Flag	40	40	40	40	40	40
Incidental	2	2	2	2	2	2
Kiosk	-	-	-	6	6	6
Marquee	-	-	-	-	-	-
Monument	4	4	4	6	6	6
Outdoor advertising	-	-	-	-	-	-
Planned development	na	na	na	na	na	na
Portable	-	-	-	-	-	-
Suspended	-	-	-	na	na	-
Wall	-	-	na	na	na	na
Window	na	na	na	na	na	na

7.8 Number of Signs Permitted

The number of signs by sign type permitted on an individual zoning lot shall be as follows:

Maximum Number of Signs per Sign Type per Zoning Lot

SIGN TYPE	OS	CR	RM	VM	CM	GB
Canopy/awning[1]	-	-	-	1	1	1
Development Entryway[3]	1	1	1	1	1	1
Directional	-	-	-	2	2	2
Directory	-	-	-	1	1	2
Flag	4	4	4	4	4	4
Incidental	na	na	na	na	na	na
Kiosk	-	-	-	1	1	1
Marquee	-	-	-	-	-	-
Monument	1 [4]	1 [4]	1 [4]	1 [3]	1 [3]	1 [3]
Outdoor advertising	-	-	-	-	-	-
Planned development	na	na	na	na	na	na
Portable	-	-	-	-	-	-
Suspended[2]	-	-	-	1	1	-
Wall	-	-	1 [5]	1 [5]	1 [5]	na
Window	na	na	na	na	na	na

[1] Per canopy or awning.
[2] Per storefront.
[3] Per street front for each lot of record
[4] Per neighborhood entrance.
[5] Per tenant for each street front and building entrance facing parking lot

7.9 Sign Area by Zoning District

The amount of sign area permitted for each sign on a zoning lot shall be as follows:

Maximum Sign Area per Sign (in square feet)

SIGN TYPE	OS	CR	RM	VM	CM	GB
Canopy/awning	-	-	-	[4]	[4]	[4]
Development Entryway	24	24	24	40	40	40
Directional	-	-	-	4	4	4
Directory	-	-	-	12	12	12
Flag	na	na	na	na	na	na
Incidental	4	4	4	4	4	4
Kiosk	-	-	-	32	32	32
Marquee	-	-	-	-	-	-
Monument[6]	24	24	24	40[5]	40[5]	40[5]
Outdoor advertising	-	-	-	-	-	-
Planned development	na	na	na	na	na	na
Portable	-	-	-	-	-	-
Suspended	-	-	-	4	4	-
Wall	-	-	[2]	[2]	[2]	[2]
Window	na	na	na	[3]	[3]	[3]

[1] *Shall not exceed 75 percent of the size of the marquee.*
[2] *Shall not exceed one (1) square foot per linear foot of building wall.*
[3] *Shall not exceed 25 percent of the window area.*
[4] *Counts towards maximum allowable wall signage.*
[5] *Individual lots with two (2) or more tenants shall utilize multi-tenant signs. An additional four (4) square feet may be added per additional tenant up to a maximum of 64 square feet.*
[6] *A maximum of 50 percent of allowable sign area may be changeable copy*

7.10. Permanent Signs

(A) Notwithstanding section 7.6. and in addition thereto, the following permanent signs shall be permitted without a zoning permit.

(1) Incidental signs and any sign not legible or easily noticeable from public property or a public right-of-way

(2) Flags on poles permanently affixed to ground.

(3) Any public notice or warning required by a valid and applicable federal, state, or local law, regulation, or ordinance.

(4) Traffic control signs on private property, the face of which meet department of transportation standards.

(B) Notwithstanding section 7.6. and in addition thereto, the following permanent signs shall be permitted upon the issuance of a valid zoning permit.

(1) Off-premises privately-owned and maintained sign kiosks and directory signs that provide a directory to uses or attractions not on the immediate lot of record but at nearby sites within in a planned development may be placed on private property provided that:

a) The sign kiosk or directory sign meets the requirements for size and height listed in sections 7.7. and 7.9.; and
b) The property on which the sign kiosk or directory sign is located does not contain another kiosk or directory sign; and
c) The sign kiosk or directory sign is not located within 50 feet of another permanent, privately owned freestanding sign; and
d) No more than one (1) such sign kiosk or directory sign is erected per development entrance of a planned development; and
e) The sign kiosk or directory sign does not obstruct the clear sight triangle or in any other way interfere with the safe passage of vehicles, pedestrians, and bicyclists on, off of, or along public streets, sidewalks, or bike paths; and
f) Sign kiosks shall not be internally illuminated.

(2) Development entrance signs located partially or wholly within the street right-of-way as approved by the Town Manager. The Town shall not be responsible for the repair or replacement of such sign regardless of why or how such sign was damaged or removed including but not limited to traffic accidents, vandalism, street repair or resurfacing, or acts of God. The Town may remove any such sign at any time for any reason without notice and without compensation.

7.11 Temporary Signs

The provisions of this section shall apply to the placement and display of temporary signage within the Town's jurisdiction. Any temporary sign that does not comply with the provisions of this Section is prohibited. Any sign which is permanently displayed shall comply with the provisions of Section 7.10 Permanent Signs.

(A) Common Standards

All temporary signs shall comply with the following common standards:

(1) Temporary signs shall not be illuminated or be provided with any electric service.

(2) Temporary signs shall not be placed within any public street right-of-way, including within medians, unless expressly permitted by this ordinance or the North Carolina General Statutes.

(3) Temporary signs attached to building walls (other than permitted temporary window signs) shall not be placed in a manner that obstructs any window, door, fire department sprinkler connection, or street number sign.

(4) Temporary signs shall not be affixed to a permanent sign or its supporting structure, including both building mounted and freestanding permanent signs.

(5) Temporary signs shall not be placed in a manner that obstructs clear sight distance (within the required sight triangle) for motorists at street intersections or driveways.

(6) Temporary signs, other than Type 4 Freestanding Temporary Signs, shall not be placed upon any sidewalk or other pedestrian walkway.

(7) Temporary signs shall not be placed on the roof of a building, or affixed to a motor vehicle, tree, utility pole or street sign.

(8) Where temporary signs are limited in the duration of their display and limited in the total number of displays per calendar year, any required period of separation between such displays shall carry through to the following calendar year, and shall be observed prior to initiating the first allowed display during the new calendar year.

(B) *Temporary signs not requiring a permit.*

The following temporary signs are permitted without a zoning permit in all zoning districts, but shall be in conformance with all other requirements of this ordinance. Temporary signs shall not be illuminated.

(1) Incidental signs affixed to a building wall or similar permanent structure not legible or easily noticeable from adjacent properties, public property, or a public right-of-way.

(2) Temporary signs affixed to the interior of windows may be displayed subject to the following provisions:

a) Temporary window signs exclude any sign which is permanently affixed to a window by means of chemical adhesion, painting, etching or similar means.
b) Temporary window signs may not cover, in aggregate, more than 25 percent of the glazed area of the window to which they are affixed.
c) Temporary window signage shall not be affixed to the exterior of a window.

(C) *Freestanding temporary signs*

Freestanding temporary signs permitted shall comply with the following standards:

(1) General Provisions
The following standards shall apply to all Freestanding Temporary Signs:

a) Signs shall not be affixed to poles, posts, stakes or other supporting structures that are permanently installed or anchored into the ground through the use of concrete foundations or similar anchoring techniques.
b) Signs, other than Type 4 Freestanding Temporary signs, shall be set back from the edge of the right-of-way by a minimum of five (5) feet.
c) No more than one (1) Freestanding Temporary Sign may be displayed on a parcel or group of adjacent parcels under common ownership or tenancy at any given time, regardless of type, unless otherwise expressly permitted.

(2) Type 1 Freestanding Temporary Signs
Signs in this category consist of small, temporary yard signs that are typically associated with (but not limited to) the advertisement of real estate, political campaigns and meeting announcements. For examples of Type 1 Temporary Freestanding Signs, see Figure 7.1. Such signs are also subject to NCGS 136-32(b).

(3) Type 2 Freestanding Temporary Signs
Signs in this category are typically referred to as “banners” that are typically associated with (but not limited to) the announcement of community, sporting and similar special events. For examples of Type 2 Temporary Freestanding Signs, see Figure 7.1.

(4) Type 3 Freestanding Temporary Signs
Signs in this category are large temporary signs typically associated with (but not limited to) the advertisement of large tracts of land for sale, construction and development activity or the advertisement of commercial or industrial buildings for sale or lease. For examples of Type 3 Temporary Freestanding Signs, see Figure 7.1.

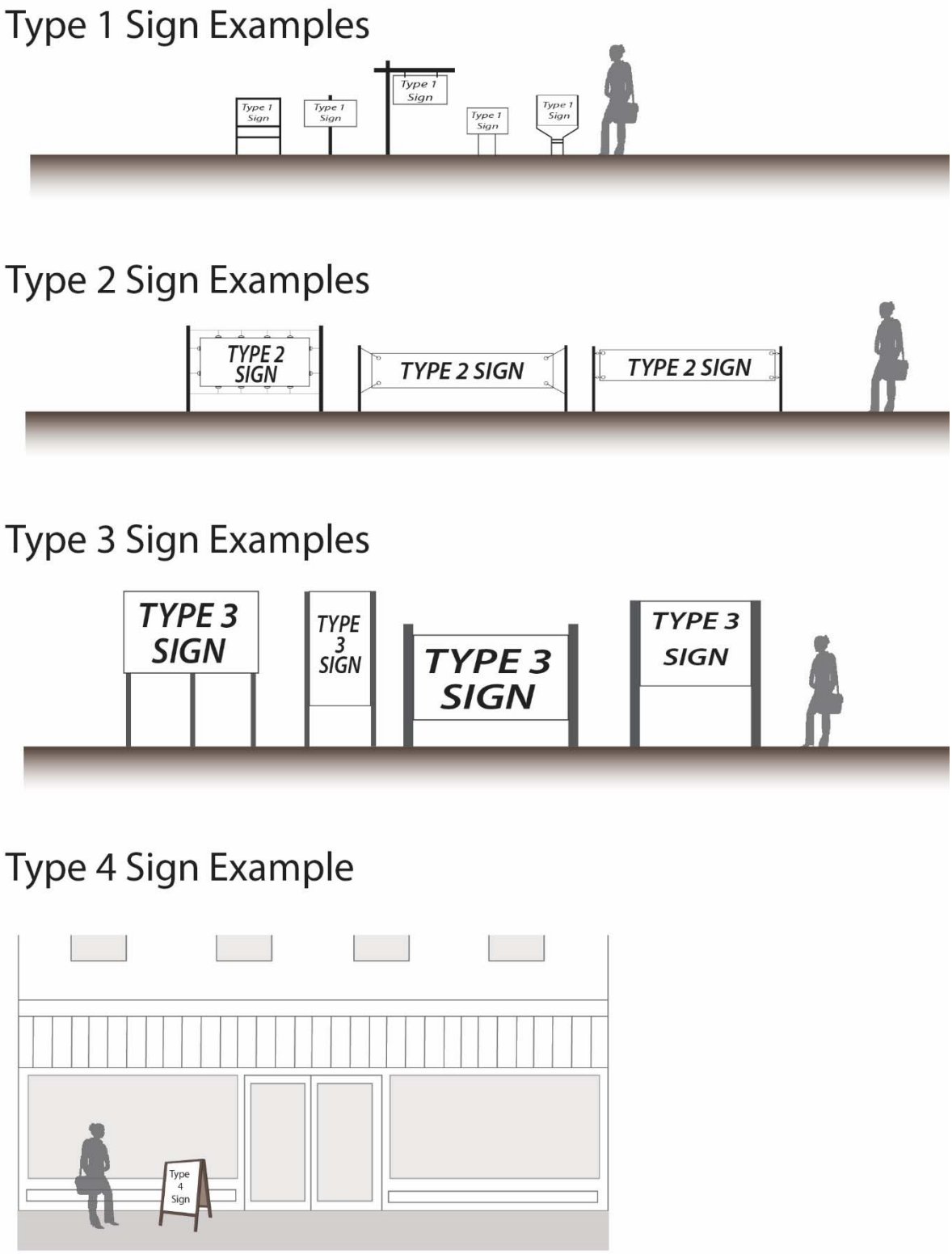
(5) Type 4 Freestanding Temporary Signs
The category of signs defined as Type 4 Freestanding Temporary signs shall include only those signs which are constructed in a manner that is commonly referred to as an “A-frame” or “sandwich board” sign. The faces of the sign shall be connected at the top by hinges or similar mechanisms and the sign shall be self-supporting when placed in its display position.

Freestanding Temporary Sign Criteria

Criteria	Type 1	Type 2	Type 3	Type 4
Zoning District	Any district	CR, RM, VM, CM, GB	OS, RM, VM, CM, GB	CR, RM, VM, CM, GB
Permit Required	No	Yes	Yes	Yes
Land Use/Location	• Residential Use Group for lots or developments of 3 acres or less • Vacant or undeveloped properties of 1 acre or less	• Government and Institutional Use Group • Recreational Use Group • Properties with two frontages at the intersection of US Hwy. 158 and NC Hwy. 801	• Residential Use Group for lots or developments of greater than 3 acres • Vacant or undeveloped properties of greater than 1 acre • Permitted Temporary Uses • Properties for which there is a valid building permit	• Commercial Use Group • Government and Institutional Use Group • Professional Office and Medical Use Group • Recreational Use Group • Service Use Group • Permitted Temporary Uses
Max. Size[1] (square feet)	6	24	16	6
Max. Height (feet)	4	4	6	4
Number Permitted[2]	1	1	1	1 per customer building entrance
Max. Duration	No Limit	7 days up to 6 times per calendar year with minimum 7 days separation	2 years[3]	Between daily opening and closing
Mounting	Supported by posts or stakes	Supported by posts or stakes	Supported by a minimum of 2 posts or stakes	A-frame
Material	Rigid	Flexible	Rigid	Rigid
Other	NCGS 136-32 applies within state rights-of-way		Shall not be displayed upon a parcel that contains a permanent freestanding sign, except with a permitted Temporary Use	• Shall be located within 10 feet of building wall and within 10 feet of a customer building entrance • May be located on sidewalk if with a minimum 4-foot clearance • Shall not be placed in a landscaped area or parking area or driveway

[1]The display area may be either single or dual-sided, but shall not consist of more than one (1) distinct component.
[2]Per parcel or group of adjacent parcels under common ownership or tenancy
[3]Provided that this limit shall not be apply if the land, and any building(s) and/or structure(s) upon such parcel or group of parcels is not occupied or in active use for purposes other than a use in the Residential Use Group at any time during the period of display.

FIGURE 7.1: TEMPORARY SIGN TYPE EXAMPLES



(D) *Wall-mounted temporary signs*
Temporary signs mounted to building walls may be displayed subject to the issuance of a zoning permit and the following provisions:

(1) Wall mounted temporary signs are only permitted on buildings housing a use within the Commercial, Governmental and Institutional, Professional Office and Medical, Recreational, Service, and Industrial Use group categories.

(2) One (1) temporary wall sign may be displayed per building occupied by a single tenant. Buildings designed for occupancy by multiple tenants where each tenant has a separate entrance may display one (1) temporary wall sign per tenant space. Buildings occupied by multiple tenants that share a common entrance may not display more than one (1) temporary wall sign at any given time.

(3) Temporary wall signs shall be mounted flush against the building wall and secured by fasteners or other anchors at each corner.

(4) The maximum display area for temporary wall signs shall be the greater of 24 square feet or 25 percent of the maximum permitted permanent wall signage, not to exceed 72 square feet.

(5) Temporary wall signs may be displayed for a maximum of 14 consecutive calendar days.

(6) Temporary wall signs may be displayed a maximum of six (6) times per calendar year.

7.12 Prohibited Signs

Notwithstanding section 7.6. and in addition thereto, the following signs, both permanent and temporary, are prohibited in all zoning districts:

(A) Signs extending into the public right-of-way other than those expressly permitted by this ordinance or otherwise approved by the Town Manager, if placed along public streets.

(B) Roof signs.

(C) Portable signs, except Type 1 and Type 4 signs as permitted by this Chapter.

(D) Electronic message board signs. This does not include properties with a land use classification of fuel station which may have up to 10 square feet of electronic changeable copy, and government signs.

(E) Flashing, fluttering, swinging, wind activated, rotating, or other animated signs not to include non-flashing time and/or temperature signs.

(F) Any sign which obstructs the view of motorists, pedestrians, or cyclists using any street, sidewalk, bike path, or driveway, or which obstructs the approach to any street intersection or railroad crossing, or which interferes with the effectiveness of any traffic sign, device, or signal.

(G) Illuminated or highly reflective signs which hamper the vision of motorists or cyclists.

(H) Any sign which resembles traffic signals, traffic signs, or emergency vehicle lights and any other sign not erected by a public authority which may be erroneously construed as governmental signs or emergency warning signs.

(I) Beacons, pennants, and strings of lights not permanently mounted to a rigid background, except those permitted as temporary signs.

(J) Any sign which interferes with free passage from or obstructs any fire escape, downspout, window, door, stairway, ladder, or opening intended as a means of ingress or egress or providing light or air except for permitted window signs.

(K) Any sign placed on any curb, sidewalk, post, pole, hydrant, bridge, tree, or other structure or surface located on, over, or across any public street right-of-way or property unless expressly authorized by this ordinance or the Town Manager.

(L) Off-premises signs advertising adult establishments.

(M) Off-premises signs on parcels of land which are zoned residential, used primarily for residential purposes, or which do not include an active permitted use as established by this ordinance.

(N) Inflatable devices or balloons.

(O) High intensity search lights.

(P) Mobile or vehicular signs parked in a manner which is intended to attract attention.

(Q) Any object displayed in a manner which is intended to attract attention to a site, product, or event.

(R) Any sign listed as "not permitted" in section 7.6.

(S) Any sign not expressly permitted by this ordinance.

(T) Vertically displayed banner signs mounted or attached to poles, which are not permanently attached to the ground, where the height of the banner exceeds 25 percent of the height of the pole when erected in its display position.

(U) Any sign containing words, graphics or other methods of communication that are considered lewd, offensive, or licentious and any sign through its design communicates such to the public.

7.13 Flexibility in Administration

In situations where creative design is prevented or undue hardship is created due to strict adherence to the requirements of this Chapter, a Design Waiver may be granted in accordance with the requirements of Section 11.11.

7.14 Amortization of Nonconforming Signs

(A) Nonconforming Temporary Signs
All temporary signs that do not comply with the requirements of the Section shall be removed or brought into compliance within 60 days of the amendment of this ordinance on January 12, 2016.

(B) Nonconforming Permanent Signs
All permanent signs located in the CM, VM and GB zoning districts that do not comply with the requirements of the Section shall be removed or brought into compliance within seven (7) years of the adoption of this ordinance on May 10, 2011. All signs shall be in compliance by May 10, 2018. Additionally, all nonconforming signs shall be brought into full compliance with the regulations of

this Section prior to this date if any modification is made to the sign face or structure or if there is any change of use, grading, or construction taking place on the same site as the nonconforming sign.

(C) Nonconforming Freestanding Sign Landscaping

All freestanding signs that do not meet the landscaping requirements in Section 7.3 (G)(3), shall be brought into compliance within one (1) year of the adoption of this ordinance on May 10, 2011. All landscaping for freestanding signs shall be in compliance by May 10, 2012.

CHAPTER 8 NONCONFORMITIES

8.1 Purpose and Applicability

The purpose of this Chapter is to regulate and limit the continued existence of uses, structures, and site improvements that were established prior to the effective date of these regulations and that do not conform to these regulations. Any nonconformity created by a change in the text of these regulations or by the reclassification of property shall be regulated by the provisions of this Chapter. The "effective date" referenced below shall be the date the text of this ordinance or the zoning map is amended to render a particular use, structure, lot, or site improvements nonconforming. Many nonconformities may continue, but the provisions of this Chapter are designed to curtail substantial investment in nonconformities, and to bring about their eventual improvement or elimination. There may be a change in tenancy or ownership of an existing nonconforming use or structure, provided there is no change in the nature or character of such nonconforming use or structure except as provided herein.

8.2 Nonconforming Uses

(A) Nonconforming uses of land or structures may continue only in accordance with the provisions of this section.

(B) A nonconforming use shall not be expanded. Expansion shall include an intensification of use, a physical expansion that results in increased capacity or activity associated with the use, an extension of the hours of operation or number of days of activity and any similar change in activity or location.

(C) A nonconforming use shall not be moved from one location on a site to another location on the same site unless the property owner can demonstrate to the satisfaction of the zoning administrator that the relocation of the use will not increase the impacts of such use on the public, will not adversely affect adjacent properties, and will not have the affect of making the nonconformity more permanent.

(D) A nonconforming use shall not be changed to any other use unless the new use conforms to the standards of the zoning district in which it is located. Once a nonconforming use is changed to a conforming use, a nonconforming use shall not be re-established.

(E) Where a nonconforming use is discontinued or abandoned for a period of 180 days, then the use shall not be re-established or resumed and any subsequent use of the land or structure shall conform to the requirements of these regulations.

(F) No structural changes shall be made in any structure occupied by a nonconforming use except as follows:

(1) Those structural changes ordered by an authorized official in order to insure the safety of the structure shall be permitted.

(2) Maintenance and repairs to keep a structure in sound condition shall be permitted.

(3) Structural changes necessary to convert the nonconforming use to a conforming use shall be permitted.

(4) An existing nonconforming residential structure may be enlarged or altered provided that no additional dwelling units result therefrom. Any such enlargement or alterations shall be in compliance with all yard requirements of the district and/or use.

(5) The structure and its accompanying use may be moved to another location on the lot so long as the structure meets all applicable requirements of the district.

8.3 Nonconforming Structures

(A) A nonconforming structure, devoted to a use permitted in the zoning district in which it is located, may continue only in accordance with the provisions of this section.

(B) Normal repair and maintenance may be performed to allow the continuation of a nonconforming structure.

(C) Any structure that is dimensionally nonconforming may be enlarged if the expansion does not increase the nonconformity.

(D) Non-residential structures that are nonconforming to the standards of Chapter 4 Design Standards shall meet the standards of Chapter 4 to the greatest extent possible if the structure is being expanded by more than 20 percent or there is a change of use of the building.

(E) A nonconforming structure shall not be moved unless it thereafter conforms to the standards of the zoning district in which it is located.

(F) A nonconforming structure, destroyed or damaged so that more than 40 percent of the value of such structure remains, may be repaired or restored if a building permit for the repair or restoration is issued within six (6) months of the date of the damage. A nonconforming structure, destroyed or damaged so that no more than 40 percent of its value remains, may be repaired or restored only if the structure conforms to the standards of the regulations for the zoning district in which it is located. The extent of damage or destruction shall be determined by comparing the estimated cost of repair or restoration with the current assessed tax value.

(G) A nonconforming structure shall not be replaced with another nonconforming structure regardless of the degree of nonconformity.

8.4 Nonconforming Signs

(A) Any modification to a nonconforming signs shall require the sign to be brought into conformity with the requirements of this Ordinance. Nonconforming signs (except multi-tenant signs), shall be removed prior to issuance of a zoning permit, issuance of a grading permit, or commencement of new construction on the site.

(B) All nonconforming signs shall be removed once a use has been discontinued for a period of greater than 180 days.

(C) Nonconforming signs shall adhere to the amortization requirements of Section 7.14.

8.5 Nonconforming Landscaping

Nonconforming landscaping on a site shall be brought up to the standards of Chapter 5, to the greatest extent possible, for any increase in building size or parking spaces by greater than 20 percent in all zoning districts except single-family residential detached homes on existing lots of record, unless otherwise noted in this ordinance.

8.6 Nonconforming Parking Areas

Nonconforming parking areas on a site shall be brought up to the standards of Section 4.3, to the greatest extent possible, for any increase in building size or parking spaces by greater than 20 percent in all zoning districts except single-family residential detached homes on existing lots of record, unless otherwise noted in this ordinance.

8.7 Nonconforming Vacant Lots

(A) Except as provided in Subsection (B) below, a nonconforming vacant lot may be used for any of the uses permitted by these regulations in the zoning district in which it is located, provided that the use meets all yard, parking, and screening requirements of this ordinance for the zoning district in which it is located.

(B) If two or more adjacent, nonconforming, unimproved lots are held in single ownership, such lots shall be considered to be a single building lot for the purposes of this ordinance and may be developed under the authority of Subsection (A) above.

8.8 Nonconforming Accessory Structures & Uses

No nonconforming accessory use or accessory structure shall continue after the principal use or structure is terminated by abandonment, discontinuance, damage, or destruction unless such accessory use or accessory structure thereafter is made to conform to the standards for the zoning district in which it is located.

8.9 Nonconforming Manufactured Home Parks

(A) Nonconforming manufactured home parks may not be expanded or increased in size which shall include adding spaces to the park;

(B) When a site at a nonconforming manufactured home park is vacated, another manufactured home may not be placed on that site;

CHAPTER 9 ADDITIONAL CONDITIONS FOR CERTAIN USES.

Note: These conditions apply only to uses "permitted with conditions" or by "special use permit" in the applicable zoning district as shown in Section 3.5., Table of Uses. Some uses are also restricted relative to their proximity to the Yadkin River and certain streams due to potential impacts on water quality. For these restrictions, please refer to Chapter 10 in its entirety.

9.1 Accessory Communication Antennae

(A) No antennae or radio towers shall be permitted adjacent to legal, conforming residential uses or on residentially zoned lots except for small (< 3' diameter) dish satellite and television antennas located on the roof. Short wave radio antennas shall not be permitted.

(B) If an antenna exceeds the height restrictions for the district in which it is located, it must be set back one (1) foot from any adjacent property lines for each foot of height over the maximum for the district.

(C) Accessory antennae attached to buildings shall be concealed within or have an exterior appearance as a permitted principal or accessory structure permitted in the district where located.

(D) Additionally, the standards for collocation of small wireless facilities in NCGS 160A-400.54 shall be met.

9.2 Accessory Structures & Uses

(A) In no event shall "accessory use" or "accessory structure" be construed to authorize a use or structure not otherwise permitted in the district in which the principal use is located.

(B) All accessory uses and accessory structures shall conform to the applicable requirements of this ordinance, including all dimensional requirements and use, design and landscaping standards applicable to the primary use/structure. The provisions of this section establish additional requirements and restrictions for particular accessory uses and structures.

(C) In no case shall mobile storage containers (i.e. PODS), shipping containers or similar items be used as accessory structures except as permitted in Section 9.55 for temporary uses.

(D) Accessory uses and structures that are clearly related to and incidental to the permitted principal use or structure on the lot are permitted in all districts. Accessory dwellings shall also meet the requirements of Section 9.3.

(E) All accessory uses and structures shall require the issuance of a zoning permit.

(F) Structures accessory to residential uses (except in the OS district) shall have a combined floor area (aggregate of all detached accessory structures) of no more than 33 percent of the total floor area of the principal structure.

(G) Accessory structures shall meet the following side and rear yard setbacks:

(1) In the OS, VM, CM and GB districts setbacks shall be 10 feet.

(2) In the CR and RM districts setbacks shall be five (5) feet.

(3) No accessory structure shall be located in a required front yard nor shall any accessory structure on a residential lot located in any zoning district be placed between the street and the rear building line of the principal structure except that:

a) Accessory structures located more than 100 feet from the street may be placed in the front yard of a property in the OS district, and

b) Detached garages shall be permitted in side yards.

(H) Swimming pools located on any site, including single family residential sites, shall be:

(1) Located in a side or rear yard only.

(2) Located a minimum of 20 feet from any property line.

(3) Completely enclosed by a fence or wall no less than four (4) feet in height above grade as measured on the side of the fence or wall which faces away from the swimming pool. This fence or wall shall enclose the pool itself and may include any other additional portions of the lot. All fence or wall openings into the pool area shall be equipped with a gate that opens outward away from the pool and shall be self-closing and have a self-latching device. (See section 5.2. for additional fence requirements.)

(4) Above ground permanent pools shall be prohibited except in the OS district.

(I) The use of solar panels to utilize solar energy generation for individual uses is encouraged. Solar panels shall meet the following standards:

(1) Ground mounted solar panels for shall meet accessory structure setback requirements set forth in subsection (F) and shall be located in the rear yard and screened from view of adjacent properties and the public right of way with an appropriate combination of a fence, wall, berm, or landscaping.

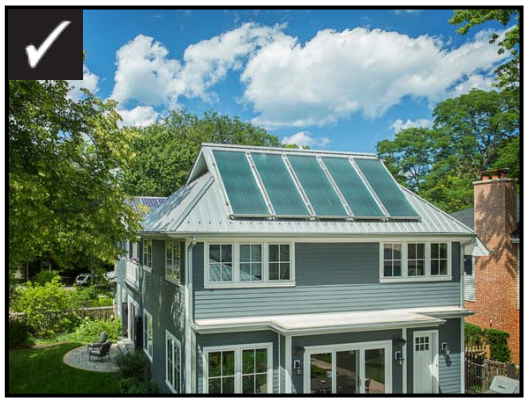
(2) Roof-mounted solar panels shall not be located on the pitched roof surface of the front façade.

(3) For pitched roofs, a maximum of 50% or 800 square feet, whichever is less, of the roof surface area of the building sides may be covered by solar panels.

(4) Solar panels shall not project at any point more than one (1) foot from the surface of a pitched roof.

(5) Solar panels shall not contrast with the color of the roof surface of pitched roofs.

(6) Solar panels on flat roofs shall be fully screened from view with a parapet wall or other screening device that substantially matches the materials of the building.



Non-contrasting solar panels on rear of structure

Contrasting solar panels on front of structure

9.3 Accessory Dwelling Unit, Attached or Detached

(A) An accessory dwelling may be attached, within, or separate from the principal dwelling.

(B) The principal use of the lot shall be residential and the principal structure on the lot shall be a residential building (single-family, duplex, multi-family, or townhouse).

(C) No more than one (1) accessory dwelling shall be permitted on a single lot of record in conjunction with the principal dwelling unit.

(D) The accessory dwelling shall be owned by the same person as the principal dwelling.

(E) The accessory dwelling shall not be served by a driveway separate from that serving the principal dwelling unless the accessory dwelling is accessed from a rear alley and the principal dwelling is accessed from a street.

(F) A detached accessory dwelling shall not exceed the maximum floor area ratio established for all accessory structures in section 9.2. The structure may be a

dwelling only or may combine a dwelling with garage, workshop, studio, or similar accessory use.

(G) A detached accessory dwelling shall be located in the rear yard.

(H) The owner of the accessory dwelling shall live on the parcel containing the accessory dwelling.

9.4 Adult Establishments

(A) No adult establishment shall be located within 1,000 feet (determined by a straight line and not street distance) of the closest boundary line of any residential zoning district, or of any point on the closest property line of any church, school, day care, public park, or playground as measured by a horizontal straight line distance from the closest point on the closest boundary line of the property occupied by the adult establishment.

(B) No adult establishment shall be located within 1,000 feet (determined by a straight line and not street distance) of any other adult establishment as measured by a horizontal, straight line distance from the closest point on the closest boundary line of the property occupied by each.

(C) No more than one (1) adult establishment may be located within the same structure.

(D) Mini-motion picture booths shall be constructed without doors, and shall orient the customer entrance of each booth toward the principal sales counter.

(E) Patrons of adult establishments shall be separated from entertainers, performers or entertainment employees by a minimum of six (6) feet.

(F) All performers or entertainment employees of adult establishments shall perform on an elevated stage or platform, elevated from the main floor by at least three (3) feet.

(G) No printed material, slide, video, photograph, written text, live show, or other visual presentation shall be visible to the public or an adjacent property or use, nor shall any live or recorded voices, music, or sounds be heard from outside the walls of the establishment.

9.5 Agriculture, Bonafide Farms

(A) In accordance with NCGS 160A-360(k), property that is located in the extraterritorial jurisdiction (ETJ) and that is used for bona fide farm purposes is exempt from zoning regulations. Property that is located in the ETJ and that ceases to be used for bona fide farm purposes shall become subject to zoning regulations.

(B) Outdoor storage of implements and equipment shall be located in the rear yard. Agricultural uses must maintain a minimum 10-foot vegetated buffer, or equivalent control as determined by the soil and water conservation commission along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 scale (7.5 minute) topographic maps.

(C) No pens, enclosures, buildings, or other structures intended or used for the containment of animals shall be permitted within 250 feet of the property line. This shall not include pastures, riding rings, or similar areas intended or used for the containment of animals in such small numbers that they do not present any significant offsite impacts related to noise, odor, or stormwater runoff.

9.6 Amusements, Commercial, Indoor and Outdoor

(A) Outdoor amusement facilities shall be separated by an opaque screen from any abutting property located in a residential district or containing a legal, conforming residential use.

(B) No permanently established outdoor amusement facilities, such as miniature golf courses, skateboard courses, or mechanical rides shall be located within 500 of the closest point of any abutting property located in a residential district.

(C) Hours of operation for either type of facility shall be no earlier than 8:00 a.m. and no later than 11:00 p.m.

9.7 Arenas

(A) The facility shall have direct access to a major arterial.

(B) All facilities and structures related to the use shall be located at least 100 linear feet from any lot line and 500 linear feet from a residential district except that the Zoning Administrator may waive part or all of this requirement where the design and location of the facilities or structures conform to accepted urban design principals and are compatible with nearby and adjacent residential uses.

9.8 Accessory Automatic Teller Machines (ATMs), Service Kiosks

(A) Accessory automatic teller machines and drive-through service kiosks shall be permitted as freestanding facilities in shopping center parking lots only when the location of such facilities do not present a hazard to the motoring public using the parking lot and they are lighted and located in such a manner as to maximize the safety of the public using the facility. Such facilities shall be compatible with the design and color of the shopping center. There shall be a minimum stacking space for two (2) vehicles.

(B) Accessory ATMs and kiosks located along sidewalks shall maintain a minimum of three (3) feet of sidewalk clearance.

9.9 Banquet and Events Facilities, Reception Halls

(A) Hours of operation shall be no earlier than 7:00 a.m. and no later than 1:00 a.m. when the use abuts a residential use or a residentially zoned lot. This restriction shall not apply where such use is separated from a residential use or a residentially zoned lot by a major arterial street or is more than 500 feet from a residential structure.

(B) Outdoor seating and entertainment areas shall not be permitted adjacent to a public street or within 50 feet of a residential use or a residentially zoned lot unless screened from view.

(C) Noise emanating from the facility shall not exceed ambient noise levels in the surrounding area at a distance of more than 25 feet from any point of the property containing the facility if the facility is adjacent to a residential use or residentially zoned lot. Noise emanating from the facility shall not exceed ambient noise levels in the surrounding area at a distance of more than 100 feet from any point of the property containing the facility if the facility is not adjacent to a residential use or residentially zoned lot.

9.10 Bed and Breakfast Establishment

(A) Establishments located in the RM district shall be limited to a total of six (6) lodging rooms or suites. Establishments in the OS, VM, and CM district shall be limited to a total of 12 lodging rooms or suites.

(B) The establishment shall serve only breakfast to registered guests of the establishment except that the establishment may also serve dinner to the general public for pay in the VM, CM, and OS districts. Public dining facilities shall be limited to a capacity of 80 seats.

(C) The price of breakfast shall be included in the room rate.

(D) The establishment shall be the permanent residence of the owner of the establishment.

(E) In any residential zoning district, no more than two (2) off-street parking spaces shall be provided in the front yard and overnight guest accommodations shall be in the principal structure only.

(F) Off-street parking in the side and rear yards shall be screened in accordance with parking lot landscaping and screening requirements. Parking shall be placed on the lot in a manner designed to have the least physical impact on adjoining residential uses.

(G) Bed and breakfast establishments may also include an event venue with the issuance of a Special Use Permit by the Board of Adjustment.

9.11 Boarding or Rooming House

(A) The house shall be the permanent residence of the owner of the establishment.

(B) In any residential zoning district, no more than two (2) off-street parking spaces shall be provided in the front yard.

(C) Off-street parking in the side and rear yards shall be screened in accordance with parking lot landscaping and screening requirements. Parking shall be placed on the lot in a manner designed to have the least physical impact on adjoining residential uses.

(D) At all times the character of the use shall be residential and shall be designed and maintained to appear as a single-family use.

9.12 Broadcast Studios, Radio and Television

Broadcast studios shall be permitted only when the applicant can adequately demonstrate that any antenna and/or transmission related to the use will not interfere with the normal and customary television and radio reception enjoyed by town residents.

9.13 Car Wash

(A) All exterior walls and accessory washing areas shall be constructed so that they match the principal structure in design and materials.

(B) The outdoor service area of a car wash shall be placed and screened in accordance with the standards for on-site parking.

(C) Car washes, vacuums, and similar service devices shall be a minimum of 100 feet from the nearest portion of a RM, CR, or OS zoning district or lot containing a legal, conforming residential use.

(D) Car washes on parcels adjacent to a RM, CR, or OS zoning district or lot containing a legal, conforming residential use shall have hours of operation no earlier than 8:00 a.m. and no later than 11:00 p.m.

(E) Car washes accessory to a principal use shall be located in the side or rear yard only.

9.14 Cemetery

(A) All cemeteries shall be constructed and maintained in accordance with NCGS Article 9 Chapter 65 and with the regulations of the North Carolina Cemetery Commission.

(B) Tombstones, crypts, monuments and mausoleums must be located at least 50 feet from any street right-of-way line or abutting property. Greater setbacks shall be observed if otherwise required by the zoning district in which it is located. Gravesites shall also be set back at least 20 feet from any side or rear lot lines in cemeteries (or cemetery expansions).

(C) Sales of crypts shall be allowed as an accessory use on premises (for cemeteries as a principal use only). No building in conjunction with such sales shall be located closer than 20 feet from any side lot line abutting a residential district and forty feet from any such rear lot line.

(D) Notwithstanding any other provisions of this ordinance, a minimum of three (3) acres shall be needed for any cemetery being developed as a principal use.

9.15 Childcare Institution; Daycare Center

(A) Outdoor play and/or recreation areas shall be located behind the front building line in the rear yard or side yard only. If located in the side yard, a minimum side yard setback of 10 feet shall be observed. On corner or through lots, a minimum 20 foot setback as measured from the abutting street right-of-way line shall be required.

(B) All outdoor play and recreation areas shall be surrounded by a fence or wall meeting state requirements and the requirements of Section 5.2.

(C) Outdoor activities are limited to the fenced area between 8:00 a.m. and 9:00 p.m.

9.16 Church or Religious Institution, Community Scale and Neighborhood

(A) Exterior lighting shall be directed or screened so as to protect the privacy of the private living areas and associated open spaces of adjacent residential properties.

(B) Convents, rectories, parsonages or similar uses may be placed on the site as accessory uses.

(C) Accessory uses such as church offices, religious bookstores serving only the immediate congregation, parking lots, family life centers, multi-purpose facilities, outdoor recreational facilities, and day care centers on the same site or sites contiguous to the principal use shall be permitted. Similar uses on non-contiguous

sites or on a site separated from the principal use by a public street shall be considered principal uses in their own right and be regulated as such.

(D) Church accessory uses which are not permitted as principal uses in a district shall have no merchandise or merchandise display shall be visible from outside the building.

(E) Except as noted in section (C) above, accessory uses not permitted as principal uses (including television stations, radio stations, printing presses, or sports complexes) are prohibited.

(F) Community churches or religious institutions shall have direct access to the site by a major or minor thoroughfare, as depicted on the most up-to-date version of the thoroughfare plan.

9.17 Civic, Fraternal, Cultural, and Community Facilities, Not Otherwise Listed; Private Non-Profit Club or Lodge

(A) Such use has direct access to an arterial or collector street.

(B) No active part of the site (buildings, parking, recreational areas, etc.) are permitted within 50 feet of an adjacent single-family residential use.

(C) An auditorium or assembly hall is only permitted provided that:

(1) Such use is permitted as a principal use in the district; or

(2) Such use is limited to a seating capacity of no more than 150 people.

9.18 Clubs, Private

(A) Private clubs shall be open to members of the club and their guests only.

(B) Hours of operation shall be no earlier than 7:00 a.m. and no later than 1:00 a.m. when the use abuts a residential use or a residentially zoned lot. This restriction shall not apply where such use is separated from a residential use or a residentially zoned lot by a major arterial street or is more than 500 feet from a residential structure.

(C) Outdoor seating areas shall not be permitted adjacent to a public street or within 250 feet of a residential use or a residentially zoned lot.

(D) Outdoor entertainment areas, except areas devoted strictly to seating, shall not be permitted.

(E) Music, loud speakers, and similar noise devices shall not be permitted outdoors. Noise emanating from the club shall not exceed ambient noise levels in the surrounding area at a distance of more than 100 feet from any point of the property containing the club.

9.19 College or University

(A) Schools shall be located on streets sized to accommodate normal traffic volumes of existing uses plus the additional traffic projected to be generated by the school(s).

(B) Accessory and incidental buildings shall be placed within established rear yards and side yards that do not abut a street.

9.20 Community Center

Any community center having a seating capacity in excess of 500 persons shall have direct access to a major or minor arterial.

9.21 Day Care Home

(A) A day care home must be clearly incidental to the residential use of the dwelling and must not change the essential residential character of the dwelling; all building and lot standards for residential dwellings shall be maintained.

(B) No outdoor play shall be permitted after dark and care shall only be provided between the hours of 6:00am and 7:00pm.

(C) The facility shall be staffed by persons residing in the dwelling in which the day care is located except that up to one (1) non-resident may report to work at a daycare home.

(D) The day care shall be located in a structure originally constructed as and designed for a single-family dwelling which shall be the principal structure on the lot. The structure shall not be altered in any manner which diminishes its value as a single-family dwelling or which changes its exterior residential character.

(E) The operator of the daycare home shall reside on premises.

9.22 Dormitory

(A) Dormitories shall be permitted only as accessory uses to a college, university, or boarding school.

(B) In any residential zoning district, no more than two (2) off-street parking spaces shall be provided in the front yard.

(C) Off-street parking in the side and rear yards shall be screened in accordance with parking lot landscaping and screening requirements. Parking shall be placed on the lot in a manner designed to have the least physical impact on adjoining residential uses.

9.23 Dry Cleaning and Laundry Plants

Dry cleaning and laundry plants shall not be permitted within 500 feet of a residential use and shall only be permitted as separate freestanding facilities.

9.24 Farmers Market

(A) Farmers markets shall be permitted only when the products sold are locally grown food and floral produce or products made from such produce such as fruit preserves, candies, cakes, wreathes, etc.

(B) All items, tents, and non-permanent structures shall be removed from the site when the market is not in operation.

9.25 Freight Terminals

(A) All freight terminals shall be accessory to an industrial and/or business park or an individual industry or business use.

(B) The area designated for truck parking shall be located no closer than forty feet from an abutting street right-of-way.

(C) The area of truck parking shall be screened from view from the street(s) and from all abutting properties by an opaque screen; wherever security fencing is desired, it shall be placed on the interior side of the screening materials.

(D) The use shall be located on or have direct access to a major or minor arterial; truck terminals shall not be sited such that collector streets are regularly traversed to access the larger capacity road.

(E) The area designated for truck parking and/or container storage (including trailer storage) shall be located no closer than 50 feet from public street right-of-way and no closer than 250 feet from a lot containing a legal, conforming residential use or residentially zoned lot unless separated by an arterial street or railroad right-of-way.

(F) Truck parking areas are exempt from parking lot landscaping requirements but shall be substantially screened from view from public streets and from all abutting non-industrial properties by an opaque screen; wherever security fencing is desired, it shall be placed on the interior side of the screening materials.

(G) The use shall be located on or directly accessible to a major or minor arterial, freeway, or railroad right-of-way. Terminals shall not be sited such that collector or neighborhood streets are regularly traversed to access a larger capacity road or railroad.

9.26 Fuel Dealers

(A) In the CM district fuel dealers shall be accessory to a permitted use of the property and shall be clearly incidental to the principal use.

(B) No tanks or storage areas shall be located closer than 50 feet to any property line or street right-of-way.

(C) No tanks or storage areas shall be located between the principal use and a public street in the CM districts.

(D) Outside storage areas associated with fuel dealing shall be maintained in a neat and orderly condition.

(E) Tanks and fuel storage areas located on lots in the GB district shall be permitted only in a side or rear yard as an accessory use whenever such lots abut US 158.

9.27 Fuel Station; Retail, minor passenger vehicle service

(A) Hours of operation shall be no earlier than 6:00 a.m. and no later than midnight when this use abuts a lot containing a legal, conforming residential use or a residentially zoned lot. This restriction shall not apply where such use is separated from such residential use or a residentially zoned lot by a major arterial street.

(B) Any accessory motor vehicle repair service shall store any wrecked, partially dismantled, or inoperative vehicles located on-site in an enclosed building or in a separate motor vehicle storage yard which meets the requirements of this ordinance for outdoor storage.

(C) The overnight storage of all merchandise and vehicles shall be indoors and all repair work and similar activities shall be conducted entirely within enclosed structures.

(D) All fuel pumps shall be located a minimum of 20 feet from any adjacent property line.

(E) All fuel pumps and canopies shall be located in the side or rear yard only. On corner lots, fuel pumps and canopies located in side yards shall be on the side of the principal structure located away from the street intersection.

(F) Fuel stations shall be limited to no more than six (6) separate pumping stations and one (1) canopy.

(G) Fuel station canopies shall not exceed 18 feet in height and shall be supported by brick or stone columns. The canopy shall be of neutral, earth tone colors and shall not be back-lit. Such colors are defined in Section 4.2.3 (B) in Figure 4.2. Colors may be subject to review of Design Waiver requests in accordance with Section 11.11.

(H) Fuel stations shall incorporate into the streetyard fronting on any public street a minimum three (3)-foot tall berm that meets the requirements of Section 5.1 (I). The streetyard shall meet all other standards as set forth in Section 5.1 (E).

9.28 Group Homes, A or B

(A) The zoning lot on which the group home or care facility is proposed shall not be located within a one-half (1/2) mile radius of a zoning lot containing another such facility.

(B) The group home shall be located in a structure originally constructed as and designed for a single-family dwelling which shall be the principal structure on the lot. The structure shall not be altered nor the site used in any manner which diminishes its value as a single-family dwelling or which changes its exterior residential character.

9.29 Habilitation Facility, A or B

(A) Outdoor activity areas shall be located behind the front building line in the rear yard or side yard only. If located in the side yard, a minimum side yard setback of 10 feet shall be observed. On corner or through lots, a minimum 20 foot setback as measured from the abutting street right-of-way line shall be required.

(B) All outdoor activity areas shall be surrounded by a fence or wall meeting state requirements and the requirements of Section 5.2.

(C) Outdoor activities shall be permitted only between the hours of 8:00 a.m. and 10:00 p.m.

(D) At least one (1) off-street passenger loading/unloading space separate from required parking shall be provided for each 20 people enrolled.

9.30 Helistops

(A) Helistops shall be permitted as accessory uses to hospitals only.

(B) Landing pads for on-grade helistops shall be set back a minimum of 400 feet from any property line and 400 feet from buildings used for residential purposes, public or private schools, or public parks. These distance requirements may be reduced one (1) foot for each one (1) foot of the elevation above ground level for elevated heliotropes.

(C) The helistop landing area shall be constructed of a material which is free of dust and loose particles which may be blown about by the down blast of the helicopter rotor.

(D) Lighting is to be provided according to federal aviation administration requirements and is to be oriented as much as possible away from adjacent uses.

(E) An on-ground landing area shall be surrounded by a fence or other barrier which prohibits access except at controlled access points. All fences shall meet the requirements of Section 5.2. Adequate access for fire and other emergency vehicles shall be provided to on-ground sites.

9.31 Home Occupation

A home occupation is permitted accessory to any dwelling unit (except manufactured housing) in accordance with the following requirements:

(A) The home occupation must be clearly incidental to the residential use of the dwelling and must not change the essential residential character of the residential dwelling.

(B) A home occupation conducted in an accessory structure shall be housed only in a garage or other accessory structure typically associated with a dwelling.

(C) The use shall employ no more than one (1) person who is not a resident of the dwelling.

(D) A home occupation housed within the dwelling shall occupy no more than 25 percent of the total floor area of the dwelling.

(E) There shall be no visible outside display of stock in trade which is sold on the premises.

(F) There shall be no outdoor storage or visible evidence of equipment or materials used in the home occupation, except equipment or materials of a type and quantity that could reasonably be associated with the principal residential use.

(G) Operation of the home occupation shall not be visible from any dwelling on an adjacent lot, nor from a street.

(H) Only vehicles used primarily as passenger vehicles will be permitted in connection with the conduct of the home occupation.

(I) The home occupation shall not utilize mechanical, electrical, or other equipment which produces noise, electrical or magnetic interference, vibration, heat, glare, or other nuisances outside the dwelling or accessory structure housing the home occupation.

(J) Home occupations shall be limited to those uses which do not draw clients to the dwelling on a regular basis.

(K) Outdoor kilns used for the firing of pottery shall be provided with a semi-opaque screen to obstruct the view from the street and from adjacent properties located in residential districts, shall have a secured work area, and shall be a minimum of 10 feet from abutting property lines.

(L) No signs shall be permitted.

9.32 Hospital

(A) All hospital sites shall have frontage on a public major/minor thoroughfare.

(B) Principal structures shall be set back a minimum of 100 feet from any property line adjoining a residential district or shall meet the minimum yard setback requirements of the district within which it is located or the adjacent district setback requirements, whichever are greater.

(C) Accessory structures and parking shall be set back a minimum of 25 feet from any rights-of-way, private access easements, and property lines which adjoin agricultural or residential districts, or shall meet the minimum yard setback requirements of those adjoining districts, whichever are greater.

(D) Buildings of greater than the maximum height allowed in the zoning district may be allowed provided that the front, side, and rear yards are increased beyond the minimum required yards by one (1) foot for each foot of building height that exceeds the maximum height allowed.

9.33 Kennel

(A) Any structure which houses animals which is not fully enclosed shall be located at least 100 feet from any lot line and 500 feet from the RM District.

(B) Any run located partially or wholly outdoors shall be located at least 100 feet from any lot line and 500 feet from the RM District.

(C) A maximum of 40 outside runs shall be permitted.

9.34 Laundry and Linen Supply Service

Laundry and linen supply service establishments located within the CR district shall be neighborhood in scale and shall not serve the community at large or facilities located outside of the neighborhood identified with the service.

9.35 Manufactured Home, Class A (Manufactured Home Overlay only)

(A) *Design standards*.
In addition to the standards listed below, all manufactured homes shall meet the design standards for residential structures in the underlying district in which they are located except that the Zoning Administrator may exempt a home from one or more standards if such standard is determined to be impracticable.

(B) *Exterior finish.*
At a minimum, the exterior siding shall consist predominantly of vinyl or aluminum lap siding whose reflectivity does not exceed that of flat white paint, wood or hardboard, comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction.

(C) *Roof construction and pitch.*
The roof shall be designed to have a minimum rise of four (4) feet for each 12 feet of horizontal run and finished with a type of shingle that is commonly used in standard residential construction. Elevated roof pitches with dormers are preferred.

(D) *Placement of homes.*
All homes shall be placed on the lot in harmony with the existing site-built structures. Where no neighboring structures are available for comparison, it shall be sited with the front running parallel to the street providing access to the site. On corner lots the side with the greatest road frontage shall be considered the front. On cul-de-sacs, the home shall be sited with the front running parallel to the street access.

(E) *Chassis and tongue removal.*
The towing tongue shall be removed upon final placement of the unit.

(F) *Foundation.*
All manufactured homes shall be placed on permanent masonry foundations.

(G) *Decks and permanent steps*.
All manufactured homes shall have either a deck or porch with steps at each entrance. The minimum square footage of the floor of such porch or deck shall measure at least 36 square feet.

9.36 Micro-brewery, Micro-winery, Micro-distillery

(A) No outdoor amplified sound will be permitted after 11:00PM if located within 500 feet of a residential use.

(B) No loading or distribution activities shall take place outside of the enclosed building between the hours of 9:00PM and 6:00AM when the establishment is located within 500 feet of any residential or institutional use.

(C) Food trucks and vendors may be located on-site. No vendor vehicles may be parked in a front yard outside of operating hours.

(D) Production shall not exceed the thresholds set forth in Section 12.3 Definitions, otherwise such facilities shall be classified as beverage manufacturing under "Manufacturing B" and permitted accordingly.

(E) Agriculture accessory permitted micro-breweries or distilleries shall not exceed 10 acres in size.

9.37 Motor Vehicle Repair and Maintenance

(A) The lot containing such use shall be located at least 200 feet from any lot containing a legal, conforming residential use or residentially zoned lot.

(B) A motor vehicle repair, service, 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 Section 9.42.

9.38 Motor Vehicle Sales, Rental and Leasing

(A) Motor vehicle sales, lease, and rental lots shall front on a major or minor arterial.

(B) Vehicles for sale or lease may be displayed in the established front yard under the following conditions:
   (1) All new display areas must be paved; and
   (2) No vehicle shall be displayed within fifteen (15) feet of the street right-of-way; and
   (3) A strip averaging eight (8) feet in width, but in no case less than five (5) feet in width, located in the area of the lot between the street right-of-way and the vehicle display area shall be heavily landscaped with evergreen shrubs and flowering plants which are suitable for this climate and the growing conditions present on the site. A recommended plant list for shrubs is available from the Town of Bermuda Run planning department. This strip shall be immediately adjacent to the vehicle display area. The number of plantings may be reduced if used in conjunction with and placed on the street side of an opaque, decorative

wall at least two and one-half (2 ½) feet in height. This requirement is in addition to any other screening requirements established by this ordinance.

(C) Businesses are prohibited from using amplified speaker/public address systems except within fully enclosed building(s).

(D) Outdoor storage of vehicles in process of repair and vehicles for sale or lease that are in the process of dealer preparation for buyer/lessee pick up are permitted such storage areas are exempt from the interior landscaping requirements for parking lots. However, the requirements of Section 9.42 shall apply.

9.39 Nursery, Lawn and Garden Supply Store, Retail

(A) Up to four (4) storage containers/trailers are permitted to be placed on the lot. Storage containers shall be set back a minimum of 20 feet from any adjoining property line or street right-of-way, shall be located in the rear yard, and shall meet the requirements for outdoor storage in Section 9.42.

(B) Where permitted as a principal use on a lot, the area of storage for live plants shall be no closer than 10 feet from an abutting street right-of-way and the area of storage for all other items shall be no closer than 40 feet from an abutting street right-of-way.

9.40 Nursing Care Institutions and Congregate Care Facilities

(A) Any facility which is licensed to have more than 50 residents shall maintain a side setback of at least 20 feet and a rear setback of at least 40 feet when the side or rear yard is in or abuts a residential district.

(B) Driveway access to accessory structures shall be through the main entrance to the facility.

(C) Accessory structures shall be arranged to provide for adequate on-site vehicular and pedestrian traffic.

(D) Any portion of a building, which contains living areas, shall be set back a minimum of 15 feet from internal driveways and parking areas. This standard shall only apply to the living areas of buildings which contain a mixture of uses such as offices, storage and living areas.

9.41 Outdoor Display and Sales of Merchandise

All display and sales of merchandise shall be conducted completely within enclosed buildings, except outdoor display or sales of merchandise may be permitted accessory to a principal use provided that:

(A) Such merchandise shall not be located in any public street right-of-way and shall not block the entrance to the business or building; and

(B) Merchandise stored or sold on private property shall be screened from the public street right-of-way and adjacent residential uses with a minimum six (6) foot opaque screen composed of vegetation, fencing, walls or a combination of such.

(C) Storefront displays located on the public sidewalk or other public space as permitted by the town shall be located against the building façade, shall be permitted only along the business' tenant bay or storefront façade, and shall be permitted only during the hours of operation of the business and shall be removed at the close of each business day. A minimum three (3) feet of sidewalk clearance shall be maintained.

9.42 Outdoor Storage

(A) All non-residential outdoor storage shall be kept at least 100 linear feet from any adjacent residentially-zoned lot or a lot containing a legal, conforming residential use.

(B) Outdoor storage shall be located in a side or rear yard only.

(C) All outdoor storage shall be screened with minimum 10 foot wide buffer that shall contain a minimum six-foot tall opaque fence that meets the requirements of Section 5.2. No items may be stored that can be seen above the fence or combination of fence and landscaping.

9.43 Parking Lot or Deck

Parking lots and decks not accessory to a building on the same development site shall meet all requirements elsewhere herein for such uses, except that:

(A) Parking lots may be constructed up to the prevailing established setback line in developed areas or the required setback line in undeveloped areas. In developed areas the prevailing setback line shall be determined by existing structures lying within 300 feet in either direction on the same side of the same street as the proposed parking lot. If the proposed parking lot lies at a street intersection, the prevailing established setback shall be determined for both the fronting street and any abutting side street in the same manner.

(B) Parking decks shall, to the maximum extent practicable, meet the design standards for buildings set forth in Chapter 4.

9.44 Parking of Commercial Vehicles in and adjacent to Residentially Zoned Property

(A) The use of any portion of a residentially zoned lot containing a residential principal use shall not be used to store or park commercial or industrial vehicles or tractor trailers, which have more than two (2) axles or six (6) wheels and which are over 8,000 pounds in gross vehicle weight, except that such may be located on residential lots in the OS district if located a minimum of 500 feet from a property line abutting a residential district or completely screened from view of such lot.

(B) The storage or parking of commercial or industrial vehicles or tractor trailers, which have more than two (2) axles or six (6) wheels and which are over 8,000 pounds in gross vehicle weight, on any non-residential lot located adjacent to a legal conforming residential use shall be prohibited within 500 feet of the lot line abutting such use unless completely screened from the view of the residence.

9.45 Progressive Care Community

(A) Dwellings in a progressive care community may include single-family residential, two-family residential (duplex), townhome residential, and multi-family residential building types. Non-residential and institutional uses shall only include recreation centers and similar facilities, dining halls, maintenance buildings, congregate care, or nursing care.

(B) Driveway access to accessory structures shall be through the main entrance to the community.

(C) Structures shall be arranged to provide for adequate on-site vehicular and pedestrian traffic.

(D) Paved walkways shall be provided between accessory dwellings, the principal building, and all common facilities such as dining halls and recreation centers.

(E) All lease/sale arrangements for accessory dwellings shall be under the direct control of the management company responsible for the progressive care community.

(F) Principal and accessory buildings shall be predominately designed and constructed with architectural features common to residential structures including, but not limited to, the following features: roof pitch, façade material, and size, type and placement of windows and doors.

(G) No single building shall be greater than 40,000 square feet if located within 500-feet, as measured in any direction from the closest point, from an adjacent residentially zoned lot.

(H) No site shall have a density greater than 10 dwelling units per acre, excluding congregate care and nursing care. For the purposes of calculating density all land

lying underneath and within 20 feet of any congregate care or nursing care facility and all loading/unloading, garbage collection, and parking areas associated with congregate care or nursing care facilities shall be excluded from the total acreage.

(I) A minimum of five (5) acres shall be required.

(J) All structures are limited in occupancy to persons aged 55 years or older, the physically handicapped, and their spouses except for rooms or units occupied by resident staff personnel performing duties directly related to the operation of the facility.

9.46 Recreational Facilities, Golf Courses, and Driving Ranges, Public or Private

(A) Hours of operation of public or private recreational facilities, golf courses, and driving ranges will be no earlier than 7:00 a.m. and no later than 11:00 p.m. for uses located in or abutting a residential district.

(B) All outdoor swimming facilities shall be located at least 50 feet from any adjoining residentially used lot and shall be completely enclosed by a fence or wall no less than four (4) feet and no more than eight (8) feet in height above grade as measured on the side of the fence or wall which faces away from the swimming pool. This fence or wall shall enclose the pool itself and may include any other additional portions of the lot. All fence or wall openings into the pool area shall be equipped with a gate that opens outward away from the pool and shall be self-closing and have a self-latching device. (See section 5.2. for additional fence requirements.)

(C) Private recreational facilities located in a residential zoning district shall be open to members of the club and their guests only.

9.47 Recreation Services, Indoors and Outdoors

(A) Service areas will be separated by an opaque screen from the view from any street and from abutting properties.

(B) Outdoor lighting associated with outdoor recreational facilities shall not shine directly into yards of a residential use nor into the windows of a residential structure.

(C) Hours of operation for outdoor facilities/events shall be no earlier than 7:00 a.m. or after 11:00 p.m.

9.48 Recycling Center

(A) A 20-foot front setback shall be required for all recycling centers, and the streetyard requirements of Chapter 5 shall apply.

(B) A 50-foot side and rear yard buffer shall be required for any site which abuts a residential or mixed-use district.

(C) No outdoor storage of goods to be recycled shall be permitted. All such materials shall be enclosed within bins, buildings, or storage containers.

9.49 Residential, Multi-Family

(A) The maximum number of multi-family residential units per zoning district shall not exceed the percentage shown in the table below of the maximum number of total units based on the allowable maximum dwelling units per acre. The following table shows the calculations based on the total acreage of each zoning district at the time of adoption of this subsection (November 10, 2015):

Zoning District	Total Acres	Maximum Dwelling Units per Acre (DUA)	Maximum Total Units	Maximum % of Multi-family dwelling units	Maximum Multi-family dwelling units
OS	468	3	1,404	10	140
CR	980	4	3,920	10	392
RM	415	8	3,320	20	664
CM	466	8	3,728	20	745
VM	260	15	3,900	20	780
GB	245	15	3,675	20	735
Total	**2,834**	**n/a**	**19,982**	**n/a**	**3,456**

At any time that a zoning map amendment reclassifies an area of land, the maximum number of multi-family residential dwelling units shall be recalculated for each of the affected zoning districts.

(B) Primary access to the development site shall be from a state or Town-maintained street. The developer may be required to provide turn lanes and other off-site transportation improvements to insure safe and adequate access.

(C) On small infill development sites, multi-family buildings shall be designed to blend in with surrounding single-family residential buildings to the maximum extent practicable with regards to building design, setbacks, driveway and garage design and location, porches, and sidewalks.

(D) Site designs shall create a sense of “neighborhood” and shall include:

(1) An internal vehicular circulation system for private streets, when included, that is reflective of a single-family residential street system.

(2) Buildings that are sited with front entrances and porches oriented toward streets, drives, and plazas, rather than clustered around parking lots.

(3) Parking lots that are located behind buildings or screened from view from internal streets, except where it is deemed appropriate to use a parking lot as a buffer from an arterial street or where such parking area will directly abut a property line exterior to the development site when located in or adjacent to the OS or CR districts.

(4) Walkways that connect all buildings with parking areas, play areas, clubhouses, and existing public sidewalks adjacent to the development site.

(5) Plazas, clubhouses, pools, and recreational facilities which are centrally located, when provided.

9.50 Restaurant, With/Without Drive-Through Service

(A) All restaurants with drive-through service shall provide a minimum of five (5) stacking spaces associated with each drive through window.

(B) No required or intended stacking spaces shall block the safe flow of motoring and pedestrian traffic within the parking lot.

(C) Drive-through facilities located closer than 300 feet to a residential use shall operate no earlier than 6:00 a.m. or later than 12:00 a.m.

(D) No part of the active use area of a drive-through restaurant shall be located closer than 300 feet to a lot containing a legal, conforming residential use.

(E) Outdoor seating for restaurants shall be permitted provided that such:

(1) Shall not be located in any street right-of-way; and

(2) Shall be permitted only along the business' tenant bay or storefront façade; and,

(3) Shall not block the entrance to the business or building.

9.51 Retail Establishment

(A) No large retail store or establishment shall be located south of I-40.

(B) No outside storage shall be permitted unless approved as part of the zoning permit in accordance with Section 9.42.

(C) All proposed areas for outside display and storage shall be clearly marked on the site plan, including but not limited to, open displays of garden supplies, equipment, and other materials and any cargo containers, tractor trailers, storage buildings or similar structures used or intended to be used to contain materials for sale, maintenance, construction, etc.

(D) The parking of recreational vehicles overnight or camping in any manner on any portion of the lot shall be prohibited.

(E) Any area intended for use by vendors, civic groups, and other parties either on a temporary or permanent basis for outdoor display, sales, fundraising, etc., shall be clearly marked on the approved site plan.

(F) Should a structure and/or lot containing an approved retail establishment become vacant, the exterior of such structure and lot shall be maintained in the same manner as during occupancy including the condition of landscaping, paved surfaces, exterior lighting, façade, etc.

(G) Large retail establishments shall not be permitted as the sole use of any development site whether singular or in groups. Instead, large retailers shall be integrated into comprehensive development plans that contain multiple small and medium retail and non-retail uses in two (2) or more buildings.

(H) All retail establishments regardless of size shall be creatively designed to be incorporated seamlessly into buildings containing multiple uses or designed as a ‘four-sided’ building where each side of the building is designed as a building ‘front’ that meets all of the requirements for such included in this ordinance. The intent is for the design of large retail establishments to add to the architectural inventory of the town by having visually interesting facades and functional public edge along all publicly visible sides. Large retail establishments shall be located away from public streets and screened by out parcels, landscaping, berms or similar features intended to soften or obscure their appearance, unless otherwise permitted by the Town.

9.52 Schools, Elementary and Secondary, Including School Stadiums

(A) Accessory and incidental buildings shall be placed within established rear yards and side yards that do not abut a street.

(B) Where coated chain link and similar fencing material are installed in an established yard abutting a street, such fencing shall be planted on the exterior side with evergreen shrubs minimum three (3) feet in height (expected minimum height at maturity is six (6) feet), six (6) feet on center at installation.) The fencing requirements of Section 5.2 shall apply.

(C) Schools shall be located on streets sized to accommodate traffic volumes of background uses plus the additional traffic projected to be generated by the school(s).

(D) Senior high schools shall be on a lot which abuts an arterial and primary vehicular access shall be provided from the arterial.

(E) Schools shall be planned, sized and sited to serve as community assets and to integrate with and complement surrounding development. Whenever possible, large schools on greenfield sites away from town should be avoided.

9.53 Schools, Vocational or Professional

(A) Schools shall be located on streets sized to accommodate traffic volumes of background uses plus the additional traffic projected to be generated by the school(s).

(B) Accessory and incidental buildings shall be placed within established rear yards and side yards that do not abut a street.

(F) Where coated chain link and similar fencing material are installed in an established yard abutting a street, such fencing shall be planted on the exterior side with evergreen shrubs minimum three (3) feet in height (expected minimum height at maturity is six (6) feet), six (6) feet on center at installation.) The fencing requirements of Section 5.2 shall apply.

(C) Truck driving schools with outdoor maneuvering areas shall not be permitted.

(D) Schools shall be planned, sized and sited to serve as community assets and to integrate with and complement surrounding development.

9.54 Telecommunication Towers / Wireless Support Structures

(A) Purpose anf Applicability

(1) The purpose of this section is to ensure the safe and efficient integration of facilities necessary for the provision of advanced mobile broadband and wireless telecommunications services throughout the community and to ensure the ready availability of reliable wireless service to the public, government agencies, and first responders, with the intention of furthering the public safety and general welfare.

(2) The deployment of wireless infrastructure is critical to ensuring first responders can provide for the health and safety of all residents of North Carolina consistent with federal standards, which create a national wireless emergency communications network for use by first responders that in large measure will be dependent on facilities placed on existing wireless communications support structures. The placement, construction, or modification of wireless communications facilities shall be in conformity with the Federal Communications Act, 47 U.S.C. § 332 as amended, section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a), and in accordance with the rules promulgated by the Federal Communications Commission.

(3) It is also the intent of this Section to:
- Ensure that the Town of Bermuda Run has sufficient wireless infrastructure to support its public safety communications;
- Ensure access to reliable wireless communications services throughout all areas of Bermuda Run's jurisdiction;
- Encourage the use of existing structures for the collocation of telecommunications facilities;
- Encourage the location of support structures, to the extent possible, in areas where any potential adverse impacts on the community will be minimized;
- Facilitate the responsible deployment of Telecommunications Facilities in residential areas to ensure comprehensive wireless services across Bermuda Run's jurisdiction; and
- Minimize the potential adverse effects associated with the construction of wireless support structures through the implementation of reasonable design, landscaping, and construction practices; and
- Ensure public health, safety, welfare, and convenience.

(4) The provisions of this Section apply to any new wireless support structure. The use of land for wireless support structure shall be permitted as set forth in Table 4.6-1 (see Article 4), subject to the criteria of this Section. Wireless support structures shall be regulated and permitted pursuant to this Section and shall not

be regulated or permitted as essential services, public utilities, or private utilities. No permit shall be required for routine maintenance as defined in this Section.

(B) Definitions

For the purposes of this Section, the following definitions shall apply:

ABANDON. Occurs when an owner of a Support Structure intends to permanently and completely cease all business activity associated therewith.

ACCESSORY EQUIPMENT. Any equipment serving or being used in conjunction with a Telecommunications Facility or Support Structure. This equipment includes, but is not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or other structures.

ADMINISTRATIVE REVIEW AND APPROVAL. Non-discretionary evaluation and approval of an application Zoning approval that the Administrator or designee is authorized to grant after Administrative Review subject to the requirements of Section 11.4.

ANTENNA. Any structure or device used to collect or radiate electromagnetic waves for the provision of services including, but not limited to, cellular, paging, personal communications services (PCS) and microwave communications. Such structures and devices include, but are not limited to, directional antennas, such as panels, microwave dishes and satellite dishes, and omnidirectional antennas, such as whips. This definition does not apply to broadcast antennas, antennas designed for amateur radio use, or satellite dishes designed for residential or household purposes.

APPLICABLE CODES. The North Carolina State Building Code and any other uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization together with State or local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons.

BASE STATION. A station at a specific site authorized to communicate with mobile stations, generally consisting of radio receivers, antennas, coaxial cables, power supplies, and other associated electronics.

CARRIER ON WHEELS OR CELL ON WHEELS ("COW"). A portable self-contained Telecommunications Facility that can be moved to a location and set up to provide wireless services on a temporary or emergency basis. A COW is normally vehicle-mounted and contains a telescoping boom as the Antenna support structure.

COLLOCATION. The placement, installation, maintenance, modification, operation, or replacement of wireless facilities on, under, within, or on the surface of the earth adjacent to existing structures, including, utility poles, Town utility poles,

water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable codes. The term "collocation" does not include the installation of new utility poles, Town utility poles, or wireless support structures.

COMMUNICATIONS FACILITY. The set of equipment and network components, including wires and cables and associated facilities used by a communications service provider to provide communications service.

COMMUNICATIONS SERVICE. Cable service as defined in 47 U.S.C. § 522(6), information service as defined in 47 U.S.C. § 153(24), telecommunications service as defined in 47 U.S.C. § 153(53), or wireless services.

COMMUNICATIONS SERVICE PROVIDER. A cable operator as defined in 47 U.S.C. § 522(5); a provider of information service, as defined in 47 U.S.C. § 153(24); a telecommunications carrier, as defined in 47 U.S.C. § 153(51); or a wireless provider.

CONCEALED (STEALTH) TELECOMMUNICATIONS FACILITY. Any Telecommunications Facility that is integrated as an architectural feature of an Existing Structure or any new Support Structure designed so that the purpose of the Facility or Support Structure for providing wireless services is not readily apparent to a casual observer.

ELIGIBLE FACILITIES REQUEST. A request for modification of an existing wireless support structure or base station that involves collocation of new transmission equipment or replacement of transmission equipment but does not include a substantial modification.

EQUIPMENT COMPOUND. An area surrounding or near the base of a wireless support structure within which a wireless facility is located.

EXISTING STRUCTURE. Previously erected Support Structure or any other structure, including but not limited to, buildings and water tanks, to which Telecommunications Facilities can be attached.

FALL ZONE. The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.

MAJOR MODIFICATIONS. Improvements to existing Telecommunications Facilities or Support Structures that result in a Substantial Increase to the Existing Structure. Collocation of new Telecommunications Facilities to an existing Support Structure without Replacement of the structure shall not constitute a Major Modification.

MICRO-WIRELESS FACILITY. A small wireless facility that is no larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, no longer than 11 inches.

MINOR MODIFICATIONS. Improvements to Existing Structures that result in some material change to the Facility or Support Structure but of a level, quality or intensity that is less than a Substantial Increase. Minor Modifications include the Replacement of the structure.

MONOPOLE. A single, freestanding pole-type structure supporting one or more Antenna.

ORDINARY MAINTENANCE. Ensuring that Telecommunications Facilities and Support Structures are kept in good operating condition. Ordinary Maintenance includes inspections, testing and modifications that maintain functional capacity, aesthetic and structural integrity; for example the strengthening of a Support Structure's foundation or of the Support Structure itself. Ordinary Maintenance includes replacing Antennas of a similar size, weight, shape and color and Accessory Equipment within an existing Telecommunications Facility and relocating the Antennas of approved Telecommunications Facilities to different height levels on an existing Monopole or Tower upon which they are currently located. Ordinary Maintenance does not include Minor and Major Modifications.

REPLACEMENT. Constructing a new Support Structure of proportions and of equal height or such other height that would not constitute a Substantial Increase to a pre-existing Support Structure in order to support a Telecommunications Facility or to accommodate Collocation and removing the pre-existing Support Structure.

RIGHT-OF-WAY, TOWN. A right-of-way owned, leased, or operated by the Town, including any public street or alley that is not a part of the State highway system.

SEARCH RING. The area within which a wireless support facility or wireless facility must be located in order to meet service objectives of the wireless service provider using the wireless facility or wireless support structure.

SMALL WIRELESS FACILITY. A wireless facility that meets both of the following qualifications:

(1) Each antenna is located inside an enclosure of no more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements, if enclosed, could fit within an enclosure of no more than six (6) cubic feet.

(2) All other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet. For purposes of this sub-subdivision, the

following types of ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cut-off switches, vertical cable runs for the connection of power and other services, or other support structures.

SUBSTANTIAL MODIFICATION. A Substantial Modification occurs when:

(1) The mounting of the proposed antenna on an existing structure that would increase the existing height of the existing structure by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to avoid interference with existing antennas; or

(2) The mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four (4), or more than one new equipment shelter; or

(3) The mounting of the proposed antenna would involve adding an appurtenance to the body of the Existing Structure that would protrude from the edge of the existing structure more than twenty feet, or more than the width of the structure at the level of the appurtenance, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to shelter the antenna from inclement weather or to connect the antenna to the structure via cable; or

(4) The mounting of the proposed antenna would involve excavation outside the current Existing Structure site, defined as the current boundaries of the leased or owned property surrounding the Existing Structure and any access or utility easements currently related to the site.

SUPPORT STRUCTURE(S). A structure designed to support Telecommunications Facilities including, but not limited to, Monopoles, Towers, and other freestanding self-supporting structures.

TELECOMMUNICATIONS FACILITY(IES). Any unmanned facility established for the purpose of providing wireless transmission of voice, data, images or other information including, but not limited to, cellular telephone service, personal communications service (PCS), and paging service. A Telecommunication Facility can consist of one or more Antennas and Accessory Equipment or one base station.

TOWER. A lattice-type or monopole wireless support structure, guyed or freestanding, that supports one or more Antennas.

UTILITY POLE. A structure that is designed for and used to carry lines, cables, wires, lighting facilities, or small wireless facilities for telephone, cable television, electricity, lighting, or wireless services.

UTILITY POLE, TOWN. A utility pole owned by the Town in the Town right-of-way that provides lighting, traffic control, or a similar function.

WATER TOWER. A water storage tank, a standpipe, or an elevated tank situated on a support structure originally constructed for use as a reservoir or facility to store or deliver water.

WIRELESS FACILITY. Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless communications and (ii) radio transceivers, antennas, wires, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small wireless facilities. The term shall not include any of the following:

(1) The structure or improvements on, under, within, or adjacent to which the equipment is collocated.

(2) Wireline backhaul facilities.

(3) Coaxial or fiber-optic cable that is between wireless structures or utility poles or Town utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

WIRELESS INFRASTRUCTURE PROVIDER. Any person with a certificate to provide telecommunications service in the State who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures for small wireless facilities but that does not provide wireless services.

WIRELESS PROVIDER. A wireless infrastructure provider or a wireless services provider.

WIRELESS SERVICES. Any services, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using wireless facilities.

WIRELESS SERVICES PROVIDER. A person who provides wireless services.

WIRELESS SUPPORT STRUCTURE. A new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities, including water towers and high-tension electric towers. A utility pole or a Town utility pole is not a wireless support structure.

(C) New Wireless Support Structures & Substantial Modifications

(1) Location and Permitted Uses

New wireless support structures shall be permitted as set forth in the Table of Uses in Section 3.5 of this Ordinance. Antennas and wireless support structures may be considered either principal or accessory uses. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or wireless support structure on such lot. Prior to erecting a wireless support structure, a Special Use Permit shall be granted by the Town of Bermuda Run Board of Adjustment, pursuant to the provisions of this ordinance, except that a stealth telecommunications antenna may be erected or installed upon approval by the Zoning Administrator, with a right of appeal to the Board of Adjustment pursuant to Section 11.3(E). The builder, user, carrier, etc., may be granted a Special Use Permit only upon submission of an application and fee payment to the Town of Bermuda Run, who shall transmit the application to the Board of Adjustment; in the case of a stealth telecommunications antenna, approval by the Zoning Administrator may be granted only upon submission of an application and fee payment to the Town of Bermuda Run.

(2) Necessity of Structure

(a) Subject to NCGS 160A-400.52, prior to approval of a new wireless support structure or substantial modification, the applicant shall provide evidence that no existing or previously approved wireless support structure can reasonably be used for the wireless facility placement instead of the construction of a new structure, that residential, historic and designated scenic areas cannot be served from outside the area, and that the proposed height of the structure or replacement structure is necessary to provide the applicant’s desired service. The application shall also provide evidence that collocation on an existing wireless support structure is not feasible.

(b) No new wireless support structure shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Administrator, or Board of Adjustment (if conditional use permit is required), that no existing tower, structure or alternative technology, that does not require the use of towers or structures, can accommodate the applicant's proposed tower or antenna. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed tower or antenna may consist of any or all of the following:

- No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
- Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
- Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.

- The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
- The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs required by the owner of existing tower or structure that exceed new tower development are presumed to be unreasonable.
- The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- The applicant demonstrates that alternative technologies, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, that does not require the use of towers or structures, are unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

(D) Height, Setbacks, and Fall Zone

(1) All new wireless support structures shall be a monopole or concealed (stealth) design. Guyed structures are not permitted. Maximum height is 180 feet. Where a Special Use Permit is required, the Board of Adjustment shall also give consideration to compatibility with viewsheds and topography when approving the height of the structure.

(2) Minimum setbacks for all monopole structures from shall be a minimum of the height of the tower from all property lines. Structures shall be located a minimum of 500 feet from the nearest public street.

(3) Minimum setbacks for concealed (stealth) design structures shall be a minimum of the engineered fall zone (as certified by a professional engineer), except that from any residential structure, the setback shall be the height of the tower.

(4) No wireless support structure shall be designed and/or sited such that it poses a potential hazard to nearby residences or surrounding properties or improvements. To this end, any wireless support structure not located a distance equal to the height of the structure plus 50 feet away from all habitable structures, property lines, or other towers, shall be designed to withstand the maximum forces expected from wind and ice when the structure is fully loaded with antennas, transmitters and other equipment. Compliance with this requirement shall be certified by a professional engineer licensed by the State of North Carolina in a report describing the structure, specifying the number and type of antennas it is designed to accommodate, providing the basis for the calculations done, and documenting the actual calculations performed.

(E) Aesthetics

(1) Wireless support structures shall either maintain a galvanized steel finish or be painted a neutral color so as to reduce visual obtrusiveness.

(2) The design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings located adjacent to the wireless support structure site.

(3) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure. This is in order to make the antenna, and related equipment, as visually unobtrusive as possible.

(F) Security Fencing

Wireless support structures shall be enclosed by security fencing not less than six (6) feet in height and no more than eight (8) feet in height, constructed of block or masonry or wood material, and shall be equipped in such a manner as to deter climbing.

(G) Landscaping

Wireless communications facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the structure compound from adjacent property. The standard buffer shall consist of a landscaped strip at least eight (8) feet wide outside the perimeter of the compound. Plant materials forming the visual buffer may be existing on the subject property or installed as part of the proposed facility, but existing mature plant growth and natural land forms on the site shall be preserved to the maximum extent possible. The Administrator may waive these requirements in locations where the view of the structure base is obstructed by existing buildings or natural topography and cannot be viewed from adjacent property or a public street.

(H) Lights

No wireless support structure shall have affixed or attached to it in any way except during time of repair or installation, any lights, reflectors, flashers, day-time strobes or steady night time light or other illumination devices, except as required by the Federal Aviation Administration (FAA), Federal Communications Commission (FCC), or the Town. This restriction against lights shall not apply to structures which have been combined with light standards for illumination of ball fields, parking lots, playgrounds, or other similar public uses. If lighting is required, the lighting sources and design shall be designed to create the minimum practicable penetration of areas outside the boundaries of the Lot or Parcel.

(I) State or Federal Requirements

All wireless support structures must meet or exceed current standards and regulations of the FAA, the FCC, and any other state or federal government agency with the authority to regulate wireless support structures. If such standards and regulations

are changed, then the owners of the wireless support structures governed by this chapter shall bring such wireless support structures into compliance with the revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring wireless support structures into compliance with such revised standards and regulations shall constitute grounds for the removal of the wireless support structures at the owner's expense.

(J) Building Codes; Safety Standards

To ensure the structural integrity of wireless support structures, the owners of such facilities shall ensure that they are maintained in compliance applicable with standards contained in the State Building Code.

(K) Signs

Signs on a wireless support structure, or on any portion of the premises leased for wireless communication use, shall be limited to those needed to identify the property and the owner and to warn of any danger. Signs which advertise for commercial purposes are prohibited. All signs shall comply with the requirements of the Sign Regulations of this Ordinance.

(L) Permit Requirements

No wireless support structures, shall be erected, established, or substantially modified unless and until a Zoning Clearance permit has been issued pursuant to Section 11.4 of this Ordinance, subject to the issuance of a Special Use Permit if required pursuant to Section 3.5 of this Ordinance. In addition to the requirements for a Level 2 Site Plan as set forth in Section 11.4, the following information shall be provided:

1. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a professional engineer licensed in the State of North Carolina.
2. The setback distance between the proposed wireless support structure and the adjacent property line.
3. The availability of suitable existing wireless support structures, other structures, or alternative technology.
4. Method of fencing and finished color and, if applicable, the method of camouflage and illumination.
5. A statement by the applicant as to whether construction of the structure will accommodate co-location of additional antennas for future users.
6. A description of the suitability of the use of existing structures, other structures or alternative technology not requiring the use of structures to provide the services to be provided through the use of the proposed new structure.
7. A description of the feasible alternative location(s) of wireless support structures within the Town based upon existing physical, engineering, technological or geographical limitations in the event the proposed structure is erected.
8. A statement of compliance with the FCC Radio Frequency (RF) exposure standards.

(M) Buildings or Other Equipment Storage
Equipment cabinets and/or other structures shall comply with all applicable building codes. Guys and accessory buildings shall satisfy the minimum zoning district setback requirements.

(N) *Location and Size of Accessory Equipment Structures*
Equipment cabinets and/or structures shall be no greater than fourteen (14) feet in height or three hundred (300) square feet in gross floor area. The entry or access side of a cabinet and/or structure shall be gated by a solid, sight-obscuring gate that is separate from the cabinet and/or structure. Such access way shall not face residentially zoned property.

(O) Cell On Wheels
The use of Cell on Wheels (COW) in response to a declaration of emergency is permitted following administrative review and approval for up to 120 days.

(P) Collocation and Eligible Facilities Requests

(1) Collocation Approval

(a) Collocation of antenna on existing wireless support structures and minor modifications (eligible facilities requests) to existing wireless support structures that do not constitute substantial modifications, as defined by this Section, shall be reviewed and approved administratively subject to the requirements of Section 3.2.

(b) A collocation or eligible facilities request application is deemed complete unless the Town provides notice that the application is incomplete in writing to the applicant within 45 days of submission or within some other mutually agreed upon time frame. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. The Town may deem an application incomplete if there is insufficient evidence provided to show that the proposed collocation or eligible facilities request will comply with federal, State, and local safety requirements. An application is deemed complete on resubmission if the additional materials cure the deficiencies indicated. The Town shall issue a written decision approving an eligible facilities request application within 45 days of such application being deemed complete. For a collocation application that is not an eligible facilities request, the Town shall issue its written decision to approve or deny the application within 45 days of the application being deemed complete.

(2) Good Faith
Applicants and permittee shall make a good faith effort to share wireless support structures, facilities and sites where feasible and appropriate. Good faith effort shall include sharing technical information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location,

and may include negotiations for erection of a replacement support structure to accommodate co-location. A competitive conflict to co-location or financial burden caused by sharing such information normally will not be considered as an exception to the duty of good faith. Failure to comply with co-location requirements may result in denial of a permit request or revocation of an existing permit.

(3) Public Service Access
At the request of any local governing authority a license shall be granted to such local governing authority to place public service communication antennae or other public service communication devices on the telecommunications tower or antenna, provided that such communication antennae or other public service communication devices do not interfere with the function of the telecommunications tower or antenna, or array of antennae of the operator or owner or other existing service providers located on the tower or antenna.

(4) Third-Party Technical Review
In the event a dispute arises as to whether a permittee has exercised good faith in accommodating other users on the proposed structure, the Administrator may require the applicant to obtain a third-party technical study at the applicant's expense. The Administrator may review any information submitted by the applicant and permittee(s) in determining whether good faith has been exercised.

(5) Exceptions
No co-location may be required where the shared use would or does result in significant interference with the broadcast or reception capabilities of the existing wireless communication facilities or the failure of the facilities to meet federal standards for emissions.

(Q) Removal of Abandoned Antennas And Wireless Support Structures

(1) Discontinuance Period
Any wireless support structure or antenna that is not operated for a continuous period of one (1) year shall be considered abandoned, and the owner of such facility shall remove the wireless support structures within ninety (90) days of receipt of notice from the Board of Adjustment notifying the owner of such abandonment. If there are two or more users of a single wireless support structure, then this provision shall not become effective until all users cease using the wireless support structure for the prescribed period. "Physically remove" shall include, but not be limited to:

(a) Removal of antennas, mount, equipment shelters and security barriers from the subject property.

(b) Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.

(c) Restoring the location of the facility to its natural condition, except that any landscaping and grading shall remain in the after condition.

(2) Authority to Remove and Require Bond
A performance bond shall be set for 1.25 times the estimated cost of removal of all wireless support structure and accessory equipment structures that are approved. The performance bond shall be filed prior to issuance of a zoning clearance. This amount will be determined by a removal company and certified by a North Carolina Licensed Engineer. For every year following approval, the bond shall increase by an inflation factor based upon the Consumer Price Index (CPI) Index.

(R) Nonconforming Uses

(1) Wireless support structures that are constructed, and antennas that are installed, in accordance with the provisions of this Section shall not be deemed to constitute the expansion of a nonconforming use or structure.

(2) Preexisting wireless support structures constructed prior to the adoption of this Ordinance shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new wireless support structure of like construction and height) shall be permitted on such preexisting structures. New construction other than routine maintenance on a preexisting wireless support structures shall comply with the requirements of this Section.

(3) Notwithstanding this Section, bona fide nonconforming wireless support structures or antennas that are damaged or destroyed by weather events or other non-manmade causes to conform to the requirements of this Ordinance provided the type, height, and location of the-structure onsite shall be of the same type and intensity as the original facility; provided, however, that any destroyed lattice or guyed wireless support structure shall be replaced with a monopole structure only. If no permit is obtained or if said permit expires, the structure shall be deemed abandoned.

(S) Collocation of Small Wireless Facilities
Collocation of small wireless facilities within rights-of-way, as defined by this Section, are permitted pursuant to NCGS 160A-400.54-57, and, where not in conflict with statute, shall meet the design requirements for light poles in of Section 6.3 of this Ordinance.

9.55 Temporary Seasonal Uses and Structures, Including Seasonal Markets

A zoning permit may be issued by the Zoning Administrator for any of the following temporary uses or structures. Unless otherwise stated herein, such permit shall be valid for 12 months. Permits for temporary uses or structures exceeding 12 months or for any type of use or structure not specifically listed below may be considered by the Board of Adjustment pursuant to Section 11.7.

All landscaping, buffering, and parking standards required by this ordinance shall be met prior to any use of the site or structure authorized by the temporary use permit. All other permits required for such structure or use including, but not limited to, building permits and driveway permits shall be obtained prior to any use of the site or structure authorized by the temporary use permit.

(A) The establishment of temporary sales lots for Christmas trees and other seasonal agricultural products, plus related goods, are permitted for up to a maximum of 60 consecutive days upon the issuance of a temporary use permit by the Zoning Administrator. The following conditions shall apply:

(1) No more than one (1) trailer shall be used to store goods for sale.

(2) The use may only be located on a vacant lot or on a lot occupied by a non-residential use.

(3) Off-street parking may be provided behind or to the side of the established use, but not forward of the required front setback.

(4) On-site parking may be provided on a dust-free, pervious surface area and need not comply with additional paving requirements.

(5) Signage shall meet the requirements of Chapter 7 and inflatable signage, decorations, recreational activities designed to attract attention shall be prohibited.

(B) Temporary structures used for construction offices and storage areas on construction sites. Temporary buildings and storage of materials are permitted, provided that the use is in conjunction with the construction of a building on the same lot or on an adjacent lot; the temporary uses shall be terminated upon completion of construction.

(C) Temporary structures or sites of grading operations.

(D) Temporary structures, manufactured homes, or storage areas of public agencies in the conduct of proprietary or governmental operations.

(E) Temporary modular units used for religious or educational purposes.

(F) The use of open land by non-profit organizations for meetings, circuses or carnivals, baked goods or collected clothing and the like, if no structure is erected or placed other than tents, trailers, or recreational vehicles, for which the duration of such permits is limited to no longer than 45 consecutive days in one (1) calendar year.

(G) 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 30 consecutive days.

(H) PODS and other similar temporary storage containers not associated with construction shall not be located on a property for greater than 45 days annually.

9.56 Utilities, Above Ground

(A) Utility distribution lines, which deliver service to the end user from a substation fed by a transmission line providing service to an area larger than the individual parcel or project area, shall be installed underground, unless subsurface conditions make underground installation not possible or practical.

(B) Facilities used for the operation of above ground utilities shall, whenever possible, be located on interior properties rather than on properties aligned with other lots that have continuous street frontage.

(C) Areas around water towers, water and wastewater treatment facilities, substations, and power plants shall be enclosed by a fence, not easily climbable, at least six (6) feet in height that meets the requirements of Section 5.2.

9.57 Utility Service Areas

All equipment associated with a utility service area shall be designed and installed to be as inconspicuous as possible; shall not interfere with the installation or enjoyment of public facilities or facilities that serve the public such as sidewalks, bike paths, and driveways; and shall be installed away from public streets and residences to the maximum extent practicable.

9.58 Veterinary Services

(A) All animals shall be housed in a fully enclosed structure unless the veterinary services are also in a district that allows for kennels according to the Table of Uses in Chapter 3.

(B) All areas designated for animal exercise shall be fully enclosed with an opaque fence that meets the requirements of Section 5.2 and shall be located at least 350 feet from a legal conforming residential use.

9.59 Warehousing, Self-Storage

(A) Self-storage warehousing uses within the VM zoning districts shall only be permitted within buildings constructed prior to the adoption of the Town's Zoning Ordinance in 2005. The conversion of any existing building in one of these districts to a self-storage warehousing use shall not include the expansion of the building footprint, and any changes to the exterior of the building shall conform to the design requirements of Chapter 4. No outdoor storage associated with a self-storage use shall be permitted in these districts.

(B) Self-storage warehouse spaces shall be used for storage only. No space shall be leased for any other purpose.

(C) All driveways and parking areas between and around buildings shall be paved with asphalt or concrete.

(D) All storage shall be located within the building and outside storage of any type, including the outside storage of moving vans, vehicles and boats shall not be permitted.

(E) Storage units shall not be visible off site and access to individual storage units shall be from corridors internal to the building.

9.60 Waste Transfer Station, Recycling Only

(A) Waste transfer stations shall be limited to the collection and transfer of household recyclables.

(B) Recyclable materials from residential sources shall be limited to tires, scrap metal such as lawnmowers and play equipment; white goods such as refrigerators, clothes dryers and stoves; lead acid batteries; motor oil; cardboard; and other recyclables of residential origin.

(C) The site shall be screened from the street(s) by a screen composed of a masonry wall or a solid fence that meets the requirements of Section 5.2, planted on the exterior side with a semi-opaque vegetative screen with expected height of at least eight (8) feet at maturity; security fencing shall be placed on the interior side of the vegetation and wall or fence; existing vegetation shall be preserved to the extent practicable and supplemented with new plantings as may be required to provide a year-round opaque buffer from abutting properties.

(D) The active use areas of the site shall be separated by a 100 foot buffer from all adjacent properties and shielded by an opaque screen from all public streets.

(E) That active use portions of the site will be entirely fenced with non-climbable fencing material, meeting the requirements of Section 5.2, to a height of at least six (6) feet, which shall be installed on the interior of the buffer and screen at least 20 feet from a public street right-of-way and 100 feet from abutting property lines.

(F) No active area will be located within 100 feet of any property line nor within 200 feet of abutting property located in a residential district or developed for residential, institutional, or mixed-use.

(G) Vehicular access to the proposed use will not be provided by a minor collector or neighborhood street, and access roads to the site will connect directly to a designated arterial.

CHAPTER 10 ENVIRONMENTAL PROTECTION

10.1 Compliance with Watershed Rule Required

Most of the zoning jurisdiction of the Town of Bermuda Run is located within a water supply watershed protected area associated with the Yadkin River (WS-IV-PA) as delineated and regulated by the North Carolina Department of Environment and Natural Resources. All development within an established watershed protected area, as shown on the Bermuda Run Zoning Map, shall meet all applicable minimum requirements of the watershed rule as contained in NCAC Section .0200, in general, and 15A NCAC 02B .0216 in particular as well as the requirements of this section.

(A) *Development density requirements*.

(1) *Low density development.*

Development activities which require a sedimentation/erosion control plan in accordance with 15A NCAC 4 shall meet the maximum density allowances permitted in the rule. Low density developments shall be limited to no more than either:

a) Two (2) dwelling units of single-family detached development per acre (or 20,000 square foot lot excluding roadway right-of-way); or

b) Twenty-four percent (24%) built-upon area for all other residential and non-residential development; or

c) Three (3) dwelling units per acre or thirty-six percent (36%) built-upon area for projects without curb and gutter street systems where such is permitted within the Town's jurisdiction.

(2) *High density development.*

High density development as defined in 15A NCAC 4 shall not be permitted within the Bermuda Run zoning jurisdiction. All development exceeding the maximum density allowances for low density development shall be prohibited except those which have been granted increased density allowances under the 10/70 provision.

(3) *Clustering and density averaging.*

a) Minimum lot sizes are not applicable to clustered single-family subdivisions; however, the total number of lots in the development shall not exceed the number of lots allowed for this district.

b) The remainder of any cluster subdivision tract not used for development shall remain in a permanent vegetated or natural state. Sufficient proof of permanent maintenance of open space shall be required prior to development approval by the Town.

c) Density averaging within the Town shall be permitted only as part of the approval and permitting requirements for use of the 10/70 provision.

(B) *Additional requirements.*

(1) *Built-upon areas.*

All built-upon areas shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow.

(2) *Stormwater runoff.*

Stormwater runoff shall be transported by landscaped, vegetated conveyances to the maximum extent practicable.

(3) *Buffer required.*

A minimum 100-foot vegetative stream buffer is required along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 scale (7.5 minute) topographic maps for all uses except agriculture, where agriculture is the primary use of a lot. Agricultural uses must maintain a minimum 10 foot vegetated buffer, or equivalent control as determined by the soil and water conservation commission along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 scale (7.5 minute) topographic maps. Desirable artificial stream bank or shoreline stabilization is permitted.

(4) *Development in buffer prohibited.*

No new development is allowed in the stream buffer. Water dependent structures or other structures, such as flagpoles, signs and security lights, which result in only minimal increases in impervious area, and public projects such as road crossings and greenways may be allowed where no practical alternative exists. These activities shall minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of stormwater best management practices.

(C) *The 10/70 Provision.*

(1) *Purpose*.

Section 15A NCAC 02B .0216 of the North Carolina Administrative Code states that local governments that do not use the high density watershed option may allow a maximum of ten percent (10%) of their watershed area outside of the critical area to be developed with new development projects and expansions to existing development of up to seventy percent (70%) built-upon surface area. This is commonly referred to as the 10/70 option. The remainder of the property, a minimum of thirty percent (30%), must be maintained as permanent open space or pervious surface. The Town of Bermuda Run has chosen to include the 10/70 option in its watershed program as detailed within this section.

(2) *Town Council to approve*.

Projects exceeding the low density requirements of this ordinance may petition the Town Council for permission to use the 10/70 provision. The use of this provision is a privilege and not a right granted to property owners within the Town's jurisdiction and may be allocated by the Town at its sole discretion by legislative action.

(3) *Acreage limitations*.

A minimum of fifty (50) acres of impervious coverage (or a total of seventy-two project acres) shall be reserved by the Town for use in the area west of NC Highway 801.

(4) *Use limitations*.

Sites eligible for consideration include only those sites identified on the Future Land Use Map as Village Residential, Mixed Use Center, Crossroads Commercial and Enterprise Center. Under no circumstances shall any use defined as an adult establishment, pawn shop, telecommunication tower be eligible for the 10/70 provision. Furthermore, the Town, at its discretion, may choose not to grant a request for increased density under the 10/70 provision for any free-standing single-use commercial establishment not part of a coordinated development site including, but not limited to, gas stations, convenience stores, restaurants, retailers, shopping centers or professional offices or whenever, in its opinion, the proposed use with increased density would not be in the best interest of the Town at the location proposed.

(5) *Required pervious areas*.

All pervious area required by the watershed regulations may be met onsite, partially onsite, or entirely offsite as part of the approval process for the 10/70 provision as long as they meet the requirements established in section 10.6 and the following conditions are met:

a) All such offsite areas shall be approved by the Town Council at the time of approval of the 10/70 provision.

b) All pervious areas shall be in the form of permanent environmental open space held by any unit of government or private non-profit organization created for such purposes.

c) All pervious areas shall be "downstream" of the development and shall be designed to disperse stormwater flows in a diffuse pattern and to permit infiltration.

d) All pervious areas shall either remain undisturbed or be used for public open space. Any land used for public open space required by this ordinance may be maintained as an area of passive recreation or similar public use as long as such area contains no impervious surfaces and is otherwise designed and/or maintained to accomplish the stormwater objectives of this section.

(6) *Petition requirements*.

All petitions for the 10/70 provision shall be submitted to the Town manager at least twenty-one days prior to the Town Council meeting at which such request shall be heard. In order to be considered by the Town Council, petitions shall include the following information:

a) A completed application form.

b) A sealed site plan including an accurate survey of the site drawn at a scale of no less than 1:200 indicating the following information:

1) The project boundary and total square footage of the project site.

2) The location, extent, percentage and total square footage of all existing and proposed impervious surface areas.

3) The location, extent, and proposed ownership of all onsite and/or offsite pervious locations. If offsite, the application shall include a draft of the legal instrument conveying ownership of the land and a signed letter by the proposed owner that they understand and

willingly accept the limitations, requirements and responsibilities that such ownership conveys. All open space areas shall meet the requirements of Section 10.6.

4) The location of all perennial and intermittent streams, as indicated on the most recent USGS 7.5 Minute Topographic Quadrangle, on the project site.

5) The location of all boundaries of a regulated floodplain, as indicated by the Davie County GIS.

6) The location and extent of all required buffer areas.

7) The location of all existing structures on the site.

8) The zoning on the project site and adjacent parcels of land.

9) In the absence of floodplain, perennial or intermittent streams on the project site, the site plan shall either: a) include a statement that no floodplain, perennial or intermittent streams, as defined by this ordinance, lie within 100 feet of the project boundary; or b) indicate the direction and distance to any such feature within 100 feet of the project boundary.

c) For new development, petitioners shall be required to provide an engineer's certification that post-construction run-off will not be substantially significant or will not substantially impact adjacent properties when compared to preconstruction run-off.

d) All required fees as established by the Town Council.

(7) *Approval process*.

a) All requests for the 10/70 provision shall be decided by the Town Council after a duly advertised and held public hearing. Prior to such public hearing, the Town Council may request that the planning board review the petition and make a recommendation for action.

b) In making a decision regarding allocation of the 10/70 provision, the Town Council shall consider the following:

1) The amount of 10/70 acreage remaining to be allocated.

2) The type and location of development.

3) The type and location of required pervious surfaces.

4) Stormwater impacts.

5) Any other factor which the Town Council feels is significant to the development and future of Bermuda Run.

10.2 Flood Damage Prevention

All properties located within a Special Flood Hazard Areas are subject to regulation by the Town of Bermuda Run's Flood Damage Prevention Ordinance adopted on September 9, 2008. 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) for Davie County its accompanying Flood Insurance Rate Map Panels (5861, 5862, 5863, 5871, 5872, 5873, & 5882).

10.3 Stormwater Mitigation

(A) Any development of greater than one (1) acre of disturbed area shall be subject to review by the NC Department of Environmental Quality (DEQ) for soil and erosion control approval. Any development outside of the Watershed Protected area is further subject to review by NCDEQ for compliance with the National Pollutant Discharge Elimination System (NPDES) stormwater program.

(B) All stormwater detention and/or retention ponds and basins shall be designed as an integral part of the development site and shall be aesthetically pleasing (e.g., neatly landscaped, well-maintained, vegetated slopes, decorative fencing if fencing is used, etc.). Fencing of such facilities, when desired, shall be decorative and shall be in harmony with the overall character of the site.

(C) Low impact design (LID) techniques for stormwater control are strongly encouraged. Applicants for developments choosing to utilize LID techniques shall refer to *Low Impact Development: A Guidebook for North Carolina* published by North Carolina State University and the North Carolina Cooperative Extension. Developments utilizing LID techniques may exceed the maximum parking ratios set forth in Section 4.3 of this Ordinance. A maintenance plan shall be provided for any development utilizing LID techniques.

(D) Concentrated runoff from new ditches or manmade conveyances shall be converted to diffuse flow before the runoff enters any required buffer. To the maximum extent practicable, stormwater shall be designed to sheet flow across properties in a diffuse manner and, unless topography dictates otherwise, shall be discharged to surface flow as close as possible to the impervious surfaces creating the increased flow. Exceptions to this requirement may be made by the Town for permitted discharge into a Town or state-maintained stormwater collection system.

(E) Periodic corrective action shall be required to restore diffuse flow as necessary to impede the formation of erosion gullies.

(F) Ditches and vegetated conveyances shall be maintained to prevent erosion and to correct siltation and debris collection that impedes the ability of the conveyance to perform properly.

10.4. Tree Preservation, Protection, and Removal

(A) *Purpose.*

Wooded sites provide distinct aesthetic, economic and environmental significance and value as a natural resource of the Town. Existing vegetation plays a critical role in maintaining aesthetics, water quality, minimizing erosion and downstream flooding, and increasing quality of life.

(B) *Tree preservation.*

(1) *Applicability.*

Significant forest stands, specimen trees, and heritage trees, as defined in this ordinance, shall be preserved whenever practicable. Forested areas and vegetated areas and areas whose physical site conditions render them unsuitable for development shall be set aside as conservation areas or as open space. Wooded sites shall be developed with careful consideration of the natural characteristics of the site. When portions of forested stands must be developed, careful consideration shall be given to preserving wooded perimeters or the most desirable natural features in order to retain the aesthetic or visual character of the site.

(2) *Tree save area.*

Whenever trees are to be saved on a development site, the tree save area shall be delineated on the site plan. The tree save area shall be considered the area in which the drip line of the saved tree is located plus an additional five feet around the perimeter. If root disturbance or construction activities occur within the drip line of any tree designated as protected, only the area actually being protected will be included in any calculated tree save area where such area is being used to meet the landscaping or buffering requirements of this ordinance.

(3) *Tree selection criteria.*

The following characteristics shall be considered when selecting trees to be protected and saved:

a) *Tree vigor.* Only healthy trees shall be counted towards any landscaping or buffering requirement. A tree of low vigor is susceptible to damage by environmental changes that occur during site development. Healthy trees are less susceptible to insects and disease. Indications of poor vigor include dead tips of branches, small annual twig growth, stunted leaf size, sparse foliage, and pale foliage color. Hollow or rotten trees; cracked, split, or leaning trees; or trees with broken tips also have less chance of survival.

b) *Tree age.* Old, picturesque trees may be more aesthetically valuable than smaller, younger trees, but they may require more extensive protection.

c) *Tree species.* Preserve those species that are most suitable for site conditions and landscape design. Trees that are short lived or brittle or are susceptible to attack by insects and disease are poor choices for preservation.

d) *Tree aesthetics.* Choose trees that are aesthetically pleasing, shapely, large, or colorful. Avoid trees that are leaning or in danger of falling. Occasionally, an odd shaped tree or one of unusual form may add interest to the landscape if strategically located; however, be certain that the tree is healthy.

e) *Wildlife benefits.* Choose trees that are preferred by wildlife for food, cover, or nesting. A mixture of evergreens and hardwood may be beneficial. Evergreen trees are important for cover during the winter months, whereas, hardwoods are more valuable for food.

f) *Environmental benefits.* Choose trees that help to reduce runoff and erosion, disconnect impervious areas, serve as stormwater filters, and/or buffer onsite perennial streams.

(4) *Tree save delineation.*

All tree save areas must be specified on the recorded plat, individual recorded deeds, and all property association documents for land held in common. All trees located within a tree save area shall be preserved.

(C) *Heritage trees*

The Town may require that any heritage tree be included within or set aside as an additional tree save area on any development site.

(D) *Tree protection.*

(1) *Applicability.*

A tree and root preservation plan delineating tree save areas shall be incorporated as part of any site plan required by this ordinance. The following measures shall be followed to protect existing trees on a developing site:

a) Prior to demolition, clearing, construction, grading, and installation of erosion control measures; tree protective barriers must be installed around all tree save areas by the developer as approved by the Town.

b) The tree protection fence shall be located along the perimeter of the tree save area (drip line plus five feet). Tree protection fencing shall consist of orange safety fencing or a combination of orange safety fencing with silt fencing at a minimum of four feet in height on metal or wood posts.

c) All tree protection areas must be designated as such with "tree save area" signs posted in addition to the required protective fencing. Signs requesting subcontractor cooperation and compliance with tree protection standards are recommended for site entrances.

d) No soil disturbance or compaction, stock piling of soil or other construction material, vehicular traffic, or storage of equipment and materials are allowed within the tree save area.

e) No ropes, signs, wires, unprotected electrical installation or other device or material, shall be secured or fastened around or through a tree or shrub.

f) All protective measures shall be maintained throughout the land disturbing and construction process, and shall not be removed until final landscaping is installed.

10.5 Encroachment into Required Buffers and Tree Save Areas

(A) If encroachment into a required tree save area occurs during or after construction which causes irreparable damage to the vegetation, the area shall be replanted as required by this section. In addition to required mitigation, any encroachment into a tree save or buffer area may subject the violator to the maximum penalties and enforcement action as permitted by this ordinance and state law.

(B) If a tree save area or required undisturbed buffer yard is disturbed for any reason, it shall be restored at a rate of ten trees per 1,000 square feet. Trees to be planted shall have a minimum caliper of two inches, shall be eighteen feet in height at installation, and shall be at least seventy-five percent large maturing varieties.

(C) Where a disturbed area also functioned to buffer adjacent properties or public street(s), at least fifty percent of the trees shall be evergreen varieties. Trees shall be distributed throughout the disturbed area in such a way as to effectively replace the vegetation disturbed.

(D) Where under story vegetation is removed or disturbed it shall be replaced at a rate of forty shrubs per 100 linear feet. Shrubs shall be evergreen and three (3) feet in height when installed and are expected to reach a minimum height of six (6) feet at maturity.

(E) When a tree is destroyed due to an act of God, it shall be replaced with the same species or comparable species, two (2) inches in caliper in size.

(F) A planting plan is required for Town review and approval prior to commencement of planting.

10.6 Open Space

(A) *Purpose*

In order to develop a system of quality open spaces and recreation areas throughout the Town's jurisdiction, the following standards shall apply to all developments and all open space and recreation areas in all zoning districts unless otherwise noted.

(B) Applicability

The requirements of this Section apply to new developments with greater than five (5) residential dwelling units in which the construction of new streets is proposed. Developments in which all lots are (1) acre or more are exempt from this provision.

(C) General Provisions

(1) Land designated as open space on the approved development plan shall be maintained as open space and may not be separately sold, subdivided, or developed.

(2) Access from a public or private street shall be provided to all designated open space with a minimum 15 foot wide access to the open space area. Lakes or ponds within the development used as open space shall provide adequate community access beyond this 15 foot minimum as determined by the Administrator.

(3) Open space shall be contiguous wherever possible.

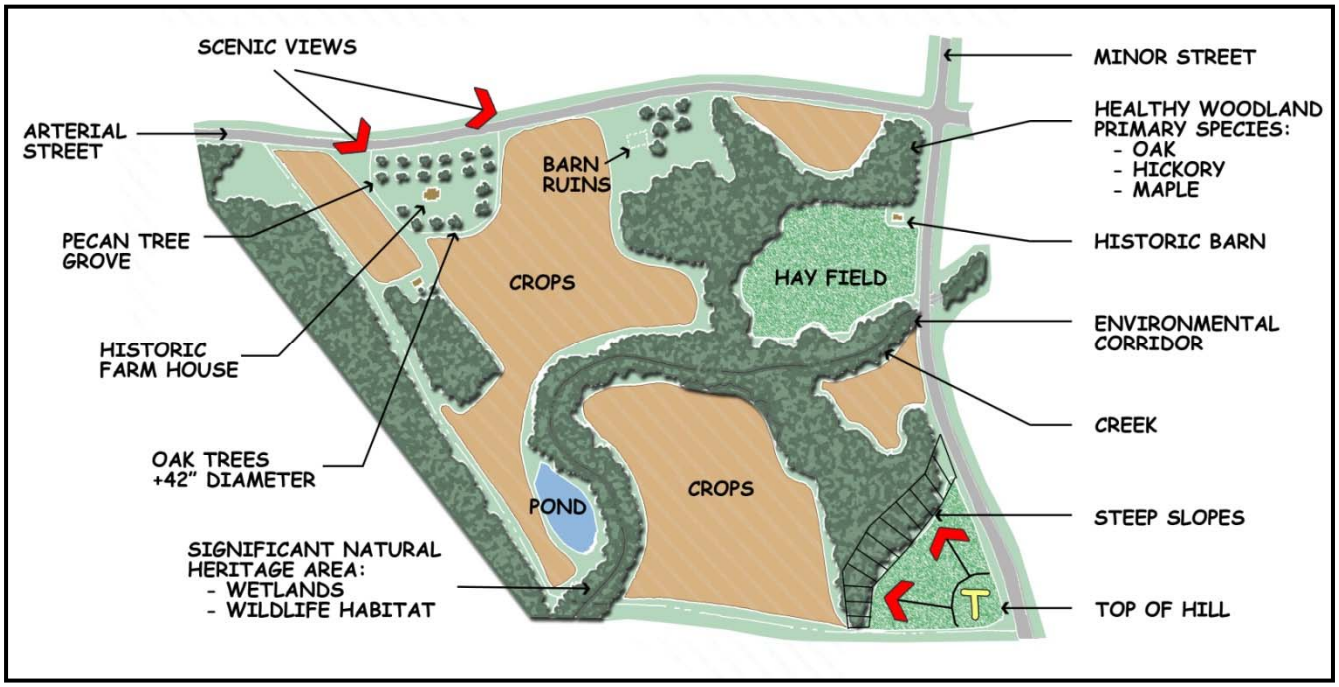
(4) The land used for required open space and recreation areas, except environmental open space, shall have an average slope of five (5) percent or less with no portion of the land exceeding a 15 percent slope.

(5) Open space requirements shall be met for each area of a phased development that makes up more than 20 percent of the total lots for the development. No certificates of occupancy shall be issued until all such required facilities have been installed by the developer and approved by the Town.

(D) Environmental Assessment

Existing Features Plans are required to be submitted with all multi-family residential site plans and subdivision sketch plans for all proposed developments with greater than five (5) dwelling units.

CONCEPTUAL EXISTING FEATURES PLAN



(E) Minimum Open Space Dedication

Open space shall be dedicated in accordance with the table below. Percentages are based on total development area.

Density (DUA)	Percent Open Space
0.2 DUA or less	n/a
0.21 DUA-1.9 DUA	10%
2.0 DUA-3.9 DUA	20%
4.0 DUA or more	30%

How to Calculate DUA (Dwelling Units Per Acre):

$$\frac{\text{Total Number of Dwelling Units}}{\text{Total Development Area in Acres}} = \text{DUA}$$

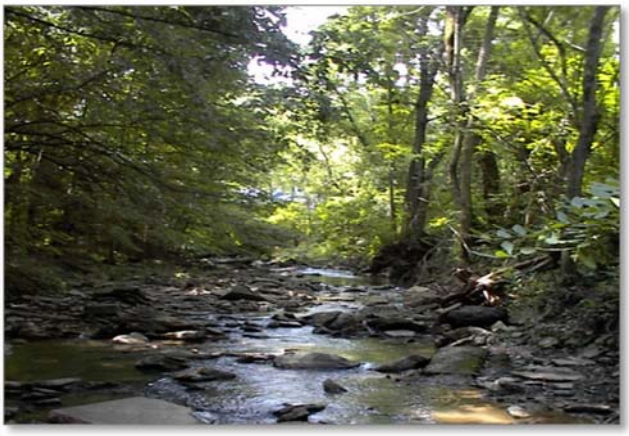
(F) Types of Open Space

All open space shall be classified as one (1) or more of the following categories and be classified as private common area open space or public open space. The Existing Features Plan should be used as a guide by the developer and Administrator to determine the most appropriate open space type and location. Also the Town's Comprehensive Plan and any applicable County plan, particularly park and open space plans, shall be considered when evaluating the most appropriate open space type. The greenway open space type shall be utilized wherever a greenway segment is shown in the Comprehensive Plan.

(1) Nature Preserve

Open spaces designated as nature preserves shall be left largely undisturbed except for the optional clearing of underbrush for the provision of a walking trail. Nature preserves are the encouraged open space type for floodways; flood fringe areas (100-year floodplain); stream buffers as required by the the North Carolina Department of Environmental Quality; slopes of greater than 10 percent; jurisdictional wetlands under federal law (Clean Water Act, Section 404) than meet the definition applied by the US Army Corps of Engineers; tree conservation areas; individual existing healthy trees greater than eight (8) inches DBH (diameter at breast height) and their critical root zones; habitat for federal or state endangered or threatened species; and scenic viewsheds such as field borders, meadows, fields, river views, and natural woodlands that can be seen from roadways.

EXAMPLES OF NATURE PRESERVES



(2) Greenway

Greenways are large, irregular open spaces designed to incorporate natural settings such as creeks and significant stands of trees within and between neighborhoods. Greenways connect points of interest in a community such as schools, parks, and other civic uses. Greenways are typically more natural and may contain irregular topography. Greenways shall be used for, at a minimum, trails for walking, jogging, and biking. Greenways as designated on adopted Town and County plans to provide for walking, jogging, and biking connecting points of interest in the community such as schools parks and other civic uses.

EXAMPLES OF GREENWAYS

(3) Greenbelt

Greenbelts run along the perimeter of a neighborhood, and serve to buffer a neighborhood from surrounding non-compatible uses such as a highway corridor or industrial district, or a developed area from agricultural areas or adjacent communities. Greenbelts are wider and provide more existing natural vegetation than any buffer yard required as part of Section 4.4.3. Greenbelts differ from the other types of open spaces in that they are left natural, and are not intended for recreational use.

EXAMPLES OF GREENBELTS

(4) Agricultural Preserve
Open spaces designated as agricultural preserves shall be used for active farming in the form of crop cultivation, the keeping of livestock, or equestrian facilities. Agricultural preserves are encouraged to protect areas of agricultural and rural heritage and promote compatible active agricultural operations.

EXAMPLES OF AGRICULTURAL PRESERVES

(5) Recreational Amenity Center
Recreational amenity centers are intended for active recreational use and may include swimming pools, splash pads, tennis courts and similar uses. Recreational amenity centers shall be centrally located to the residences that they serve.

EXAMPLES OF RECREATIONAL AMENITY CENTERS

(6) Playground

Playgrounds are for active recreational use and provide sunny and shaded play equipment and play areas for children as well as open shelter with benches. Playgrounds may be part of other types of open space, such as parks or recreational amenity centers, or may stand alone.

EXAMPLES OF PLAYGROUNDS

(7) Square or Green

Squares or greens are primary intended for passive recreational use and may have monuments, pavilions, sitting areas. Squares or greens shall be bounded by streets on a minimum of 50 percent of their perimeter. Squares or greens are encouraged to be entirely bounded by streets and/or lanes. Squares and greens shall be planted parallel to all streets and shall contain canopy trees along street frontages.

EXAMPLES OF SQUARES

(8) Park
Parks may be designed for passive and/or active recreational use. Parks shall be bounded by streets on a minimum of 10 percent of their perimeter. Large parks should create a central open space which services an entire neighborhood or group of neighborhoods; or incorporates physical features which are an asset to the community (i.e. lake or river frontage, high ground, significant stands of trees). Undergrowth should be limited and landscaping shall be installed in a manner that promotes attractiveness and safety. Parks may be combined with greenways and greenbelts and may include golf courses and community gardens.

EXAMPLES OF PARKS

(G) Allowed Uses of Open Space
Unless otherwise stated, open space intended to achieve the performance standard may be used for the following:

(1) Conservation areas for natural, archeological or historic resources;

(2) Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas;

(3) Pedestrian or multi-purpose trails;

(4) Passive recreation areas;

(5) Active recreation areas, provided that impervious area is limited to no more than 25 percent of the total open space for the development;

(6) Golf courses (excluding clubhouse areas and maintenance facilities), provided that the area does not exceed 50 percent of the total open space for the development and that impervious area is no more than 25 percent of the total open space for the development;

(7) Water bodies, such as lakes, pond and floodways, provided that the total surface area does not exceed 50 percent of the total open space for the development;

(8) Crop production, community garden;

(9) Stormwater control measures, provided that area does not exdeed 25 percent of the total open space for the development and the stormwater control measure is designed as a pond amenity of greater than one-half (1/2) acre or greater, is surrounded by open space, and is accessible to all residents; and

(10) Easements for drainage, access and underground utilities.

(H) Prohibited Uses of Open Space
Open space intended to achieve the performance standard shall not be used for the following:

(1) Individual conventional wastewater disposal systems (excluding innovative systems);

(2) Overhead electric transmission lines or high voltage electric transmission lines; and

(3) Streets and impervious parking areas.

(I) *Alternative open space.*

(1) As an alternative to incorporating required open space on a development site, the developer has the option of:

a) Requesting that the Town permit the purchase of land lying within a planned public park or open space system within or immediately adjacent to the Town's zoning jurisdiction and its dedication to the appropriate public authority; or

b) Requesting that the Town accept fees in lieu of land dedication for the purpose of providing public open space.

Such requests shall be heard and decided by the Town Council prior to subdivision or site plan approval.

(2) Any request for alternative open space shall be accompanied by the following information:

a) The amount of land required for open space dedication under this ordinance.

b) Detailed information about land proposed for purchase and public dedication including all of the following:

- The exact location (either a tax identification number or a metes and bounds description), size, and current assessed and appraised value of land proposed for purchase and public dedication.
- The intended recipient of the dedication of land and evidence that the recipient (if other than the Town) approves of the dedication.
- The proposed timing of the purchase and dedication.

c) If fees in lieu are proposed, the amount of fees offered shall be commensurate with the cost of land used for the development and the amount of open space required. For example, if one acre of open space is required per this ordinance and the cost of usable land within the development site is $50,000 per acre, then the minimum fee in lieu of open space would be equal to $50,000.

d) An alternative plan for providing onsite open space as required by this ordinance.

(3) In considering a request for alternative open space, the Town Council may:

a) Approve the request without modification; or

b) Approve the request with modifications or conditions agreed to by the developer; or

c) Approve only a portion of the request, requiring a portion of the required open space to be included on the site of the proposed development; or

d) Deny the request.

(J) Open Space Ownership and Maintenance

(1) Open space may be owned or administered by one (1) or a combination of the following methods:

(a) Fee simple ownership by a unit of government or private non-profit land conservancy;

(b) Common ownership by Homeowners Association;

(c) Split deeded ownership by individual property owners within the development;

(d) By individual private ownership such as a farmer, developer or other private entity that maintains the open space in accordance with the purposes of this Section. (i.e. farming, equestrian facility).

(e) Deed restricted open space easements on individual private properties.

(2) The Town Council shall have the authority to accept or reject land dedications made as a requirement of this Section.

(3) The owner of dedicated open space shall be responsible for the continuing upkeep and proper maintenance of the same.

(4) In the case of common ownership by a Homeowners Association, the restrictive covenants shall provide that, in the event the Homeowners Association fails to maintain the open space according to the standards of this Ordinance, the Town may, following reasonable notice, demand that deficiency of maintenance be corrected, or enter the open space to maintain it. The cost of such maintenance shall be charged to the Homeowners Association.

(5) The developer shall place in a conspicuous manner upon the Site Plan or Final Plat of a subdivision a notation concerning control of open space.

(6) The developer will provide proof of registration of the Articles of Incorporation with the appropriate state agency for the formation of the Homeowners Association to the Administrator.

(7) Homeowners' Associations or similar legal entities that are responsible for the maintenance and control of open space areas and common areas shall be established by the developer who shall record in the Register of Deeds a declaration of covenants and restrictions that will govern the association or similar legal entity. A copy of the recorded document shall be provided to the Administrator and such document shall include, but not be limited to, the following:

(a) Provision for the establishment of the association or similar entity is required before any lot in the development is sold or any building occupied and membership shall be mandatory for each homeowner and any successive buyer.

(b) The association or similar legal entity has clear legal authority to maintain and exercise control over such common open space areas.

(c) The association or similar legal entity has the power to compel contributions from residents of the development to cover their proportionate shares of the costs associated with the maintenance and upkeep of such common areas. Further, assessments levied can become a lien on the property if allowed in the master deed establishing the homeowners association or similar legal entity.

(d) The open space restrictions must be permanent, not just for a period of years.

(e) The association or similar legal entity must be responsible for liability insurance, applicable taxes and the maintenance of open space and other facilities under their control.

(f) The association or similar legal entity must be able to adjust the assessment to meet changing needs.

(g) The association shall be responsible for maintaining all public storm water drainage systems and easements within the development not being maintained by the Town, County, State or other approved entity.

(8) It shall be expressly stated within the restrictive covenants/homeowners association documents that it will be the responsibility of the developer or successors or assigns to enforce such covenants or restrictions until such time as control has been transferred to the Homeowners Association Board of Directors. It shall be the sole responsibility of the developer, successor or assigns to correct any deficiencies prior to transfer of control over to the Homeowners Association Board of Directors.

Chapter 11 ADMINISTRATION

11.1 Staff

(A) *Zoning Administrator.*

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

(1) To serve as staff to the Town Council, the Planning Board, and the Board of Adjustment with regard to their functions under these regulations, and to inform such bodies of all facts and information at their disposal with respect to applications for amendments to the text of these regulations, amendments to the zoning maps, appeals, variances, permit requests, and any other matters brought before them under this ordinance.

(2) To maintain the text of these regulations and the zoning maps.

(3) To maintain development review files and other public records related to the administration and enforcement of these regulations.

(4) To review applications for zoning permits filed under these regulations.

(5) To recommend and comment on proposed amendments to these regulations and to the zoning maps.

(6) To establish such rules of procedure and permit application forms as are necessary and proper for the administration of their responsibilities under these regulations.

(7) To determine street classifications not otherwise specified on the adopted Town of Bermuda Run thoroughfare plan.

(8) To administer the water supply watershed protection regulations contained herein including the following additional duties:

a) To serve as staff to the Board of Adjustment when it is serving in its capacity as the watershed review board.

b) To submit copies of all amendments upon adoption to the supervisor of the classification and standards group, water quality section, division of water quality.

c) To keep records of variances granted to the watershed regulations. This record shall be submitted to the supervisor of the classification and standards group, water quality section, division of water quality on or

before January 1st of the following year and shall provide a description of each project receiving a variance and the reasons for granting the variance.

d) To keep records of the town's utilization of the 10/70 provision, including any acreage allocated by Davie County to Bermuda Run. Such records shall include the total acres of non-critical area eligible to be developed under the 10/70 provision, and individual records for each project showing the following information: location, acres, site plan, use, and total allocation of the 10/70.

e) To monitor land use activities in the watershed to identify situations that may threaten water quality. The Zoning Administrator shall report these situations to the agency with direct regulatory responsibility for these activities.

(B) *Zoning Enforcement Officer.*

The Zoning Enforcement Officer is charged with enforcing the provisions of the zoning regulations as set out herein except for enforcement duties specifically assigned to the Zoning Administrator. If the Zoning Enforcement Officer shall find that any of the provisions of this ordinance are being violated, he shall notify, in writing, the person responsible for such violations, indicating the nature of the violation and order that necessary actions be taken to correct the deficiency. He shall order discontinuances of illegal uses of land, buildings, or structures, removal of illegal buildings or structures, or of illegal additions, alterations or structural changes, discontinuance of any illegal work being done and shall take any other action authorized by this ordinance to insure its compliance.

(C) *Technical Review Committee.*

The Technical Review Committee shall be appointed by the Town Manager and shall meet when needed to discuss land use issues and to review development proposals. The recommendations of the committee shall be forwarded to review boards by the Zoning Administrator for their consideration in making decisions regarding rezonings, Special Use Permits, design waivers and any other issue related to land use and development as governed by this ordinance within the zoning jurisdiction of the Town.

(D) *Town Manager.*

The Town Manager shall appoint the Zoning Administrator, the Zoning Enforcement Officer, and the Technical Review Committee and shall have the authority to exercise any and all duties and authorities assigned to such.

11.2 The Boards

(A) *Planning Board.*

(1) *Establishment.*
The Planning Board of the Town of Bermuda Run shall consist of five (5) regular members and two (2) alternate members appointed by the Town Council. One (1) of the regular members shall be an extraterritorial jurisdiction (ETJ) member that resides in the ETJ of the Town. The members of the Planning Board may also serve as members of the Board of Adjustment at the discretion of the Town Council.

(2) *Members.*
Each member and alternate shall be appointed by the Town Council for a term of three (3) years. In appointing the original members or in the filling of vacancies caused by the expiration of the terms of existing members, the Town Council may appoint certain members for less than three (3) years to the end that thereafter the terms of all members shall not expire at the same time. The expiration date for each term shall be the 30th day of June of the year in which said term is to expire and the term of office of the succeeding member shall begin on the 1st day of July. If the original members are appointed such that their terms of office begin prior to a July 1st date, such terms of original members shall be extended by the period of time between their appointment and June 30th of the year of their appointment, it being the intent that original members shall serve terms of one (1), two (2), or three (3) years plus a period of time between their initial appointments and June 30th of the year of their initial appointment. A member shall be eligible for reappointment at the end of his expired term for any position on the board for which he is qualified. For purposes of this section, original appointments refer to members and alternates appointed upon first establishment of the Planning Board. The ETJ member shall have all of the obligations and duties of the other members of the Planning Board, including rights to vote on all matters coming before the board.

(3) *Powers and duties.*
The duties of the Planning Board shall include, but may not be limited to, the following:

a) To review and from time to time initiate changes to the Comprehensive Plan.

b) To review and from time to time initiate changes to this ordinance in accordance with the Comprehensive Plan.

c) To review and make recommendations on applications for changes to this ordinance or the zoning maps.

d) To review and approve design waivers from any of the building or site design standards of Chapter 4, landscaping standards of Chapter 5, exterior lighting standards of Chapter 6, sign standards of Chapter 7, or infrastructure standards of the Walkable Bermuda Run Plan, in order to take into account creative design and/or unique circumstances.

e) To review and make recommendations to the Town Council on any design waivers proposed as part of a development agreement.

(4) *Meetings.*

All meetings of the Planning Board shall be held at a regular place and time and shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, an indication of such fact. Final disposition of votes shall be recorded in the minutes, indicating the reasons of the Planning Board therefore, all of which shall become a part of the public record.

(5) Quorum

A simple majority of three (3) members the Planning Board shall constitute a quorum.

(B) *Board of Adjustment*

(1) *Establishment*

The Board of Adjustment of the Town of Bermuda Run shall consist of five (5) regular members and two (2) alternate members appointed by the Town Council. One (1) of the regular members shall be an extraterritorial jurisdiction (ETJ) member that resides in the ETJ of the Town. The members of the Board of Adjustment may also serve as members of the Planning Board at the discretion of the Town Council.

(2) *Members*

Each member and alternate shall be appointed by the Town Council for a term of three (3) years. In appointing the original members or in the filling of vacancies caused by the expiration of the terms of existing members, the Town Council may appoint certain members for less than three (3) years to the end that thereafter the terms of all members shall not expire at the same time. The expiration date for each term shall be the 30th day of June of the year in which said term is to expire and the term of office of the succeeding member shall begin on the 1st day of July. If the original members are appointed such that their terms of office begin prior to a July 1st date, such terms of original

members shall be extended by the period of time between their appointment and June 30th of the year of their appointment, it being the intent that original members shall serve terms of one (1), two (2), or three (3) years plus a period of time between their initial appointments and June 30th of the year of their initial appointment. A member shall be eligible for reappointment at the end of his expired term for any position on the town board for which he is qualified. For purposes of this section, original appointments refer to members and alternates appointed upon first establishment of the Board of Adjustment. The ETJ member shall have all of the obligations and duties of the other members of the Board of Adjustment, including rights to vote on all matters coming before the board.

(3) *Powers and duties.*

The Board of Adjustment shall have the following powers and duties:

a) To hear and decide appeals according to the procedures of this section, where it is alleged there is an error in any order, decision, determination, or interpretation made by the Zoning Administrator or Zoning Enforcement Officer in the administration and enforcement of this ordinance. For Design Waiver appeals, the Town Council shall act as the Board of Adjustment.

b) To grant variances from the terms of this ordinance according to the standards and procedures prescribed herein.

c) To grant Special Use Permits for certain uses as specified in the table of uses.

d) To serve as the local watershed review board as authorized and prescribed in 15A NCAC 02B and these regulations.

e) To grant temporary use permits for temporary uses or structures exceeding the time limits permitted or any temporary use or structure not specifically listed under Section 9.61.

(4) *Meetings.*

a) All meetings of the Board of Adjustment shall be held at a regular place and time and shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, an indication of such fact. Final disposition of permits, appeals or variances shall be recorded in the minutes, indicating the reasons of the Board of Adjustment therefore, all of which shall become a part of the public record.

b) Notice of Board of Adjustment hearings shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; and to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing. In the absence of evidence to the contrary, the Town may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the Town shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

(5) *Quorum.*

No final action shall be taken on any matter unless a quorum is present. For the purposes of granting variances, a quorum shall be 4/5ths of the full membership of the Board of Adjustment. For all other business, a simple majority of membership is required for a quorum.

(6) *Re-hearings*

a) *Rehearing.* An application for a rehearing shall be made in the same manner as provided for an original appeal within a period of fifteen days after the Board of Adjustment's decision has been filed with the Zoning Administrator. In addition, specific information to enable the Board of Adjustment to determine whether or not there has been a substantial change in facts, evidence, or conditions of the case, shall be presented in writing or graphically. A rehearing shall be denied by the Board of Adjustment, if, in its judgment, such change in facts, evidence or conditions has not been proven. In the event that the Board of Adjustment finds that a rehearing is warranted, it shall thereupon proceed in the same manner as for the original hearing.

b) *Waiting period required.* Upon the denial of an original application or adverse ruling on appeal, or upon the denial of an application for which a rehearing has been conducted, whichever is applicable, a similar application may not be filed for a period of one (1) year after the date of denial of the original application.

(7) Quasi-Judicial Decisions and Judicial Review

a) 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 or other duly authorized member of the board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the board or such other office or official as the ordinance specifies. 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.

b) Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160A-393. A petition for review shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with subdivision (1) of this subsection. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.

c) The chair of the Board or any member acting as chair and the clerk to the board are authorized to administer oaths to witnesses in any matter coming before the board. Any person who, while under oath during a proceeding before the board of adjustment, willfully swears falsely is guilty of a Class 1 misdemeanor.

d) The Board of Adjustment through the chair, or in the chair's absence anyone acting as chair, may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, persons with standing under G.S. 160A-393(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 or she determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify a subpoena. 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 this 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, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

(C) *Town Council*

The Town Council shall have the following duties related to this ordinance:

(1) To review and from time to time initiate changes to the Comprehensive Plan, upon recommendation from the Planning Board.

(2) To review and from time to time initiate changes to this ordinance, upon recommendation from the Planning Board.

(3) To decide upon any application or request for amendment to this ordinance or the zoning maps.

(4) To act as the Board of Adjustment for appeals from decisions of the Planning Board regarding design waivers.

(5) To review and decide upon extended vested rights or development agreement requests.

(6) To take any other action not delegated to the Planning Board or Board of Adjustment as the Town Council may deem desirable and necessary to implement the provisions of this ordinance.

11.3 Approval Processes

The following chart indicates the appropriate approval process for each approval type:

Approval Type	Administrative Approval	Board of Adjustment Approval	Planning Board Approval	Town Council Approval
Zoning Permit- Level 1 Site Plan	X			
Zoning Permit- Level 2 Site Plan	X[1]			
Extended Temporary Use Permit		X		
Special Use Permit		X		
Appeal		X		
Variance or Watershed Variance		X		
Amendments (Map & Text)			Recommendation	X
Design Waivers			X[2]	
Extended Vested Rights				X
Development Agreement				X

1 With Technical Review Committee review
2 Except in Development Agreements per Section 11.12

11.4 Zoning Permits

(A) *Permit required.*

No building or land shall hereafter be used or occupied and no building or structure shall be erected, expanded or moved until a zoning permit as required by this ordinance shall have been issued. The form and content of such permit, when not expressly set out in this ordinance, shall be determined by the Zoning Administrator and may include any information required for the applicant to demonstrate an intent to comply with the zoning regulations. Zoning permit forms shall be available at the office of the Zoning Administrator.

(B) *Permit type.*

Permits shall be required for any use by right, unless specifically exempted by this ordinance.

(C) *Expiration of permit.*

Any zoning permit issued by the Zoning Administrator shall become null and void after a period of six (6) months from the date of issuance of the permit unless a valid building permit has been issued for the work authorized by the permit or, if a building permit is not required, substantial work has not begun. Once a zoning

permit has expired, construction on the property in question cannot proceed until a new zoning permit has been issued.

(D) *Condition of approval.*

Zoning permits issued on the basis of site plans, architectural renderings, landscaping plans, and other information submitted as part of the zoning permit application process authorize only the use, arrangement, construction, and change set forth in such approved plans and applications. Use, arrangement, construction, or change that differs from that authorized by the permit shall be deemed a violation of this ordinance.

(E) *Right of appeal.*

If a request for a zoning permit from the Zoning Administrator is disapproved or if a ruling of the Zoning Enforcement Officer is questioned, the aggrieved party may appeal such ruling to the Board of Adjustment in accordance with Section 11.7.

(F) *Site plan required.*

Site plans shall be required as part of the application process for any of the following:

(1) New structures.

(2) Expansions to existing structures.

(3) Any new use not contained within an existing building except:

a) Agricultural uses which do not involve the construction of buildings, containment pens for livestock, swine, or poultry, or the construction of sediment or animal waste lagoons;

b) Temporary or seasonal uses unless the Zoning Administrator cannot otherwise determine compliance with parking or screening requirements.

(4) Any change in impervious surface area on lots located within a watershed overlay district.

(5) Any significant change in required landscaping or buffer areas.

(G) *Level 1 site plan requirements.*

A Level 1 site plan shall be required for any single-family or duplex residential use, any change to an existing use located within a watershed overlay district that does not affect the land or stormwater patterns, and any other situation determined by the Zoning Administrator or review board to require such a plan. A Level 1 site plan does not require the seal of a qualified professional but shall consist of the following elements, except that the Zoning Administrator has the authority to waive any application requirement where the proposed type or scale of use makes that information unnecessary or impractical.

(1) *Graphic materials required for plans.*
Level 1 site plans shall be sketched on a map of the property that is drawn to scale.

(2) *Conditions on the site.*
Level 1 site plans shall show existing and proposed features of the site including proposed changes to existing features. Such features shall include, but shall not be limited to, the following:

a) The date the plan was drafted along with the name, address and phone number of the preparer.
b) The zoning classification of the subject property and all immediately adjacent properties.
c) Property lines, lot dimensions, and total acreage.
d) The location and extent of rights-of-way and easements.
e) The location and type of natural water features (e.g., streams, ponds, rivers, wetlands, etc.).
f) The location and dimensions of driveways.
g) The approximate location and dimension of structures including signs.
h) The location and dimension of parking lots/areas and internal circulation drives.
i) The location and dimension of private streets.
j) The approximate location and dimensions of landscaping, buffering, screening, fences, and walls
k) Septic tank systems and wells (including dimensions of each).
l) The approximate location of significant trees (those eight (8) inches or greater in caliper when measured six (6) inches above grade).

(H) *Level 2 site plan requirements.*

A level 2 site plan shall be required for any new construction except single-family residential, any project resulting in a change in impervious surface area within a watershed district except for single-family and duplex residential development, and any other situation determined by the Zoning Administrator or review board to require such a plan. A Level 2 site plan shall require the seal of a qualified professional. A Level 2 site plan shall consist of the following elements:

(1) *Graphic materials required for plans.*

Site plans shall be drawn to scale on a map of the property. A scale shall be used which insures that all features are legible. All Level 2 site plans shall include the following detail:

a) A location map that shows the project in relation to the larger planning area.
b) The name of the applicant.
c) The name of the development.
d) A north arrow.
e) A legend.
f) A scale, including a bar scale.

(2) *Conditions on the site.*

Level 2 site plans shall show existing and proposed features of the site including proposed changes to existing features. Such features shall include, but shall not be limited to, the following:

a) *Natural, historic, and open space features.*

1) Natural cover (wood, pastureland, etc.).
2) Streams, ponds or rivers.
3) Historic sites.
4) Fragile environmental areas.
5) The approximate location of significant trees (those eight (8) inches or greater in caliper when measured six (6) inches above grade)
6) Contour lines shown as dotted lines at no more than five (5) foot intervals (this may be modified by Zoning Administrator depending upon topography).
7) The location, size, and dimensions of all recreational areas and areas intended to remain as permanent open space, clearly indicating whether such open space areas are intended to be offered for dedication to the public.

b) *Man-made features.*

1) Parking and loading areas.
2) Public and private streets and alleys, including planned points of ingress and egress.
3) Stormwater structures and conveyances, including all engineered stormwater control structures and proposed connections to or extensions of public systems.
4) Utilities, including water, sewer, electric, power, and telephone.
5) The location and dimensions of all structures, including freestanding signs.
6) Dimensions and layout of parking and loading areas.
7) A sealed lighting plan with sufficient detail to determine compliance with the lighting standards of this ordinance.
8) All sidewalks, trails, and pedestrian paths.
9) The location, dimensions, and composition (plants, ground covers, materials, etc.) of all landscaping, berms, fences, walls, screening, and buffering.

c) *Legal features.*

1) The zoning of the property and adjacent properties, including zoning district lines. (Note: some uses may require identification of zoning district designations as much as 1,000 feet from the proposed development site. Please consult Chapter 9 of this ordinance entitled additional conditions, regarding the proposed use, or contact the Zoning Administrator for more information.)
2) Property lines.
3) Project phase lines.
4) Street rights-of-way.
5) Utility easements (including water, sewer, electric, power, stormwater, and telephone).
6) Lot dimensions.

(I) *Design and landscaping information required.*

Whenever a proposed project would be subject to one or more of the design standards, landscaping, lighting, environmental, or fencing/wall requirements of this ordinance, architectural renderings sealed by an architect and/or site or feature plans (e.g., landscaping, lighting, etc.) sealed by a qualified professional shall be required as part of a complete application, except that the Zoning Administrator or review board may exempt minor modifications that do not require such renderings or plans to demonstrate an intent to comply with the regulations. Whenever required, such plans shall be prepared in sufficient detail at a sufficient scale to determine compliance with relevant sections of this ordinance. In addition, any such development shall, prior to the release of the certificate of occupancy, submit

as-built drawings sealed by a qualified professional that demonstrate with reasonable accuracy that what was constructed and any and all site modifications including tree removal conform to the permit and the requirements of this ordinance. The Zoning Administrator at his discretion may accept sealed statements from qualified professionals as demonstration of compliance for any item.

(J) *Sign detail required.*

Whenever a new sign or change in existing sign would require the issuance of a permit, detailed designs showing all relevant information required to determine compliance with the sign regulations shall be required as part of a complete application.

(K) *Other requirements.*

In addition to information required in this subsection, other information or documents deemed relevant by the Zoning Administrator or review board shall be required, such as evidence of approval of sedimentation and erosion control plans, prior to issuance of a zoning permit.

(L) *Permits for uses by right and uses with conditions.*

A permit for a use by right and a use with conditions shall be obtained from the Zoning Administrator. Applications for a permit shall be made on a form provided by the Zoning Administrator.

(M) *Permits for special uses.*

Permits for special uses shall be obtained from the Board of Adjustment. Applications for a Special Use Permit shall be made on a form provided by the Zoning Administrator.

11.5 Extended or Unspecified Temporary Use Permits

(A) A temporary use permit may be granted by the Board of Adjustment for a temporary use or a temporary structure exceeding the time limits permitted or any use or structure not specifically listed under Section 9.54.

(B) Anyone requesting a temporary use permit shall file such with the Zoning Administrator on a form provided by the Zoning Administrator. Applications shall be filed at least 21 days prior to the Board of Adjustment meeting at which it will be heard. After filing, the request shall be heard at the next available Board of Adjustment meeting.

(C) Notice of Board of Adjustment hearings shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; and to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing. In the absence of evidence to the contrary, the Town may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the Town shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

(D) The Board of Adjustment, in considering an application for a temporary use permit, shall give due consideration to the following:

(1) The time limit placed on a temporary use permit shall be the minimum required to meet the stated needs of the applicant, but in no case shall a temporary use permit issued by the board be granted for a period exceeding two (2) years. Any permit issued for less than two (2) years may be extended by the board at a later date upon separate petition; however, the combined length of time that a temporary use or structure is permitted to remain on a lot shall not exceed two (2) years.

(2) The temporary use or structure shall comply with all of the lot, size, yard and other dimensional standards of this ordinance except as may be amended through an approved variance or design waiver.

(3) The temporary use or structure shall not substantially injure the value of adjoining property.

(E) All other permits required for such structure or use including, but not limited to, building permits, driveway permits, and sign permits shall be obtained prior to any use of the site or structure authorized by the temporary use permit.

(F) Unless requested by the petitioner and approved by the Board as a condition of the temporary use permit, all landscaping, buffering, and parking standards required by this ordinance shall be met prior to any use of the site or structure authorized by the temporary use permit.

11.6 Special Use Permits

(A) *Permit required.*

No zoning or building permit shall be issued until a Special Use Permit for the requested use has been approved by the Board of Adjustment.

(B) *Applicants.*

A request for a Special Use Permit will be considered only if requested by the owner of the property in question or an authorized agent of the property owner.

(C) *Applications.*

Applications for all Special Use Permits or amendments to any approved Special Use Permit must be filed with the Zoning Administrator. Applications which are not complete shall be returned to the applicant, with a notation of the deficiencies in the application. The Zoning Administrator has the authority to waive any application requirements where the type of use or scale of proposal makes that information unnecessary or impractical. A complete application will include all of the following:

(1) A completed application form signed by all of the property owners of the area proposed for the permit, or a completed application form signed by the developer along with an affidavit signed by all property owners giving the applicant the permission to pursue the permit and to bind the property to the proposal and to conditions which the Town Council might impose.

(2) A complete explanation of the proposed use(s) of the property.

(3) A Level 2 site plan.

(4) A preliminary subdivision plat which meets all of the requirements of the subdivision ordinance when subdivision of the land is proposed.

(5) Documentation containing facts which will be used to support the petition, including but not limited to deed restrictions, letter of sufficiency regarding public water and sewer, proposed homeowners association documents, and appropriate county and state approvals.

(6) All appropriate fees.

(7) A complete listing of all owners of adjacent property, their addresses, and tax identification numbers.

(8) A synopsis or overview of the project, including information relevant to use, density, lot layout, housing type, planned amenities, and the like.

(9) Any other information deemed by the Zoning Administrator to be necessary for sufficient review of the application.

(D) *Staff review.*

(1) *Sketch plan.*

Prior to submission of the complete application, all subdivision developers are required to submit a sketch plan for staff review. Preparation and review of the sketch plan shall conform to the requirements of the Town of Bermuda Run subdivision regulations.

(2) *Applications.*

All applications for Special Use Permit shall be reviewed by the Zoning Administrator and the Technical Review Committee prior to Board of Adjustment review. The Zoning Administrator shall determine the number of copies to be submitted by the applicationer to insure that there are sufficient copies to send to the Board of Adjustment, the Technical Review Committee, and all other appropriate agencies for review and comment. The applicant shall submit a completed application no later than 21 working days prior to the Board of Adjustment meeting at which the application is to be heard. If the application is found to be incomplete or the development is found to be in conflict with the requirements of this section, the developer shall be notified and the application rejected.

(3) *Cooperation.*

The developer is strongly encouraged to work closely with staff and neighboring property owners before and during the application and review process to minimize delays and address concerns which may arise in the review process.

(E) *Board of Adjustment action.*

(1) *Review.*

The Board of Adjustment shall review the application to determine compliance with this ordinance and all applicable regulations within the town's planning jurisdiction.

(2) *Required findings.*

No Special Use Permit shall be approved by the Board of Adjustment unless the following general findings of fact are made concerning the proposed special use:

a) The use will not materially endanger the public health or safety if located, designed, and proposed to be operated according to the plan submitted.

b) The use complies with all regulations and standards of this ordinance.

c) The use will not substantially injure the value of adjoining property or the use is a public necessity.

d) The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located.

e) Public water and sewer service are available in adequate capacity, if needed.

f) That the proposed use will not be in conflict with but will further the objectives of the most detailed plan adopted for the area in which it is located.

(F) *Withdrawal or amendment of a Special Use Permit application.*

An application for a Special Use Permit may be withdrawn or amended as follows:

(1) A petition filed according to this section may be withdrawn by the petitioner at any time up to the scheduling of the date of the public hearing on the petition.

(2) If the petitioner wishes to withdraw the petition after the scheduling of the public hearing, the petitioner may file a request to withdraw with the Zoning Administrator. On the date scheduled for the hearing, the Board of Adjustment may approve the request for withdrawal if it finds that there are

substantial circumstances favoring the withdrawal and that the withdrawal will not be detrimental to the interests of citizens affected by the petition.

(3) Once the petition has been filed, the petitioner shall not be allowed to amend it except by request to the Zoning Administrator no later than three (3) weeks prior to the scheduled public hearing date. No changes to the petition shall be accepted in the intervening weeks prior to the public hearing. No changes to the petition shall be made at the hearing, except that changes proposed by the petitioner, Board of Adjustment and other interested parties may be presented at the hearing and considered by the Board of Adjustment during their deliberations.

(4) If the Board of Adjustment deems any amendment to be a substantial change to the petition, it shall defer action on the petition for thirty days to allow interested parties the opportunity to comment on the amendment to the petition.

(5) If the Board of Adjustment deems any amendment to be an intensification of the petition, it shall call for a new public hearing.

(G) *Hearing*.

(1) A Special Use Permit hearing will be conducted as a quasi-judicial hearing before the Board of Adjustment.

(2) Notice of Board of Adjustment hearings shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; and to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing. In the absence of evidence to the contrary, the Town may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the Town shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

(3) The applicant has the burden of producing competent, material, and substantial evidence establishing that:

a) The proposed special use will comply with all of the lot, size, yard, and other standards of this ordinance except as may be amended through an approved variance or design waiver.

b) The proposed special use will comply with all general and specific standards required by the appropriate section of this ordinance for the issuance of a Special Use Permit for this use.

(H) *Decision.*

A simple majority vote by the Board of Adjustment shall be required to approve a Special Use Permit. In considering an application for a Special Use Permit, the Board of Adjustment may attach reasonable and appropriate conditions and safeguards to the location, nature, and extent of the proposed use and its relationship to surrounding property, for the purpose of ensuring that the conditions of permit approval will be complied with and any potentially injurious effect of the special use on adjoining properties, the character of the neighborhood, or the health, safety, and general welfare of the community will be minimized. Such conditions may relate to parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, intensity of site development, the timing of development, and other matters the Board of Adjustment may find appropriate or the applicant may propose. The applicant will have a reasonable opportunity to consider and respond to any additional conditions or requirements prior to final action by the Board of Adjustment.

(I) *Effect of approval.*

An approved application for a Special Use Permit and all conditions which may be attached to the approval are binding on the property. All subsequent development and use of the property shall be in conformance with the Special Use Permit and all plans, specifications, and conditions unless such are amended or the permit terminated by the Board of Adjustment.

(J) *Subdivisions.*

Approval of applications involving major subdivisions of land, as defined in the Town of Bermuda Run subdivision regulations, shall be contingent upon preliminary plat approval. Approval of the plat shall allow the applicant to proceed with the development as approved within the permit.

(K) *Effect of denial.*

(1) If an application for a Special Use Permit is denied by the Board of Adjustment, a reapplication for that special use on that property shall not be made within one (1) year of the date of denial.

(2) The Board of Adjustment may allow re-submission of the application within the one (1)-year restricted period, however, if it determines that, since the date of action on the prior application, one (1) of the following criteria has been met:

a) The Town Council has adopted a new or amended plan for the area that changes public policy regarding how the subject property and/or the general area affected by the Special Use Permit should be developed; or

b) Construction or expansion of a road, water line, sewer line, or other infrastructure has occurred or is to occur in such a time frame as to serve the property and comfortably accommodate the type and intensity of development which would be allowed under the proposed Special Use Permit; or

c) There has been a substantial change in conditions or circumstances, outside the control of the applicant, which justifies waiver of the one (1)-year restriction on resubmission of a Special Use Permit application for the property; this shall not include a change in the ownership of the subject property nor a change in the scale or features of the development proposed in the prior application.

(L) *Amendment to an approved Special Use Permit.*

(1) Any major change to a development approved by Special Use Permit shall require an amendment to the Special Use Permit by the Board of Adjustment. Any proposed change in use, increase in density or intensity, decrease in open space and common recreational facilities, substantial change in the location of uses or streets from what is shown on the approved plans, any change in a condition imposed on the use by the Board of Adjustment, or any other change the Zoning Administrator determines is significant shall be deemed a major change requiring an amendment to the Special Use Permit. Factors to be considered by the Zoning Administrator in determining if a change is substantial include, but are not limited to, the extent of the change, the expected impact on adjacent properties, and the impact on offsite streets and other public infrastructure. Otherwise, minor changes to a permit may be approved by the Zoning Administrator.

(2) The owner of property which is subject to an approved Special Use Permit may petition for an amendment of the Special Use Permit and accompanying conditions by following the procedures applicable to initiation of new Special Use Permits.

(3) Evidence presented at the hearing on the proposed amendment will be limited to the effect of the proposal on the original Special Use Permit, any plans or conditions which were a part of the original Special Use Permit, and the present standards and requirements in this zoning ordinance.

(M) *Appeals.*

Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160A-393. A petition for review shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with subdivision (1) of this subsection. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.

(N) *Recognition of previously approved conditional/Special Use Permits.*

Conditional or Special Use Permits which have been previously granted by the Board of Adjustment of the Town of Bermuda Run and Conditional or Special Use Permits previously granted by the Davie County Board of Adjustment will be recognized for building permit and other administrative purposes during the period of time the project was vested by the ordinance under which it was approved. After the vesting period, if construction of the development has not begun or there is no valid building permit in effect for the property, the Conditional or Special Use Permit will be considered null and void.

(O) *Revocation of a Special Use Permit.*

(1) If at any time the Zoning Administrator determines that construction inconsistent with the approved Special Use Permit is occurring within the development, he shall cause to be issued a stop work order on such construction, and he shall notify the responsible parties of the violation who will immediately cease and desist further work on the project. If the nonconforming construction is not brought into compliance with the permit or the applicant has not filed an appeal with the Board of Adjustment within thirty days, the Zoning Administrator may initiate a revocation of the Special Use Permit. The Zoning Administrator may also act to suspend the issuance of any additional building permits within the development if he has reason to believe that such construction will not be in conformance with the approved permit or such construction will increase or reinforce the degree of nonconformance.

(2) If the nonconformance involves a completed, unoccupied building, no certificate of occupancy shall be granted for such building until the violation is corrected. If the nonconformance involves initial construction or provision of any of the public facilities, open space, required landscaping, or similar common features of the approved permit, no building permits or certificates of occupancy will be issued within the development until the violation is corrected or a new Special Use Permit has been granted by the Board of Adjustment.

(3) Action to revoke a permit shall be taken by the Board of Adjustment after receiving a request from staff. Such a request shall be in writing and shall declare that the applicant and all property owners within the development, as recorded at the register of deeds office, have been notified at least ten days before the meeting of the pending action and the date, time, and place of the Board of Adjustment meeting at which the request will be made. Said applicant and property owners shall have the right to appear before the Board of Adjustment at said meeting and show cause why the Board of Adjustment should not revoke the permit. Notification shall be deemed given when written notice is sent by first class mail to the property owner at the address shown on the most recent property tax records and one (1) or more signs are posted in prominent locations on the subject site reasonably calculated to give notice of the action.

(P) *Expiration of a Special Use Permit.*

(1) Approval of a Special Use Permit shall confer upon the developer all vested rights as set forth in this ordinance.

(2) In order for a Special Use Permit to remain in effect for a particular development, a valid building permit must be issued for construction within the time period vested. If at any time after this date, construction has not been completed and no valid building permits are outstanding for construction within the development, the Special Use Permit shall expire. No further construction may occur within the development until a new Special Use Permit has been issued by the Board of Adjustment. Application for a new Special Use Permit shall follow the procedures outlined in this section.

11.7 Appeals

(A) The Board of Adjustment shall hear and decide appeals from decisions of administrative officials charged with enforcement of this Ordinance and may hear appeals arising out of any other ordinance that regulates land use or development, pursuant to all of the following:

(1) Any person who has standing under G.S. 160A-393(d) or the Town may appeal a decision to the Board of Adjustment. An appeal is taken by filing a notice of appeal with the Administrator and Town clerk. The notice of appeal shall state the grounds for the appeal.

(2) The official who made the decision shall give written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail.

(3) The owner or other party shall have 30 days from receipt of the written notice within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision within which to file an appeal.

(4) The official who made the decision shall transmit to the Board all documents and exhibits constituting the record upon which the action appealed from is taken. The official 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.

(5) The Board of Adjustment shall hear and decide the appeal within a reasonable time.

(6) The official who made the decision shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the Town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the Board shall continue the hearing. 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 shall have all the powers of the official who made the decision.

(7) When hearing an appeal pursuant to G.S. 160A-400.9(e) or any other appeal in the nature of certiorari, the hearing shall be based on the record below and the scope of review shall be as provided in G.S. 160A-393(k).

(8) An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from unless the official who made the decision certifies

to the Board of Adjustment after notice of appeal has been filed that because of the facts stated in an 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 15 days after such a 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 may grant a stay of a final decision of permit applications or building permits affected by the issue being appealed.

(9) The parties to an appeal that has been made under this subsection may agree to mediation or other forms of alternative dispute resolution.

(B) Notice of Board of Adjustment hearings shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; and to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing. In the absence of evidence to the contrary, the Town may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the Town shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

11.8 Variances

(A) 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:

(1) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

(2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

(3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

(4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

(5) No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other ordinance that regulates land use or development may provide for variances consistent with the provisions of this subsection.

(B) The concurring vote of four-fifths (4/5) of the board shall be necessary to grant a variance.

(C) Anyone requesting a variance shall file such with the Zoning Administrator on a form provided by the Zoning Administrator. Applications shall be filed at least 21 days prior to the Board of Adjustment meeting at which it will be heard. After filing, the request shall be heard at the next available Board of Adjustment meeting.

(D) Notice of Board of Adjustment hearings shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; and to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing. In the absence of evidence to the contrary, the Town may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the Town shall also

prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

11.9 Amendments

(A) *Authority.*

The Town Council shall have the authority to amend the zoning text and maps as follows, except that amendments to this text which affect one (1) or more watershed requirements shall also follow the procedures outlined in Section 11.10 for amendments.

(B) *Initiation.*

Any amendment to the zoning text or map, except for the classification of property to a conditional district may be initiated by:

(1) The Town Council or the Planning Board.

(2) The property owner(s), upon filing an official petition including a complete application.

(3) A petitioner other than a board or property owner.

(C) *Application for a text amendment.*

A petition for amendment to the text of this ordinance shall consist of:

(1) A completed application form.

(2) A written justification for the requested amendment including consistency of the proposal with town planning policies.

(3) All appropriate fees.

(4) Any other information deemed necessary by the Zoning Administrator or review board.

(D) *Application for a general use rezoning.*

A petition for amendment to the zoning map shall consist of:

(1) A completed application form.

(2) A list of adjoining properties including tax parcel numbers and the name and address of each owner. For the purposes of this section, adjoining property owners shall include owners of properties lying within 100 feet of the subject property if located across a public or private street.

(3) A map of the parcel and its relationship to the general area in which it is located.

(4) All appropriate fees.

(5) A statement analyzing the reasonableness of the proposed rezoning shall be prepared by the applicant for each petition for a rezoning to a special or conditional use district, or a conditional district, or other small-scale rezoning.

(6) Any other information deemed necessary by the Zoning Administrator or review board.

(E) *Conditional district rezonings.*

(1) *Initiation.*

The reclassification of property to a conditional district may be initiated only by the property owner(s), or an agent authorized by affidavit to act on the owner's behalf.

(2) *Petition.*

A request for rezoning to a conditional district shall include an official petition consisting of the following:

a) A completed application form.

b) A list of adjoining properties including tax parcel numbers and the name and address of each owner. For the purposes of this section, adjoining property owners shall include owners of properties lying within 100 feet of the subject property if located across a public or private street.

c) A map of the parcel and its relationship to the general area in which it is located.

d) All appropriate fees.

e) A Level 2 site plan.

f) A written description or notation on the map explaining the proposed use of all land and structures, including the number of residential units or the total square footage of any nonresidential development.

g) Any other information deemed necessary by the Zoning Administrator or review board.

(3) *Conditions.*

Prior to the action on the proposed amendment (which may also include a period after the public hearing) any Planning Board or Town Council member (or any group of members not comprising a majority of such board) may meet with the petitioner to discuss the proposed plan and suggest features to be included in the rezoning proposal. The specifics of the plan may be negotiated to address community issues or concerns and to insure that the spirit and intent of this ordinance are preserved. During the public hearing, the Town Council may suggest additional features to be included or reflected in the proposal prior to taking action on the request. Specific conditions applicable to these districts may be proposed by the petitioner or the city or its agencies, but only those conditions mutually approved by the city and the petitioner may be incorporated into the zoning regulations or permit requirements. Conditions and site-specific standards imposed in a conditional district shall be limited to those that address the conformance of the development and use of the site to city ordinances and an officially adopted comprehensive or other plan and those that address the impacts reasonably expected to be generated by the development or use of the site.

(4) *When development not begun within three (3) years.*

The property owner shall commence construction in accordance with the approved development plan within three (3) years after the rezoning. If the Planning Board determines that construction has not commenced in accordance with the plan within such time period, it may, at its discretion, recommend to the Town Council that the town rezone the property to an appropriate general-use zoning district.

(F) *Copies.*

The Zoning Administrator shall determine the number of copies of each petition and other required documentation to be submitted by the petitioner so that copies may be circulated to all appropriate staff, agencies, and boards for review and comment.

(G) *Withdrawal or amendment of petition.*

(1) A petition filed according to this section may be withdrawn by the petitioner at any time up to the scheduling, by the Town Council, of the date of the public hearing on the petition.

(2) If the petitioner wishes to withdraw the petition after the scheduling of the public hearing, the petitioner may file a request to withdraw with the town clerk. On the date scheduled for the hearing, the Town Council may approve the request for withdrawal if it finds that there are substantial circumstances favoring the withdrawal and that the withdrawal will not be detrimental to the interests of citizens affected by the petition.

(3) Once the petition has been filed, the petitioner shall not be allowed to amend it except by request to the Zoning Administrator no later than three (3) weeks prior to the scheduled public hearing date. No changes to the petition shall be accepted in the intervening weeks prior to the public hearing. No changes to the petition shall be made at the hearing, although potential changes proposed by the petitioner, Planning Board, Town Council, and other interested parties may be presented at the hearing and considered by the Planning Board and Town Council during their deliberations.

(4) If the Town Council deems any amendment to be a substantial change to the petition, it shall defer action on the petition for thirty days to allow interested parties the opportunity to comment on the amendment to the petition.

(5) If the Town Council deems any amendment to be an intensification of the petition, it shall call a new public hearing.

(I) *Hearing*.

(1) The Town Council may refuse to call for a public hearing on any petition for amendment to the zoning text or zoning map if, in the Town Council's opinion, such petition lacks merit.

(2) Notice of public hearings required under these regulations shall be in accordance with the North Carolina General Statutes.

(3) Notice of any request for a change in the zoning map shall state that the Planning Board and Town Council may consider the application of any of the zoning districts to the property, not just the classification requested.

(4) *Conduct of Public Hearing.*

a) No amendment shall be adopted until after the Town Council has held a public hearing on the proposed amendment.

b) The hearing shall be conducted in accordance with rules and procedures established by the mayor and Town Council.

c) When presenting a petition for the reclassification of property to a general-use district, as opposed to a conditional zoning district, the petitioner shall refrain from using any graphic materials or descriptions of the proposed use or development site design, except for those which would apply to any use or development site design permitted in the requested district.

(J) *Recommendation and decision*.

(1) No proposed amendment shall be approved unless it is first submitted to the Planning Board for a recommendation. The Planning Board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The Planning Board shall provide a written recommendation to the Town Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Town Council. If no written report is received from the Planning Board within 30 days of referral of the amendment to the board, the governing board may proceed in its consideration of the amendment without the Planning Board report. The governing board is not bound by the recommendations, if any, of the Planning Board.

(2) The Town Council, after receiving the recommendation of the Planning Board, shall within a reasonable time either reject the proposed amendment or approve the proposed amendment, with or without modifications.

(3) In considering any petition to reclassify property the Planning Board in its recommendation and the Town Council in its decision shall consider all of the following:

a) Whether the proposed reclassification is consistent with the purposes, goals, objectives, and policies of adopted plans for the area.

b) Whether the proposed reclassification is consistent with the overall character of existing development in the immediate vicinity of the subject property.

c) The adequacy of public facilities and services intended to serve the subject property, including but not limited to roadways, parks and recreational facilities, police and fire protection, hospitals and medical

services, schools, stormwater drainage systems, water supplies, and wastewater and refuse disposal.

d) Whether the proposed reclassification will adversely affect a known archaeological, environmental, historical, or cultural resource.

(4) When considering a petition to reclassify property to a general-use district, the Planning Board and the Town Council shall not evaluate the petition based on any specific proposal for the use of the property or design of the site.

(5) In approving an amendment to reclassify property to a general-use district or, with the consent of the petitioner, to a conditional district, the Town Council may change the existing classification of the property, or any part of the property covered by the petition, to the classification requested or to any other classification or classifications permitted by this ordinance.

The Town Council may modify any proposed text amendment upon adoption of an ordinance enacting the amendment, without the withdrawal or modification of the petition or further public hearings, when, in the opinion of the Town Council, such a change would not require a separate public hearing.

(6) A Town Council member 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. In addition, no member of the Planning Board shall vote on recommendations regarding 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.

(7) Prior to adopting or rejecting any zoning amendment, the governing board shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and explaining why the board considers the action taken to be reasonable and in the public interest. That statement is not subject to judicial review.

(K) *Effect of the denial of a petition.*

(1) A petition for the reclassification of property that has been denied in whole or in part shall not be re-submitted within one (1) year of the date of the Town Council's action on the original petition.

(2) The Town Council may, however, allow re-submission of a petition within the one (1)-year restricted period if it determines that, since the date of action on the prior petition, one (1) of the following criteria has been met:

a) There has been a similar change in the zoning district classification of an adjacent property.

b) The Town Council has adopted a new or amended plan for the area that changes public policy regarding how the property affected by the amendment should be developed.

c) Construction or expansion of a road, water line, sewer line, or other infrastructure has occurred or is to occur in such a time frame as to serve the property and comfortably accommodate the intensity of development allowed under the proposed classification.

d) There has been a substantial change in conditions or circumstances, outside the control of the petitioner, which justifies waiver of the one (1)-year restriction on a new petition. This shall not include a change in the ownership of the subject property nor, in the case of a petition for reclassification to a conditional or overlay district, a change in the scale or features of the development proposed in the prior petition.

11.10 Watershed Amendments and Variances

(A) *Amendments.*

All amendments to the watershed regulations shall be heard as regular amendments to this ordinance. However, under no circumstances shall the town amend, supplement or change the watershed regulations so as to cause these regulations to violate the watershed protection rules as adopted by the N.C. Environmental Management Commission. All amendments shall be filed with the N.C. Division of Water Quality, N.C. Division of Environmental Health, and the N.C. Division of Community Assistance.

(B) *Watershed variances.*

(1) The Board of Adjustment shall handle minor variances to the watershed requirements in the same manner as regular zoning variances.

(2) If a major variance (see definition) is requested, the Board of Adjustment shall, after making a favorable decision to grant the request, prepare a preliminary record of the hearing with all deliberate speed. The preliminary record of the hearing shall include all of the following:

a) The variance application.

b) The hearing notices.

c) The evidence presented.

d) Motions, offers of proof, objections to evidence and rulings on them.

e) Proposed findings and exceptions.

f) The proposed decision including all conditions proposed to be added to the permit.

(3) The information shall be sent to the N.C. Environmental Management Commission for its review. The EMC shall review the preliminary record and determine whether or not: a) the request qualifies as a major variance; b) the property owner can secure no reasonable return from, nor make any practical use of the property unless the proposed variance is granted; and c) the variance, if granted, will not result in a serious threat to the water supply. Based on its findings, the EMC shall approve the variance as proposed or approve the proposed variance with conditions and stipulations, or disapprove the variance. The EMC shall prepare a decision and send it to the Board of Adjustment. The Board of Adjustment shall prepare a final decision based on the decision of the EMC.

(4) The Zoning Administrator shall notify any jurisdictions within the watershed of a proposed variance to the watershed regulations. Local governments may submit any comments to the Zoning Administrator before the public hearing by the Board of Adjustment.

11.11 Design Waivers

In order to encourage creative design and address circumstances unique to a site, the Planning Board may grant a waiver from any of the building or site design standards of Chapter 4, landscaping standards of Chapter 5, exterior lighting standards of Chapter 6, sign standards of Chapter 7, the Gateway Corridor Overlay (GC-O) Standards of Section 3.3 (B) and Section 3.4 (Table 2), or infrastructure standards of the Walkable Bermuda Run Plan.

(A) *Applicants.*

A request for a design waiver will be considered only if requested by the owner of the property in question or an authorized agent of the property owner.

(B) *Applications.*

Applications for all design waivers or amendments to any approved design waiver must be filed with the Zoning Administrator. Applications which are not complete shall be returned to the applicant, with a notation of the deficiencies in the application. A complete application will include all of the following:

(1) A completed application form signed by all of the property owners of the property or land proposed for the permit, or a completed application form signed by the developer along with an affidavit signed by all property owners giving the applicant the permission to pursue the permit and to bind the property to the proposal and to conditions which the Planning Board might impose.

(2) A complete explanation of the purpose and extent of the requested waiver including sealed site plans and architectural renderings when applicable or requested by the Zoning Administrator or Planning Board.

(3) Documentation containing facts which will be used to support the petition, including but not limited to deed restrictions, proposed homeowners association documents, and statements from adjacent property owners (where applicable).

(4) All appropriate fees.

(5) A complete listing of all owners of adjacent property, their addresses, and tax identification numbers.

(6) Any other information deemed by the Zoning Administrator or Planning Board to be necessary for sufficient review of the application.

(C) *Staff review.*

All applications for a design waiver shall be reviewed by the Zoning Administrator and, where necessary, the Technical Review Committee prior to Planning Board review. The Zoning Administrator shall determine the number of copies to be submitted by the petitioner to ensure that there are sufficient copies to send to the Technical Review Committee and all other appropriate agencies for review and comment. The applicant shall submit a completed application no later than 21 working days prior to the Planning Board meeting at which the request is to be heard. If the application is found to be incomplete, the applicant shall be notified and the application rejected.

(D) *Cooperation.*

The applicant is strongly encouraged to work closely with staff and neighboring property owners before and during the application and review process to minimize delays and address concerns which may arise.

(E) *Planning Board review.*

The Planning Board shall review the application for a waiver in the context of the spirit and intent of the requirements of this ordinance; existing, proposed, and planned development in the immediate area; similar properties and situations in other areas of the town's jurisdiction; and all other applicable regulations affecting the property.

(F) Considerations

No design waiver shall be approved by the Planning Board unless the following general considerations are made concerning the proposed design:

(1) The proposed project represents a design in site and/or architecture which will result in a development that is equivalent to or superior to that achievable under the applicable regulations,

(2) The proposed project will be compatible with adjoining property,

(3) The proposed project is consistent with the intent of this ordinance and substantially meets the requirements herein.

(4) The proposed project is consistent with adopted plans and policies of the Town.

(G) Withdrawal or amendment of a design waiver application. An application for a design waiver may be withdrawn or amended as follows:

(1) A application filed according to this section may be withdrawn by the applicant at any time up to the scheduling of the date of the public hearing on the request.

(2) If the applicant wishes to withdraw the application after the advertising of the public hearing, the applicant may file a request to withdraw with the Zoning Administrator. The Zoning Administrator shall post a notice at the site of the hearing stating that the application has been withdrawn.

(3) Once the application has been filed, the applicant shall not be allowed to amend it except by request to the Zoning Administrator no later than three (3) weeks prior to the scheduled public hearing date. No changes to the application or request shall be accepted in the intervening weeks prior to the public hearing. No changes to the application shall be made at the hearing, although potential changes proposed by the petitioner, Planning Board and other interested parties may be presented at the hearing and considered by the Planning Board during their deliberations.

(4) If the Planning Board deems any amendment to be a substantial change to the request, it shall defer action on the request for thirty days to allow interested parties the opportunity to comment on the amendment to the request.

(5) If the Planning Board deems any amendment to be an intensification of the request, it shall call for a new public hearing.

(H) *Planning Board Review*
A design waiver review shall be conducted before the Planning Board.

(I) *Decision.*
Design waivers may be approved by simple majority of the Planning Board.

(J) *Effect of approval.*
An approved application for a design waiver and all conditions which may be attached thereto are binding on the property.

(K) *Subdivisions*
Approval of applications involving major subdivisions of land, as defined in the Town of Bermuda Run subdivision regulations, shall be contingent upon preliminary plat approval. Approval of the plat shall allow the applicant to proceed with the development as approved within the permit.

(L) *Amendment to an approved design waiver.*

(1) Any change to a development approved by design waiver shall require an amendment to the design waiver by the Planning Board.

(2) The owner of property which is subject to an approved design waiver may petition for an amendment of the design waiver and accompanying conditions by following the procedures applicable to initiation of new design waivers.

(3) Information presented during the review on the proposed amendment will be limited to the effect of the proposal on the original design waiver, any plans or conditions which were a part of the original design waiver, and the present standards and requirements in this ordinance.

(M) *Appeals.*
Any appeals from the decision of the Planning Board regarding design waivers shall be filed within 21 days of said decision and be reviewed by the Town Council acting as the Board of Adjustment as set forth in Section 11.7.

(N) *Revocation of a design waiver.*

(1) A design waiver may be revoked by the Planning Board if it determines that the applicant is exceeding the authority granted by the permit or fails to meet the conditions attached thereto.

(2) Action to revoke a permit shall be taken by the Planning Board after receiving a request from staff. Such a request shall be in writing and shall declare that the applicant and all property owners within the development, as recorded at the register of deeds office, have been notified at least ten days before the meeting of the pending action and the date, time, and place of the Planning Board meeting at which the request will be made. Said applicant and property owners shall have the right to appear before the Planning Board at said meeting and show cause why the Planning Board should not revoke the permit. Notification shall be deemed given when written notice is sent by first class mail to the property owner at the address shown on the most recent property tax records and one (1) or more signs are posted in prominent locations on the subject site reasonably calculated to give notice of the action.

(O) *Expiration of a* design waiver.

(1) Approval of a design waiver shall confer upon the developer all vested rights as set forth in this ordinance.

(2) In order for a design waiver to remain in effect for a particular development, a valid building permit must be issued for construction within the time period vested. If at any time after this date, construction has not been completed and no valid building permits are outstanding for construction within the development, the special exception permit shall expire. No further construction may occur within the development until a new design waiver has been issued by the Planning Board. Application for a new design waiver shall follow the procedures outlined in this section.

11.12 Development Agreements

The Town of Bermuda Run may enter into development agreements as authorized in North Carolina General Statute 160A-400.22 and outlined in North Carolina General Statutes 160A-400.20 through 160A-400.32 (inclusive). Nothing in this Section shall obligate the Town to enter into development agreements, and such agreements shall be entered into only at the request of the developer.

(A) Purpose

The purposes for entering into Development Agreements for long-term, large-scale developments include:

(1) Large-scale development projects often occur in multiple phases extending over a period of years, requiring a long-term commitment of both public and private resources.

(2) Such large-scale developments often create potential community impacts and potential opportunities that are difficult or impossible to accommodate within traditional zoning processes.

(3) Because of their scale and duration, such large-scale projects often require careful integration between public capital facilities planning, financing, and construction schedules and the phasing of the private development.

(4) Because of their scale and duration, such large-scale projects involve substantial commitments of private capital by private developers, which private developers are unwilling to risk without sufficient assurances that development standards will remain stable through the extended period of the development.

(5) Because of their size and duration, such developments often permit communities and developers to experiment with different or nontraditional types of development concepts and standards, while still managing the impacts on the surrounding areas.

(6) To better structure and manage development approvals for such large-scale developments and ensure their proper integration into local capital facilities programs, local governments need the flexibility in negotiating such developments.

(7) In negotiating for such developments, it is the intent of the Town to remain consistent with the adopted plans, policies, and goals of the Town as they relate to land use and capital improvements.

(B) Procedures

(1) Pursuant to North Carolina General Statute 160A-400.22, the governing body of the local government is authorized to enter into the development agreement by a simple majority vote of the governing body, subject to the content and procedures set forth in North Carolina General Statutes 160A-400.25 through 160A.32 (inclusive).

(2) A public hearing shall be held with notice given in accordance with North Carolina General Statute 160A-364.

(3) The Town Council may in its authority to enter into development agreements review and approve a general development plan proposed by the developer that sets forth the general layout, proposed uses, and design standards that meet the requirements set forth in this Ordinance and the Subdivision Ordinance. In this capacity, the Town Council shall assume the duties of the Planning Board to approve Design Waivers as authorized by Section 11.11. Prior to approval of a development agreement with design waivers, the Planning Board shall review and comment on the proposed waivers. Notice for design waivers shall be considered given with the public hearing notice for the development agreement. The required findings of Section 11.11 (F) shall be considered found in the affirmative if the Town Council approves the development agreement. Appeals regarding Design Waivers as part of a development agreement shall be appealed in the same manner that the development agreement is appealed.

(4) Development agreements approved by the Town Council shall be filed by the developer at the Register of Deeds within 14 days of approval.

11.13 Enforcement

Whenever there is a violation of this ordinance, the Zoning Enforcement Officer may take any or all of the following actions to stop such violation.

(A) *Permit revocation.*

The Zoning Administrator may revoke any zoning permit issued by staff after written notification to the permit holder when violations of this ordinance have occurred, when false statements or misrepresentations were made in securing the permit, work is being or has been done in substantial departure from the approved application or plan, or a permit has been mistakenly issued in violation of this ordinance.

(B) *Stop work orders.*

Whenever a building, structure or part thereof is being constructed, demolished, renovated, altered, or repaired in substantial violation of any applicable provision of this ordinance, the Zoning Administrator may order the specific part of the work that is in violation, or would be when the work is completed, to be immediately stopped. The stop work order shall be in writing, directed to the person doing the work, and shall state the specific work to be stopped, the specific reasons for cessation and the action(s) necessary to lawfully resume work.

(C) *Civil penalties.*

(1) In addition to the other remedies cited in this ordinance for the enforcement of its provisions, and pursuant to N.C. General Statute 160A-175, the regulations and standards of this ordinance may be enforced through the issuance of civil penalties by the Zoning Administrator.

(2) Subsequent citations for the same violation may be issued by the Zoning Administrator if the offender does not pay the citation (except as otherwise provided in a warning situation) after it has been issued unless the offender has sought an appeal to the decision of the Zoning Administrator through the Board of Adjustment. Once the ten-day warning period has expired, each day which the violation continues shall subject the violator to additional citations to be issued by the Zoning Administrator.

(3) *The following penalties are hereby established:*

a) Warning citation..... Correct Violation Within 10 Days

b) First citation $100.00

c) Second citation for same offense $250.00

d) Third and subsequent citations for same offense.....$500.00

(4) If the offender fails to pay the civil penalties within three (3) days after having been cited, the town may recover the penalties in a civil action in the nature of debt.

(D) *Criminal penalties.*

Any person, firm or corporation convicted of violating the provisions of this ordinance shall, upon conviction, be guilty of a misdemeanor and shall be fined an amount not to exceed $500 and/or imprisoned for a period not to exceed thirty days. Each day of violation shall be considered a separate offense, provided that the violation of this ordinance is not corrected within thirty days after notice of said violation is given.

(E) *Equitable remedy.*

The Zoning Administrator may apply to a court of competent jurisdiction for any appropriate equitable remedy to enforce the provisions of this ordinance. It is not a defense to the Zoning Administrator's application for equitable relief that there are other remedies provided under general law or this ordinance.

(F) *Injunction.*

Enforcement of the provisions of this ordinance may also be achieved by injunction. When a violation occurs, the Zoning Administrator may, either before or after the institution of other authorized action, apply to the appropriate division of the general court for a mandatory or prohibitory injunction commanding the defendant to correct the unlawful condition or cease the unlawful use of the property.

(G) *Order of abatement.*

In addition to an injunction, the Zoning Administrator may apply for and the court may enter into an order of abatement as part of the judgment in the case. An order of abatement may direct any of the following actions:

(1) Buildings or other structures on the property be closed, demolished, or removed;

(2) Fixtures, furniture or other moveable property be moved or removed entirely;

(3) Improvements, alterations, modifications or repairs be made; or

(4) Any other action be taken that is necessary to bring the property into compliance with this ordinance.

CHAPTER 12 RULES OF CONSTRUCTION, INTERPRETATION, AND DEFINITIONS.

12.1. Rules of Construction

(A) Interpretations shall be guided by statements of intent.

(B) The term "this ordinance" shall refer to the Town of Bermuda Run zoning ordinance.

(C) The words "shall", "must", and "will" are mandatory, implying an obligation or duty to comply with the particular provision.

(D) The word "may" is permissive, except when the context of the particular use is negative, then it is mandatory (e.g., "may not").

(E) The word "should," whether used in the positive or the negative, is a suggested guideline.

(F) References to "days" will always be construed to be business days, excluding weekends and holidays, unless the context of the language clearly indicates otherwise.

(G) For purposes of interpreting this ordinance, certain words, concepts, and ideas are defined in 12.3. Except as defined herein, all other words used in this ordinance, excluding architectural words and terms, shall have their everyday dictionary definition. Architectural words and terms shall be interpreted as defined in *A Visual Dictionary of Architecture*, Francis D.K. Ching, John Wiley and Sons, New York, 1995 a copy of which is available for review at town hall.

(H) Words used in the present tense include the future tense and words used in the future tense include the present tense.

(I) Words used in the singular number include the plural and words used in the plural number include the singular.

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

(K) The word "lot" includes the word "plot", "parcel" or "tract."

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

(M) Words used in the masculine gender include the feminine gender.

(N) The word "street" includes the words road, avenue, place, way, drive, lane, boulevard, highway, and any other facility principally designed for motor vehicle traffic, except an alley or an easement solely for utilities or pedestrians.

(O) The term "town council" shall mean the town council of the Town of Bermuda Run, North Carolina.

(P) The term "planning board" shall mean the planning board of the Town of Bermuda Run, North Carolina.

(Q) The term "zoning administrator" shall mean the zoning administrator of the Town of Bermuda Run, North Carolina.

(R) The term "subdivision administrator" shall mean the subdivision administrator of the Town of Bermuda Run, North Carolina.

(S) The term "manager" or "town manager" shall mean the town manager of the Town of Bermuda Run, North Carolina.

(T) The term "board of adjustment" shall mean the board of adjustment of the Town of Bermuda Run, North Carolina."

(U) The term "state" shall mean the State of North Carolina.

(V) Any reference to a section shall mean a section of the Town of Bermuda Run zoning ordinance, unless otherwise specified.

12.2. Interpretation

(A) *Zoning boundaries*.

Where uncertainty exists as to the boundaries of any district shown on the official zoning map, the zoning administrator shall employ the following rules of interpretation.

(1) Where district boundaries are shown within a street or alley right-of-way, railroad or utility line right-of-way, recorded easement, or navigable or non-navigable waterway, such boundaries shall be construed to be in the center of the right-of-way, easement, or waterway.

(2) Where district boundaries are so indicated that they approximately follow lot lines, or town, city, or county borders, such lines shall be construed to be said district boundaries, unless otherwise indicated.

(3) Where the zoning maps show a district boundary do not coincide or approximately coincide with any street, alley, railroad, waterway or property line, and no dimensions are shown, the location of the boundary shall be determined by use of the scale appearing on the zoning maps.

(4) If, because of error or omission in the zoning maps, any property within the jurisdiction of this ordinance is not shown as currently being in a zoning district, such property will be classified as OS, until changed by amendment.

(5) Where district boundaries appear to parallel to the center line of streets, easements or rights-of-way, such district boundaries shall be construed to be parallel thereto and at such a distance therefrom as is indicated on the zoning maps.

(6) Where a district boundary line divides a single lot, each part of the lot shall be used in conformity with the standards established by these regulations for the district in which that part is located.

(7) When a zoning case file contains detailed, verifiable information regarding the boundary, that information will be used as the correct boundary location.

(8) The zoning administrator shall decide the exact location of zoning district boundary lines when a question arises concerning boundary lines shown on the zoning maps. This decision may be appealed to the zoning board of adjustment.

(B) *Split tracts and fractional requirements.*

The zoning administrator shall employ the following rules with respect to split tracts and fractional requirements:

(1) Where a district boundary line divides a lot or tract in single ownership, the district requirements for the least restricted portion of such lot or tract shall be extended to apply to the whole, provided such extensions shall not include any part of a lot or tract more than thirty-five feet beyond the district boundary line. The term “least restrictive” shall refer to all zoning restrictions except lot or tract size.

(2) When any requirement of this ordinance results in a fraction of a dwelling unit or other measurement, that fraction will be disregarded and the nearest lower whole number shall apply.

(3) Whenever a density calculation for a legal lot of record results in less than one dwelling unit being permitted, one dwelling unit will be permitted subject to the remaining provisions of this ordinance.

(C) *General rules of conflict.*

(1) In the event of a conflict between the text of this ordinance and any caption, figure, illustration, or table included herein, the text of this ordinance shall control.

(2) In the event there is a conflict in limitations, requirements or standards applying to any individual use or structure, the more stringent or restrictive provision shall apply.

(D) *Distance measurements.*

Distance separations are required for many uses in this ordinance. Unless otherwise specified, the following rules shall apply in determining such measurements:

(1) Where lot separation is required, measurements shall be made from lot line to lot line using the shortest straight-line distance between lots.

(2) Where separation between a building, structure, parking area, buffer, driveway or similar feature on a development site and any other feature on the same or abutting site is required or is part of a regulation contained herein, such separation shall be measured between the closest points on the feature using the shortest straight-line distance between the two.

12.3. Definitions

For the purpose of interpreting this ordinance, certain words and terms used in this ordinance are defined as follows. Except as defined herein, all other words used in this ordinance shall have their usual, customary dictionary meaning.

ABANDONED. A use shall be deemed to be abandoned when: a) the use is physically and objectively discontinued [other than in association with the settlement of an estate or for any use which is seasonal in nature]; or b) the premises are devoted to another use; or c) the characteristic equipment and furnishings of a nonconforming nonresidential use have been physically removed from the premises and have not been replaced by the same or similar equipment within thirty days. All of the above events are considered abandonment, regardless of the intent of the owner, lessee or occupant and regardless of any circumstances beyond the control of such parties that prevent continuation of the use.

ABATTOIRS. A facility used for slaughtering and processing of animals, and the refining of their byproducts.

ABBUTTING PROPERTIES. Having common property boundaries or lot lines which are not separated by a street, alley, or other vehicular right-of-way such as a railroad.

ACCESSORY COMMUNICATION ANTENNAE. An antennae configuration that is attached to a building water tower, or other existing structure where the communication facility is customarily incidental to the main or principal building or structure.

ACCESSORY DWELLING UNIT. See "*Dwelling Unit, Accessory, Attached*" and "*Dwelling Unit, Accessory, Detached.*"

ACCESSORY STRUCTURE OR USE. A use or structure that is customarily or typically subordinate to and serves a principal use or structure; is clearly subordinate in area, extent, or purpose to the principal use or structure served; and is located on the same lot as the principal use or structure. Accessory structure shall include freestanding satellite dishes, any other devices that access satellites, and amateur radio antennae.

ADAPTIVE REUSE. The rehabilitation, reconstruction or renovation of existing buildings or structures for any use other than its current use.

ADJACENT PROPERTY. This term shall mean anything that is contiguous or abutting with the assumption that railroads, roads, and other rights-of-way do not exist.

ADULT ESTABLISHMENT. Any principal or accessory structure or use of land which meets the definition of adult establishment as set forth in G.S. 14-202.10 et.seq., but excluding massage therapy.

AGRICULTURAL INDUSTRY. Commercial poultry or swine production, cattle or swine feed lots, fur bearing animal farms, commercial plant production (not retail nurseries) on more than two acres, commercial fish or poultry hatcheries, and other similar activities.

AIRPORT. Landing fields, parking and service facilities, passenger and baggage terminals, and related facilities for the operation, service, fueling, repair, storage, charter, sales, and rental of aircraft. The word aircraft shall include fixed-wing as well as rotary-wing craft.

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

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

AMENDMENT. Any change by the town council to the text of these regulations or the official zoning maps.

AMORTIZATION. A provision requiring a non-conformance to either become conforming or be removed within a set period of time, otherwise known as the amortization period.

AMUSEMENT, COMMERCIAL INDOOR. Any business establishment which is primarily engaged in providing an amusement activity such as a video arcade, billiard parlor, skating rink or similar activity as a principal use to the general public, but does not include indoor motion picture theaters or electronic gaming operations, as defined by this Ordinance.

AMUSEMENT, COMMERCIAL OUTDOOR. Any business establishment which is primarily engaged in providing an amusement activity such as a miniature golf course, skateboard course, water slide, mechanical ride, Par 3 golf course, golf driving range, or go-cart course, fish ranch, or similar activity to the general public, but does not include outdoor motion picture theaters, raceways, drag strips, or motorcycle courses.

APPLICANT. Any person seeking approval under these regulations for any form of development or use of land.

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

ARCADES. A series of porches supported on piers or columns.

ARENA. A structure or facility designed and intended to be used primarily for athletic events and containing seating for spectators of those events, but not including a raceway or drag strip.

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, tinsmithing, silversmithing, pottery throwing, glass blowing, painting, weaving, caning, metal working, and sculpting.

ASPHALT AND CONCRETE PLANT AND CONTRACTORS. A facility preparing asphalt and/or concrete mixtures for street and driveway paving, including contractors engaged in asphalt and/or cement work. This definition includes only those uses in the following NAICS group(s):

23811 Poured Concrete Foundation and Structure Contractors
324121 Asphalt Paving Mixture and Block Manufacturing

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

AUTOMOTIVE REPAIR. See "*Motor Vehicle Repair and Maintenance*."

AWNING. A structure made of cloth, metal, or other material affixed to a building in such a manner that the structure may be raised or retracted from a building to a flat position against the building, but not a canopy.

BANKING AND FINANCIAL SERVICES. A facility engaged in deposit banking or extending credit in the form of loans. This definition includes only those uses in the following NAICS group(s):

5221 Depository Credit Intermediation
5222 Nondepository Credit Intermediation

BANQUET AND EVENTS FACILITIES. A facility for lease for private parties. Such facilities may or may not provide catering, photography, or similar services associated with private parties, weddings, birthdays and similar occasions.

BED AND BREAKFAST ESTABLISHMENT. An owner-occupied residential building providing rooms for temporary overnight lodging and breakfast for overnight guests. Such an establishment may also include an event venue upon issuance of a Special Use Permit.

BELVEDERE. A building or architectural feature of a building, designed and situated to look out upon a pleasing scene.

BERM. An earthen mound designed to provide visual interest, screen undesirable views, and/or decrease noise.

BEST MANAGEMENT PRACTICES (BMPS). (Applies only to the watershed overlay district) A structural or non-structural management-based practice used singularly or in combination to reduce non-point source input to receiving waters in order to achieve water quality protection goals.

BEST MANAGEMENT PRACTICES, NON-STRUCTURAL. Non-structural BMPs are non-engineered methods used to control the amount of non-point source pollution. These may include land-use controls and vegetated buffers.

BEST MANAGEMENT PRACTICES, STRUCTURAL. Structural BMPs are engineered structures that are designed to reduce the delivery of pollutants from their source or to divert contaminants away from the water supply.

BOARDING OR ROOMING HOUSE. An owner-occupied dwelling, or part thereof, in which lodging is provided to more than three but not more than eight paying guests on a weekly or longer basis and where the rooms rented neither individually nor collectively constitute separate dwelling units.

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 only those uses in the following NAICS group(s)

5151 Radio & Television Broadcasting

BUFFER. (See also "*Screening*.") A strip of land with natural or planted vegetation, located between a structure or use and a side or rear property line, intended to spatially separate and visually obstruct the view of two adjacent land uses or properties from one another. A buffer area may include any required screening for the site.

BUILD-TO LINE. A line extending through a lot which is generally parallel to the front property line and marks the location from which the principle vertical plane of the front building elevation must be erected; intended to create an even building façade line on a street. The build-to line is established on the record plat (final plat).

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

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

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 only those uses in the following NAICS group(s)

238140 Masonry Contractors
238150 Glass and Glazing Contractors
238160 Roofing Contractors
238170 Siding Contractors
238210 Electrical Contractors
238220 Plumbing, Heating, Air-Conditioning Contractors
238290 Building Equipment and Other Machinery Installation Contractors
238310 Drywall and Insulation Contractors
238320 Painting and Wall Covering Contractors
238330 Floor Contractors
238340 Tile and Terrazzo Contractors
238350 Finish Carpentry Contractors
238990 All Other Special Trade Contractors

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 only those uses in the following NAICS group(s):

237110	Water and Sewer Line and Related Structures Construction
237120	Oil and Gas Pipeline and Related Structures Construction
237310	Highway, Street and Bridge Construction
237990	Other Heavy and Civil Engineering Construction
238120	Structural Steel and Precast Concrete Contractors
238910	Site Preparation Contractors

BUILDING FOOTPRINT. The outline of the total area covered by a building's exterior walls at the ground level.

BUILDING HEIGHT. See "*Height, Building*."

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

BUILDING MATERIALS SUPPLY. An establishment engaged in selling lumber and a general line of building materials and hardware to the public. This definition includes only those uses in the following NAICS group(s)

4441	Building Materials and Supplies Dealer

BUILDING PRESENTATION. The direction of the architectural front façade of a building in relation to the street or public space.

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

BUILDING SITE. (See also "*Development*.") An area of land or property where development is undertaken. A building site may consist of one or more legal parcels of land and shall be defined to include any and all such parcels developed with uses operating under a coordinated management or use strategy regardless of when such parcels were developed.

BUILDING WALL. The entire surface area, including windows and doors, of an exterior wall of a building. For the purposes of this ordinance, the area of a wall will be calculated for only the first three stories, or forty-five feet in height of a building, whichever is less.

BUILT-UPON AREA. Built-upon area shall include that portion of a development project and/or lots that are covered by impervious or partially impervious cover including buildings, pavement, gravel areas (e.g., roads, parking lots, paths), recreation facilities (e.g., tennis courts), etc. (NOTE: Wooden slatted decks and the water area of a swimming pool are considered pervious).

BULK STORAGE OF PETROLEUM PRODUCTS (TANK FARMS). The storage on a zoning lot of two thousand five hundred gallons water capacity or more of flammable liquid, or two thousand gallons water capacity or more of flammable gas, excluding "storage tanks, above ground" and "fuel dealers" as defined herein. This definition includes all uses listed in the following NAICS group(s):

4247 Petroleum and Petroleum Products Merchant Wholesalers

CALIPER. The diameter measurement of a tree-trunk.

CAMPGROUND. See "*Recreational Vehicle Park and Campground*."

CANDELA. Unit of luminous intensity; one lumen per steradian.

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.

CANOPY TREE. A species of tree which normally grows to a mature height of thirty-five feet or more with a minimum mature crown width of thirty feet and meets the specifications of the *American Standards for Nursery Stock* published by the American Nurserymen Association.

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

CAR WASH, AUTOMATIC. An unattended, automated, mechanical facility for the washing of automobiles, small recreational vehicles, and light trucks wherein the customer remains in the vehicle during the service.

CAR WASH, FULL SERVICE. An attended facility wherein the customer pays for the labor, materials, and equipment necessary to wash or otherwise clean an automobile, small recreational vehicle, or light truck. This type of car wash may or may not be partially automated. Typically, the customer does not remain in the vehicle during the service.

CAR WASH, INDUSTRIAL. Mechanical facilities for the washing, vacuuming, and waxing of large automobiles and heavy machinery.

CAR WASH, SELF SERVICE. A car wash wherein the customer provides labor and where no self-propelled wash racks are provided.

CEMETERY. Land and facilities, including offices and chapels, used for the burial of the dead.

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.

CERTIFICATE OF COMPLIANCE. A certificate issued by the zoning administrator 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.

CERTIFICATE OF OCCUPANCY. A certificate issued by the building inspector setting forth that a building, structure, or use complies with all North Carolina State Building Codes in effect within the town's jurisdiction.

CHANGE OF USE. A change in the use of a structure or land for which a certificate of compliance is required.

CHILD CARE INSTITUTION. A facility providing residential and nonresidential care for thirteen or more children under the age of twenty-one, 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.

CHURCH OR RELIGIOUS INSTITUTION. A facility of a church, temple, synagogue, or other non-profit 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 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 persons or less.

CLINIC. An establishment where patients are admitted for examination and treatment on an outpatient basis by one or more physicians, dentists, psychologists, social workers, or other medical personnel and are not lodged overnight.

CLINIC, VETERINARY. See "*Veterinary Services*."

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

CLUB, PRIVATE. A for profit establishment as defined in N.C.G.S. 18B-1000 (5) which holds an ABC permit from the State of North Carolina.

CLUSTER SUBDIVISON. A subdivision in which overall density is increased and the minimum dimensional requirements for individual lots are decreased in return for the provision of a greater amount of permanent open space.

COLLECTOR STREET. See "*Street, Collector*."

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

CO-LOCATION. The sitting of two or more separate person's wireless antennas on the same support structure.

COMMUNITY CENTER. A building used for recreational, social, educational, and cultural activities, open to the public and usually owned and operated by a public or nonprofit group or agency.

COMMERCIAL COMMUNICATION TOWER. See "*Telecommunication Tower*."

CONGREGATE CARE FACILITY. A licensed multi-unit facility which provides housing, part-time medical care, shared food preparation and dining areas, and recreational facilities, as well as significant social facilities to meet the needs of the elderly. 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. The first placement of a structure, including a manufactured home, on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work at the point of placing the foundation, or beyond the state of excavation or the placement of a manufactured home on a foundation. This definition does not include the installation of streets or walkways nor does it include the installation of temporary buildings on the property, such as garages, sheds, or trailers, not part of the main structure nor occupied as dwelling units.

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.

CONVENTIONAL SUBDIVISION. A subdivision which complies with the standard lot dimensions of 3.4 of the Bermuda Run zoning ordinance and the development standards found in the Bermuda Run subdivision ordinance.

COPY SHOPS AND BUSINESS SERVICE CENTERS. Shops primarily engaged in providing photocopying, duplicating, blueprinting, and other document copying services, without also providing printing services (e.g., offset printing, quick printing, digital printing, prepress services) and establishments (except private mail centers) engaged in providing a range of office support services (except printing services), such as document copying services, facsimile services, word processing services, on-site PC rental services,

and office product sales. This definition includes only those uses in the following NAICS group(s)

561439 Other Business Service Centers (including Copy Shops)

CORNER LOT. See "*Lot, Corner*."

CORRECTIONAL INSTITUTION. A jail or other institutional facility used to confine and provide treatment or rehabilitation to violators of criminal laws, including facilities for persons who are participating in supervised work-release programs, whether such facilities provide confinement for all of each twenty-four hour period or only a portion thereof; but not including temporary holding facilities that are accessory to a police station.

CRITICAL ROOT ZONE. The area under a tree, which includes all land within the drip-line 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. See "*Street, Cul-de-sac*."

CULTIVAR. A cultivated plant variety or cultural selection.

CULTURAL FACILITY. An indoor or outdoor theater, auditorium, or other building or structure designed, intended, or used primarily for musical, dance, dramatic, or other live performances, or a museum or gallery operated primarily for the display, rather than the sale, of works of art.

CUPOLA. A light structure on a dome or roof, serving as a belfry, lantern or belvedere.

DAY CARE. Any child or adult care arrangement for three or more individuals who receive care away from their primary residence by persons other than their parents, children, grandparents, aunts, uncles, brothers, sisters, first cousins, nieces, nephews, guardians, or full-time custodians, where care is provided on a regular basis at least once per week for more than four but less than twenty-four hours per day.

DAY CARE CENTER. A day care facility in which day care is provided for six (6) or more children or adults.

DAY CARE HOME. A type of home occupation in which day care is provided for up to five (5) children or adults.

DECIDUOUS. A plant or tree with foliage that is shed annually.

DEED RESTRICTION. A restriction on the use of a lot or parcel of land that is set forth in the deed and recorded with the county register of deeds. Also known as a restrictive covenant.

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

DENTAL LABORATORY. See "*Medical or Dental Laboratory*."

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

DEVELOPER. Any person actively engaged in the development of land. See "*Applicant*."

DEVELOPMENT. The carrying out of any building activity, the making of any material change in the use or appearance of any structure or land, or the subdividing of land into two or more parcels.

(A) Except as provided in subsection (C) hereof, for the purposes of these regulations, the following activities or uses shall be considered "development":

(1) The reconstruction, alteration of the size, or material change in the external appearance of a structure on land or water;

(2) A change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on land or a material increase in the number of businesses, manufacturing establishments, offices, or dwelling units in a structure or on land;

(3) Alteration of the shore or bank of a pond, lake, river, or other waterway;

(4) Commencement of drilling (except to obtain soil samples), mining, or excavation on a parcel of land;

(5) Clearing of land, including clearing or removal of vegetation and including any significant disturbance of vegetation or soil manipulation; or

(6) Deposit of refuse, solid or liquid waste, or fill on a parcel of land.

(B) "Development" includes all other activity customarily associated with it. When appropriate to the context, "development" refers to the act of developing or to the result of development. Reference to any specific operation is not intended to mean that the operation or activity when part of other operations or activities is not development. Reference to particular operations is not intended to limit the generality of this definition.

(C) For the purposes of these regulations the following operations or uses shall not be considered "development"; some may, however, require a zoning permit:

(1) Work involving the maintenance, renewal, improvement, or alteration of any structure, if the work affects only the color or decoration of the exterior of the structure or interior alterations that do not change the use for which the structure was constructed;

(2) Work involving the maintenance or replacement of existing landscaped areas and existing rights-of-way;

(3) A change in use of land or structure from a use within a specified category of use to another use in the same category;

(4) A change in the ownership or form of ownership of any parcel or structure;

(5) The creation or termination of rights of access, riparian rights, easements, covenants concerning development of land, or other rights in land unless otherwise specifically required bylaw; or

(6) The clearing of survey cuts or other paths of less than four feet in width.

DEVELOPMENT SITE. See "*Building Site*."

DIAMETER AT BREAST HEIGHT (DBH). The caliper of an existing semi-mature or mature tree measured at four and one-half feet above the existing ground on the uphill side of the tree.

DIRECTLY VISIBLE. Allowing a direct line-of-sight to the light source or lamp.

DISTURBED AREA. An area subject to erosion due to the removal of vegetative cover and/or earthmoving activities.

DORMER. A projecting structure built out from a sloping roof, usually housing a vertical window or ventilating louver.

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

DOUBLE FRONTAGE LOT. See "*Lot, Double Frontage*."

DRIVE-THROUGH SERVICE WINDOW. A customer service facility located within the principal structure as an accessory to an office or retail establishment which is intended to enable the customer to transact business with a sales or service representative located within the principal structure without exiting the motor vehicle.

DRY CLEANING AND LAUNDRY PLANTS. A building, portion of a building, or premises used for cleaning fabrics, textiles, wearing apparel, or articles of any sort by immersions in volatile solvents including, but not limited to petroleum distillates, and/or chlorinated hydrocarbons and any process incidental thereto. This definition includes only those uses in the following NAICS group(s)

8123 Drycleaning and Laundry Services

DRY CLEANING AND LAUNDRY SERVICES. A building, portion of a building, or premises used for the collection and distribution of dry cleaning or the cleaning of fabrics, textiles, wearing apparel, or articles of any sort without the immersion of such articles in volatile solvents including, but not limited to petroleum distillates, and/or chlorinated hydrocarbons and any process incidental thereto. It is intended that uses in this category shall not pose a significant threat to the health and safety of the public or adjacent uses and that such may legally discharge all liquid waste into a public sanitary sewer or private septic system.

DWELLING UNIT. A room or combination of rooms containing a bathroom and kitchen facilities, and designed for and used as a permanent or secondary residence by one (1) family.

DWELLING UNIT, ACCESSORY, ATTACHED. A second dwelling unit connected to or located within three feet of a residential building, which is restricted in area, purpose and occupancy in accordance with this ordinance.

DWELLING UNIT, ACCESSORY, DETACHED. A dwelling unit located within an accessory structure, which is located more than three feet from the principal structure and is restricted in area, purpose and occupancy in accordance with this 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, SIGHT. An easement, which grants the right to maintain unobstructed view across property, located at a street intersection.

ELECTRONIC GAMING OPERATIONS. Any business enterprise, whether as a principal or an accessory use, where persons utilize electronic machines, including, but not limited to computers and gaming terminals, to conduct games of chance or games of skill, including sweepstakes, and where cash, merchandise, or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds or skill. The term includes, but is not limited to internet sweepstakes, internet sweepstakes café, video sweepstakes, or cybercafés. This does not include any lottery endorsed by the State of North Carolina.

EMERGENCY SHELTER. A facility providing temporary housing for one or more individuals who are temporarily or permanently homeless due to disaster, evacuation or other similar civil emergency.

ENGINEER. A person licensed to practice engineering in the State of North Carolina.

EVERGREEN. A plant or tree with foliage that persists year-round.

EXISTING DEVELOPMENT. (Applies only to the watershed overlay district) Existing development means projects that are built or projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of the amendment incorporating water supply watershed regulations into the Bermuda Run zoning ordinance based on at least one of the following criteria:

(A) 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; or

(B) Having an outstanding valid building permit; or

(C) Having an approved site specific or phased development plan under the provisions of 10.1.

For projects that require a state permit, such as landfills, NPDES wastewater discharges, land application of residuals and road construction activities, existing development shall be defined as those projects that are built or those projects for which a state permit was issued prior to August 3, 1992.

EXISTING LOT OF RECORD. (Applies only to the watershed overlay district) 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.

EXTERIOR FEATURES. The architectural style, general design, and general arrangement of the exterior of a structure, including the kind, texture, and color of

building materials, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant fixtures, and including the landscaping and natural features of the parcel containing the structure.

FAÇADE. The exterior wall of a building extending from grade to the top of the parapet, wall, or eaves that is exposed to public view.

FAIRGROUNDS. An area of land use including, but not limited to: agricultural related office buildings, animal judging shows, carnivals, circuses, community meeting or recreational buildings and uses, concerts, food booths and stands, games, rides, rodeos, sales and auctions, storage, and theaters.

FAMILY UNIT. 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 no more than four (4) adult persons, eighteen (18) years or older, 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 kinship, or to any degree of lineal kinship, 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.

FARM PRODUCT SALES. Seasonal sale of farm products raised on the premises where products are sold only as an accessory to an agricultural use.

FARMER'S MARKET. The seasonal selling or offering for sale at retail of vegetables or produce, occurring in a pre-designated area, where the vendors are generally individuals who have raised the vegetables.

FEED AND FLOUR MILL. Establishments primarily engaged in milling flour or meal from grains (except rice) or vegetables, and/or milling flour and preparing flour mixes or doughs.

FEED AND SEED STORE. Establishments primarily engaged in the retail sale of supplies directly related to the day to day activities of agricultural production.

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

FENESTRATION. The design and positioning of windows and doors in a building or structure.

FLAG. A piece of durable fabric of distinctive design attached to a permanent pole, that is used as a symbol or decorative feature which represents a country, state, or other political subdivision.

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

FLEA MARKET. An occasional or periodic market held in an open area or structure where goods are offered for sale to the general public by individual sellers from open facilities or temporary structures.

FLOOD. A temporary rise in stream flow or stage that results in water over topping stream banks and inundating areas adjacent to the watercourse.

FLOOD BOUNDARY AND FLOODWAY MAP. An official map on which the Federal Emergency Management Agency has delineated both the floodway and floodway fringe areas. Said maps also contain cross section information relevant to both the floodway and floodway fringe areas with data available in official reports supplied by the Federal Emergency Management Agency.

FLOOD LAMP. A specific form of lamp designed to direct its output in a specific direction (a beam) with a reflector formed from the glass envelope of the lamp itself, and with a diffusing glass envelope. Such lamps are so designated by the manufacturers.

FLOOD LIGHT. A form of lighting fixture designed to direct the output of a contained lamp in a more-or-less specific direction, utilizing reflecting or refracting elements located external to the lamp.

FLOODPLAIN, ONE HUNDRED YEAR. The channel and area abutting a watercourse, which would be covered with water during a 100 year flood as designated by the most recent reports and data provided by the Federal Emergency Management Agency.

FLOODPLAIN, FIVE HUNDRED YEAR. The channel and area abutting a watercourse, which would be covered with water during a 500 year flood as designated by the most recent reports and data provided by the Federal Emergency Management Agency.

FLOODWAY. The portion of the channel and floodplain of a stream designated by the most recent Federal Emergency Management Agency reports and data as adequate to

provide passage for the one hundred year flood, without increasing the elevation of that flood at any point by more than one foot.

FLOODWAY FRINGE. An area lying outside the floodway, but within the floodplain.

FLOOR. The top surface of an enclosed area in a building (including the basement) such as the top of the slab in concrete slab construction or the top of the wood flooring in wood frame construction.

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

FLOOR AREA RATIO (FAR). The total floor area of the building or buildings on a lot or parcel divided by the gross area of the lot or parcel.

FOOD AND BEVERAGE STORE. An establishment primarily engaged in selling food or beverages for home preparation and consumption off premises. This definition includes only those uses in the following NAICS group(s)

445 Food and Beverage Stores

FOOTCANDLE. One lumen per square foot. Unit of illuminance. It is the luminous flux per unit area in the imperial system. One footcandle equals approximately ten (10.8) lux.

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*."

FRONTAGE, LOT. The lot boundary which coincides with a public street or space.

FRONTAGE, BUILDING. The façade of a structure facing the street.

FRONTAGE BUILDOUT. The portion of lot frontage which has a building or wall running parallel to it.

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 only those uses in the following NAICS group(s)

45431 Fuel Dealers

FUEL STATION. A retail establishment which primarily sells fuel to non-commercial vehicle operators, having no more than one canopy and six separate pumping stations, which may include a convenience store and an automatic carwash as an accessory use.

FULL CUTOFF LIGHT FIXTURE. A luminaire light distribution where no light is emitted above the horizontal, and where the intensity at eighty degrees from nadir is no greater than 100 candela per 1000 lamp lumens.

FULLY SHIELDED LIGHT FIXTURE. A lighting fixture constructed in such a manner that all light emitted by the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal as determined by photometric test or certified by the manufacturer. Any structural part of the light fixture providing this shielding must be permanently affixed.

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 only those uses in the following NAICS group(s)

8122 Death Care Services

GENERAL RETAIL. See "*Retail, General*."

GLARE. The sensation produced by a bright source within the visual field that is sufficiently brighter than the level to which the eyes are adapted to cause annoyance, discomfort, or loss in visual performance and visibility; blinding light. The magnitude of glare depends on such factors as the size, position, brightness of the source, and on the brightness level to which the eyes are adapted.

GOLF COURSE. An area designed for golf, including a Par 3 golf course, having at least nine holes, each with a tee, fairway, and green, and may have 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.

GOVERNMENT OFFICES. The offices of the executive, legislative, judicial, administrative and regulatory branches of federal, state and local governments. This definition includes only those uses in the following NAICS group(s)

92 Public Administration

GRADE. The elevation of the land or land which is level at a specific point.

GRADE, EXISTING. The elevation along the ground surface of a site as recorded in topographic mapping at two foot or four foot contour intervals, on file in the Office of the planning department, or as surveyed and mapped at a contour interval of not more than four feet, by a licensed surveyor.

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. Greenways are typically not located within a street right-of-way and may be paved with asphalt or concrete or may be gravel or natural surface.

GROUND COVER. Any plant material that reaches an average height of not more than twelve inches.

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

GROUND SIGN. See "*Sign, Ground*."

GROUP CARE FACILITY. A transitional housing facility for more than twenty residents, licensed by the State of North Carolina and 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 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 HOME A. A transitional housing facility with support and supervisory personnel licensed by the State of North Carolina and 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 residents, exclusive of supervisory personnel, including but not limited to, handicapped persons, older adults, foster children, and abused individuals. 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 122C-3(11)b, and shall not include persons living together as a fraternal, sororal, social, honorary, or professional organization.

GROUP HOME B. A transitional housing facility with support and supervisory personnel licensed by the State of North Carolina and 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 residents, exclusive of supervisory personnel, including but not limited to handicapped persons, older adults, foster children, and abused individuals. This unit 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 122C-3(11)b, and shall not include persons living together as a fraternal, sororal, social, honorary, or professional organization.

HABILITATION FACILITY A. Any facility in which one to eight 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 more than eight 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 children, but does not include persons who are dangerous to others as defined by G.S. 122C-3.11(b).

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; Section 311 of the Clean Water Act (CWA) (oil

and hazardous substances); or any 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.

HAZARDOUS MATERIALS TREATMENT FACILITY. A building, structure or use of land devoted, or intended to be devoted, primarily to changing by any method, technique or process, including incineration or neutralization, the physical, chemical, or biological character of any hazardous material so as to neutralize such material or render it non-hazardous, safer for transport, amenable for recovery, amenable for storage or reduced in bulk. Such a use may also contain temporary storage facilities normally associated with these operations and of sufficient size to conduct a commercially feasible operation. However, under no circumstances is a hazardous materials treatment facility to be construed to be any of the following:

(A) A facility which manufactures hazardous materials from component non-hazardous materials;

(B) A facility or location for the long term or perpetual storage of hazardous materials; or

(C) A facility for the treatment of hazardous materials which is clearly subordinate, incidental and related to the principal structure, building or use of land and is located on the same lot as the principal structure, building or use.

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, chemical, which are carcinogens, toxins, corrosives, or 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 its own use. A hazardous waste facility means a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste. This definition includes hazardous materials treatment facilities as defined herein.

HEALTH SERVICES, MISCELLANEOUS. This class of use includes outpatient care centers such as kidney dialysis centers, blood banks, birth control clinics, mental health

and drug treatment centers, and similar uses. This definition includes only those uses in the following NAICS group(s)

6214	Outpatient Care Centers
6215	Medical and Diagnostic Laboratories
62199	All Other Ambulatory Health Care Services

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.

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 that is clearly subordinate to 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 in this definition.

HERITAGE TREE.
Any tree that is listed on the *North Carolina Champion Big Tree Eligible Species List* and is greater than 20 inches DBH (diameter at breast height).

HOME OCCUPATIONS. A business, profession, occupation, or trade which is conducted within a residential building or accessory structure for the economic gain or support of a resident of the dwelling, and which is incidental and secondary to the residential use of the building.

HOSPITAL. 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 only those uses in the following NAICS group(s)

622 Hospitals

HOTEL. A building containing more than four individual rooms for the purpose of providing overnight lodging facilities to the general public for compensation, with or without meals, and which has common facilities for reservations and cleaning services, combined utilities, and on-site management and reception services. Hotels may or may not provide onsite parking and access to hotel rooms is generally provided through interior hallways.

ILLUMINANCE. The amount of light falling onto a unit area of surface (luminous flux per unit area), measured in lumens per square meter (lux) or lumens per square foot (footcandles).

IMPERVIOUS SURFACE COVER. Any structure or material which significantly reduces or prevents natural absorption of stormwater 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, wooden slatted decks and the water area of a swimming pool are considered pervious.

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

INDEPENDENT LIVING FACILITY. An unlicensed facility providing living arrangements for the elderly and their spouses in single-family, duplex, or multi-family units designed to allow a predominately independent lifestyle within the framework of a larger, unified, health maintenance environment.

INFILL DEVELOPMENT. The construction of a building on a vacant parcel located in a predominately built up area.

INSTALLED. The attachment, or assembly fixed in place, whether or not connected to a power source, of any outdoor light fixture.

JAIL. A building, and all accessory uses and structures, used to confine, house, and supervise persons who are serving terms of imprisonment for violations of criminal laws or who are awaiting trial for alleged violations of criminal laws, but not including temporary holding facilities that are accessory to a police station and not including any housing or other facilities for persons who are participating in work-release programs or who have previously served and completed terms of imprisonment for violations of criminal laws.

JUNKYARD. The use of more than six hundred square feet of the area of any lot for the storage, keeping, or abandonment of junk, including scrap metals or other scrap materials, or for the dismantling, demolition or abandonment of automobiles or other vehicles, machinery or parts thereof regardless of whether such material is for sale.

KENNEL. A use or structure intended and used for the breeding or accommodation of small domestic animals for sale and/or for the training or overnight boarding of animals for persons other than the owner of the lot. This definition shall not include a veterinary clinic in which the overnight boarding of animals is necessary for or accessory to the testing and medical treatment of the physical disorders of animals.

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.

LANDSCAPING. The installation and maintenance of trees, shrubs, plant materials, and/or ground cover, including grass, mulch, decorative stone and similar materials, but excluding bare soil, uncultivated vegetation, impervious pavement materials, and gravel.

LARGE MATURING TREE. A tree whose height is greater than thirty-five feet at maturity and meets the specification of the *American Standards for Nursery Stock* published by the American Association of Nurserymen.

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

LAUNDRY AND LINEN SUPPLY SERVICE. Establishments primarily engaged in supplying laundered items, such as table and bed linens, towels, diapers, and types of uniforms.

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.

LIGHTING ZONE 1. The level of lighting for residential areas.

LIGHTING ZONE 2. The level of lighting for parking areas and entrances of multi-family residential, and commercial uses located within the OS, CR, or RM zoning districts.

LIGHTING ZONE 3. The level of lighting for parking areas and entrances of multi-family residential, and commercial uses located within the VM, CM, ~~TC~~, or GB zoning districts.

LIGHT POLLUTION. Any adverse effect of manmade light

LIGHT TRESPASS. Light falling where it is not wanted or needed, typically across property boundaries.

LINEAR FRONTAGE. The length of a property abutting a public right-of-way from one side lot line to another.

LINTEL. A beam supporting the weight above a door or window opening.

LIVESTOCK SALES AND AUCTIONS. A commercial establishment where livestock are collected for sale or auction.

LOGO. A business trademark or symbol.

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

LOT, ADJACENT. See "*Adjacent Property*."

LOT, CORNER. A lot located at the intersection of two or more streets, or abutting a curved street or streets in such a way that the front building line meets either side lot line at an interior angle of less than one hundred thirty-five degrees.

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 or more public streets. A corner lot shall not be considered as having double frontage unless it has frontage and access on three or more streets.

LOT, FLAG. A lot where access to the street is provided by a long, narrow strip of land (the "flag pole") and the usable land itself is a rectangular piece at the end of the strip (the "flag") away from the street.

LOT, INTERIOR. A lot other than a corner lot with frontage on only one street.

LOT, REVERSE FRONTAGE. A lot having frontage on two or more streets, one of which is a minor or less important street in the community, the access to which is restricted to the minor street.

LOT, THROUGH. See "*Lot, Double Frontage*."

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

LOT LINE, FRONT. The line which separates the lot from any street right-of-way. For corner lots, the primary front lot line shall be along the street with the higher functional class, unless otherwise determined by the Administrator upon recommendation from the Technical Review Committee.

LOT LINE, INTERIOR. A side lot line, which separates one 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 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 administrator shall designate the rear lot line.

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

LOT OF RECORD. A lot described by plat or by metes and bounds which has been recorded in the office of the Davie County register of deeds.

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 a single development plan.

LUMEN. Unit of luminous flux; used to measure the amount of light emitted by lamps.

LUMINAIRE. The complete lighting assembly (including the lamp, housing, reflectors, lenses and shields), less the support assembly (pole or mounting bracket); a light fixture.

MAINTAINED EASEMENT. A recorded right of way made of crushed gravel, pavement, or graded and cleared of brush, so as to permit access by vehicles.

MANUFACTURED HOME. A dwelling unit that: a) is not constructed in accordance with the standards of the North Carolina State Building Code for one and two family dwellings; b) is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis; and, c) exceeds forty feet in length and eight feet in width.

MANUFACTURED HOME, CLASS A. A manufactured home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and that satisfies the following additional criteria, the intent of which is to insure that a Class A manufactured home, when installed, shall have substantially the appearance of an onsite, conventionally built, single- family dwelling:

(A) The manufactured home has a length not exceeding four times its width, with the length measured along the longest axis and width measured at the narrowest part of the other axis.

(B) The manufactured home has a minimum of 1,000 square feet of enclosed heated living area.

(C) The pitch of the roof of the manufactured home has a minimum vertical rise of two and two-tenths feet for each twelve feet of horizontal run and the roof is finished with a type of shingle that is commonly used in standard residential construction.

(D) All roof structures shall provide an eave projection of no less than six inches, which may include a gutter.

(E) The exterior siding consists predominantly of vinyl or aluminum horizontal lap siding whose reflectivity does not exceed that of gloss white paint, wood, or hardboard comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction.

(F) The home is placed on a permanent masonry foundation, not to include unfinished concrete block. The foundation wall shall be continuous and unpierced except for ventilation as required by the State of North Carolina regulations for manufactured/mobile homes.

(G) The towing tongue shall be removed upon final placement of unit.

MANUFACTURED HOME, CLASS B. A manufactured home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction, but which does not meet the definition of a Class A manufactured home.

MANUFACTURED HOME PARK. A development site, whether a single parcel or multiple contiguous parcels, containing spaces leased or intended to be leased for occupancy by manufactured homes used as residential dwellings regardless of whether such homes are provided as part of the lease and including all uses accessory to the residential use. This definition shall not include manufactured home sales lots on which unoccupied manufactured homes are parked for the purpose of inspection and sale.

MANUFACTURED HOME SPACE. The land in a manufactured home park allotted to or designated for the accommodation of one manufactured home.

MANUFACTURED HOME SUBDIVISION. Any parcel of land which is subdivided, with utilities extended for the installation or placement of manufactured homes.

MANUFACTURING A. A manufacturing establishment primarily engaged in the fabrication or assembly of products from pre-structured materials or components. 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. This definition includes the use of existing buildings previously used for a similar manufacturing operations. This definition may include the uses in the following NAICS group(s):

3149	Other Textile Product Mills
3156	Apparel Manufacturing
3369	Other Transportation Equipment
33711	Wood Kitchen Cabinet and Countertop Manufacturing
3399	Other Miscellaneous Manufacturing
33991	Motorcycle, Bicycle and Parts Manufacturing

MANUFACTURING B. A manufacturing establishment primarily engaged in the manufacture of foodstuffs, beverages, textiles, electrical components or tobacco products, and the fabrication of wood, leather, paper, water or plastic products. Because of the nature of its operations and products, Manufacturing B could impact immediately adjoining properties due to noise, odor, vibration, glare, and/or air and water pollution. This definition may include the uses in the following NAICS group(s):

313	Textile Mills
322	Paper Manufacturing
337	Furniture and Related Product Manufacturing
3119	Other Food Manufacturing
311 & 312	Beverage Manufacturing
3122	Tobacco Manufacturing
3169	Other Leather and Allied Product Manufacturing
3219	Other Wood Product Manufacturing
3231	Printing and Related Support Activities
3261	Plastics Product Manufacturing
3341	Computer and Peripheral Equipment Manufacturing
3342	Communications Equipment Manufacturing
3343	Audio and Video Equipment Manufacturing
3344	Semiconductor and “Other Electronic Component Manufacturing”
3351	Electric Lighting Equipment Manufacturing
3353	Electrical Equipment Manufacturing
3391	Medical Equipment and Supplies Manufacturing

MANUFACTURING C. A manufacturing establishment primarily engaged in the processing and manufacturing of materials or products not otherwise classified under Manufacturing A, Manufacturing B, or other use defined in this section. Manufacturing C includes the processing and manufacturing of products from extracted or raw materials, the assembly of large or heavy machinery, and the storing or using of flammable, explosive, hazardous, or toxic materials in the manufacturing processes. Because of the nature of its operations and products, Manufacturing C may impact surrounding properties due to noise, odor, vibration, glare, and/or air and water pollution. This definition may include the uses in the following NAICS group(s):

331	Primary Metal Manufacturing
3133	Textile and Fabric Finishing and Fabric Coating Mills
3161	Leather and Hide Tanning and Finishing
321114	Wood Preservation
3212	Veneer, Plywood, and Engineered Wood Product Manufacturing
3221	Pulp, Paper and Paper Board Mills
3241	Petroleum and Coal Products Manufacturing
3259	Other Chemical Product and Preparation Manufacturing
3262	Rubber Product Manufacturing
3271	Clay Product and Refractory Manufacturing
3272	Glass and Glass Product Manufacturing
3279	Other Nonmetallic Mineral Product Manufacturing
3329	Other Fabricated Metal Product Manufacturing
3333	Commercial and Service Industry Machinery Manufacturing
3353	Electrical Equipment Manufacturing
3359	Other Electrical Equipment and Component Manufacturing
3369	Other Transportation Equipment Manufacturing

MASSAGE AND BODY WORK THERAPY. Any massage or body work therapy as defined by the North Carolina Massage and Bodywork Therapy Practice Act, G.S. 90-621 et.seq., provided by a person licensed as provided therein to perform such therapy.

MASSING. The shape and form a building or assemblage of buildings assumes through architectural design.

MEAN SEA LEVEL. The National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on the flood insurance rate maps for Davie County are referenced.

MEAT PACKING PLANT. An establishment primarily engaged in the slaughtering of cattle, hogs, sheep, lambs, and calves 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. The definition includes all uses in the following NAICS group(s):

3116	Animal Slaughtering and Processing

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 only those uses in the following NAICS group(s):

3391 Medical Equipment and Supplies Manufacturing
6215 Medical and Diagnostic 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 only those uses in the following NAICS group(s):

6211 Offices of Physicians
6212 Offices of Dentists
6213 Offices of Other Health Practitioners

MICRO-BREWERY/MICRO-DISTILLERY/MICRO-WINERY. A facility in which beer, wine, or other alcoholic beverages are brewed, fermented, or distilled for distribution and consumption, and which possesses the appropriate license from the State of North Carolina Alcoholic Beverage Control Commission, meeting all of the standards of N.C.G.S. 18B, and associated tasting rooms, brewpubs, restaurants, and food trucks for the consumption of on-site produced beer, wine, or distilled products are permitted on the premises. Micro-breweries shall not exceed production of 25,000 barrels as defined by N.C.G.S. 81A-9. A micro-distillery produces less than 50,000 proof gallons of spirits per year according to the American Distilling Institute. Micro-wineries primarily source fruit from local farms but do not farm fruit on site and do not exceed the equivalent of 50,000 gallons. Any beverage production facility that exceeds the production thresholds established in this definition shall be classified as Beverage Manufacturing under the definition of "Manufacturing B".

MIXED-USE BUILDING. The combination of both commercial and residential uses within a single building of two or more stories, wherein at least fifty percent of the heated floor area contains residential dwelling unit(s).

MIXED-USE DEVELOPMENT. A planned development where two or more use categories (commercial, residential, industrial, institutional, etc.) are incorporated on a single development site.

MOBILE HOME. See "*Manufactured Home*."

MOBILE HOME PARK. See "*Manufactured Home Park*."

MOBILE HOME SUBDIVISION. See "*Manufactured Home Subdivision*."

MODULAR HOME. A dwelling unit which is constructed in compliance with the North Carolina State Building Code and composed of components substantially assembled in an off-site manufacturing plant and transported to the building site for final assembly on a permanent foundation or other acceptable means established by the North Carolina State Building Code.

MOTEL. A building containing more than four individual rooms for the purpose of providing overnight lodging facilities to the general public for compensation, with or without meals, and which has common facilities for reservations and cleaning services, combined utilities, and on-site management and reception services. Motels provide on-site parking and access to most rooms is provided directly from a parking area.

MOTOR VEHICLE. Any vehicle which is self-propelled and every vehicle designated to run upon the highways which is pulled by a self-propelled vehicle. For purposes of this definition, the term motor vehicle shall not include vehicles or implements used in farming or construction but shall include all forms of motorized watercraft.

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; or

(B) Vehicle lacks a current inspection certificate, or displays an expired certificate; or

(C) Vehicle is partially dismantled or wrecked; or

(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 BODY OR PAINT SHOP. An establishment primarily engaged in body work, painting, or customizing of automobiles or other motor vehicles. This definition includes only those uses in the following NAICS group(s):

81112 Automotive Body, Paint, Interior and Glass Repair

MOTOR VEHICLE DISMANTLING AND WRECKING YARD. Any open area of more than two hundred square feet used for storing or dismantling inoperative motor vehicles. This definition includes only those uses in the following NAICS group(s):

4211 Motor Vehicle and Motor Vehicle Parts and Supplies Merchant Wholesaler
4219 Miscellaneous Durable Goods Merchant Wholesalers

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 only those uses in the following NAICS group(s):

8111 Automotive Repair and Maintenance
81112 Automotive Body, Paint, Interior and Glass Repair

MOTOR VEHICLE SALES, RENTAL AND LEASING. Any use where automobiles, other motor vehicles, or manufactured homes are stored and/or displayed for the purpose of sale or lease as an entire or complete unit. This definition includes only those uses in the following NAICS group(s):

4411 Automobile Dealers
4412 Other Motor Vehicle Dealers
45393 Manufactured (Mobile) Home Dealers
5321 Automotive Equipment Rental and Leasing

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, or other repair, or other disposition. This definition does not include motor vehicle parts, used, NAICS group 423140, and waste materials, NAICS group 5093, recyclable material merchant wholesalers, NAICS group 423930, automotive parts and accessories stores, NAICS group 441310, or tire dealers, NAICS group 441320.

MULTIPLE BUILDING SITE. A group of two or more nonresidential buildings established on a single development tract, having unified design of buildings and coordinated organization of open space, parking, and service areas.

MULTI-CLASS LIGHTING. Any outdoor lighting used for more than one purpose, such as security and decoration, such that its use falls under the definition of two or more classes as defined for Class 1, 2, and 3 lighting.

MULTI-FAMILY. See "*Residential Building, Multi-family*."

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 only those uses in the following NAICS group(s):

7121 Museums, Historical Sites and Similar Institutions

NAICS. North American Industry Classification System.

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 RECREATION AREA. Public or private tennis, basketball or other courts, swimming pools or similar indoor and/or outdoor uses that are operated on a fee or membership basis primarily for the use of persons who reside in a specific area or neighborhood in which the facility is located. Neighborhood recreation areas may include accessory uses such as snack bars, pro shops, and locker rooms, which are designed and intended primarily for the use of patrons of the principal recreational use.

NET ACREAGE. The remaining area after deleting all portions for proposed and existing streets within a development parcel or subdivision. For parcels including recreational facilities and outdoor display lots, the area devoted to the special use shall also be excluded from the net acreage.

NONCONFORMING LOT. Any lot of record which does not meet the dimensional requirements established in these regulations as adopted or amended.

NONCONFORMING STRUCTURE. Any structure which does not comply with all of the standards and regulations of this ordinance as adopted or amended.

NONCONFORMING USE. Any use of land or buildings which does not comply with all of the regulations of this ordinance as adopted or amended.

NONRESIDENTIAL DEVELOPMENT. All development other than residential development, agriculture and silviculture.

NONSTORE RETAIL. See "*Retail, Nonstore*."

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 only those uses in the following NAICS group(s)

4442 Lawn and Garden Equipment and Supplies Store

NURSING CARE INSTITUTION. A licensed healthcare facility, however named, governmental or non-governmental, which provides in-patient care to six or more non-related persons for whom planned and continued medical or nursing attention, or both, are indicated in contrast to the occasional or incidental care provided in congregate care facilities. A nursing care institution may be designed and marketed specifically for the elderly, physically handicapped, or both, but not specifically for mentally ill persons who are dangerous to others as defined in G.S. 122C-3(11)(b).

OFF-STREET PARKING. Parking which occurs on a lot and not on a street or other public right of way.

OFFICE. A use or structure in which business or professional services are conducted or rendered.

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

OFFICES, PROFESSIONAL. See "*Professional Offices*."

OPEN SPACE. Land used for recreation, natural resource protection, amenities, protection of important rural and town vistas and/or buffer yards. Open space may include, but is not limited to, lawns, walkways, active recreation areas, playgrounds, wooded areas, and greenways.

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

OPTICAL SERVICES. An establishment where health practitioners engage in the practice of optometry by providing patients with eye examinations to determine visual acuity or the presence of visual problems. Optical services also include the prescription and sale of such products as eye glasses, contacts, or other instruments intended to enhance visual perception.

ORTHOPEDIC SUPPLY HOUSES. A place where prosthetic appliances, surgical dressings, crutches, surgical sutures, and personal industrial safety devices are prepared and distributed.

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 only those uses in the following NAICS group(s):

4411	Automobile Dealers
4412	Other Motor Vehicle Dealers
4539	Other Miscellaneous Store Retailers

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

OUTDOOR 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, but excluding temporary construction and related activities and closed bay docks.

OUTPARCEL. A separately leased or owned lot developed apart from but linked functionally to a larger development site.

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

PACKAGE SEWER TREATMENT PLANT. A pre-fabricated set of devices used in the storage, treatment and ultimate discharge or reclamation of sanitary sewer or industrial wastes of a liquid nature.

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

PARCEL. See "*Lot*."

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

PARK, NEIGHBORHOOD. A town or county owned park intended to serve the recreational needs of people living or working within a one-half mile radius of the park.

PARK, REGIONAL. A town or county owned park intended to serve the recreational needs of all residents of the town and perhaps a large portion of the county with activities and natural features not included in most other types of parks, and often based on a specific natural feature or scenic or recreational opportunity.

PARKING, LOT OR DECK. A principal or accessory 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.

PEDESTRIAN ORIENTED DEVELOPMENT. Any development type which accommodates the needs of the pedestrian. Such development will have parking to the side or rear of a building, will mix uses and provide them in proximity to one another, will allow the pedestrian the option of accomplishing certain trips without automobile use, and will provide a variety of interesting and detailed streetscapes which equally balance the need of the pedestrian and car.

PERENNIAL STREAM. A stream or creek containing a continuous natural flow of water throughout the year except possibly under exceptionally dry conditions and identified on seven and one-half minute United States Geological Survey Quadrangle Maps by solid blue lines.

PERSONAL SERVICES. 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 but shall not include any use which may be defined as adult entertainment. Personal Services include the following list of uses:

5419	Other Professional, Scientific and Technical Services (except 54194 "Veterinary Services")
5617	Services to Buildings and Dwellings
81143	Footwear and Leather Goods Repair
8121	Personal Care Services
8123	Dry Cleaning and Laundry Services, (excluding "Dry Cleaning and Laundry Plants")
8129	Other Professional Services (except 81293 "Parking Lots and Garages")

PERVIOUS SURFACE COVER. A surface cover that presents an opportunity for precipitation to infiltrate into the ground.

PHARMACY. A place where drugs and medicines are prepared and dispensed by prescription from a hospital, medical or dental clinic.

PLANNED DEVELOPMENT. A shopping center, commercial subdivision, business park, mixed use development, or similar development that is developed in accordance with a site-specific development plan and contains unifying characteristics such as site design, building design, and/or sign design.

PLANTING YARD. Area where required plantings are located.

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

PLAZA. An urban open space, constructed entirely or largely of hard-surfaced paving blocks, stone, brick, or similar materials, framed on at least two sides by the vertical rise of building walls; occasionally framed by closely planted large maturing trees in lieu of buildings. May be used for occasional parking in front of a civic or public building.

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, 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, or live in the neighborhood.

PREMISES. See "*Lot*."

PRINCIPAL BUILDING OR STRUCTURE. A building or structure containing the principal use of the lot.

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

PROCESSING FACILITY. A building or an enclosed space used for the collection and processing of recyclable material or for the purpose of re-preparation of materials for efficient shipment.

PROFESSIONAL OFFICES. 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 only those uses in the following NAICS group(s):

5111	Newspaper, Periodical, Book, and Database Publishers
5112	Software Publishers
5231	Securities and Commodity Contracts Intermediation and Brokerage
5241	Insurance Carriers
5242	Agencies, Brokerages, and Other Insurance Related Activities
5312	Offices or Real Estate Agents and Brokers
5411	Legal Services
5412	Accounting, Tax Preparation, Bookkeeping, and Payroll Services
5413	Architectural, Engineering and Related Services
5415	Computer System Design and Related Services
5416	Management, Scientific and Technical Consulting Services
5418	Advertising and Related Services (except 54185 Display Advertising)
5511	Management of Companies and Enterprises
56144	Collection Agencies
56145	Credit Bureaus
5615	Travel Arrangement and Reservation Services

PROGRESSIVE CARE COMMUNITY. An area of land including one or more buildings under unified management, planned and developed as a unit to provide for the traditional residency and care of the elderly in a full range of living and care arrangements which includes at least two of the following: independent living and care, congregate care, or nursing care institutions.

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

PROJECTING SIGN. See "*Sign, Projecting*."

PROPOSED RIGHT-OF-WAY LINE. The margin of a thoroughfare's right-of-way at its ultimate intended width, determined by: a) the thoroughfare's classification; and b) dimensional requirements or location criteria as established in the subdivision ordinance.

PROTEST PETITION. A petition, authorized by state law, submitted to the city council by adjacent property owners in opposition to a proposed zoning amendment.

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

PUBLIC WORKS FACILITY. All production, storage, transmission, and recovery facilities for water, sewerage, telephone, and other similar utilities owned or operated by any public agency or by any utility subject to the jurisdiction of the N.C. Utilities Commission. This definition does not include pump stations, lift stations, water towers, utility substations or similar appurtenances.

QUALIFIED PROFESSIONAL. A professional licensed and/or registered in the state of North Carolina performing services only in their areas of competence. This term shall include only registered land surveyors, registered engineers, registered architects, and registered landscape architects.

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

REDEVELOPMENT. The demolition and reconstruction of a building or a portion of a building.

REAL ESTATE SIGN. See "*Sign, Real Estate*."

REAR LOT LINE. See "*Lot Line, Rear*."

REAR YARD. See "*Yard, Rear*."

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

of the principal recreational use. This definition includes only those uses in the following NAICS group(s):

6116	Other Schools and Institutions
711	Performing Arts, Spectator Sports, and Related Industries
7111	Performing Arts Companies
71394	Fitness and Recreational Sports Centers

RECREATION SERVICES, OUTDOOR. Establishments engaged in providing outdoor recreation services such as country clubs, swimming pools, tennis courts, ball fields and ball courts which are not enclosed in buildings and are operated on a commercial or membership basis primarily for the use of persons who do not reside on the same lot as that on which the recreational use is located. Outdoor recreation shall include any accessory uses, such as snack bars, pro shops, and club houses which are designed and intended primarily for the use of patrons of the principal recreational use. This definition includes only those uses in the following NAICS group(s):

7112	Spectator Sports
7139	Other Amusement and Recreation Industries

RECREATIONAL VEHICLE. A vehicle type accommodation, other than a manufactured home, designed as temporary accommodations for travel, vacation, or recreational purposes, which is propelled by its own motive power or is mounted on or drawn by another vehicle.

RECREATIONAL VEHICLE PARK AND CAMPGROUND. Any lot or parcel of land used or intended to be used for the accommodation of two or more recreational vehicles or non-vehicle campers for transient dwelling purposes.

RECYCLING CENTER. A facility at which recovered 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 merchant wholesalers, NAICS group 423140, which is listed as a separate use.

RESIDENCE, PERMANENT
A domicile for which the address is used for the occupant's tax returns, passports, voter registration, driver's license, vehicle registrations, insurance policies, personal accounts, and billing. A permanent residence is occupied by the owner for the majority of the year or by a tenant with a lease of 90 days or greater. See North Carolina Administrative Code 17 NCAC 06B.3901.

RESIDENCE, SECONDARY
A residence that is occupied by the owner for less than the majority of a year, but is not used for vacation rental purposes.

RESIDENCE, VACATION RENTAL

According to North Carolina General Statute 42A, a vacation rental is a residential property for vacation, leisure, or recreation purposes for fewer than 90 days by a person who has a place of permanent residence elsewhere, to which he or she intends to return.

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

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

RESIDENTIAL, MULTI-FAMILY. A building which contains three (3) or more dwelling units. This definition includes condominiums, apartment complexes, and residential units on upper floors of mixed-use buildings, but does not include townhouses.

RESIDENTIAL, SINGLE-FAMILY. A residential building which contains one (1) dwelling unit as the permanent or secondary residence for one (1) family unit and which is located upon one (1) lot of record. This term includes modular housing units built to NC single-family residential building standards.

RESIDENTIAL, TOWNHOUSE. A residential building which contains three (3) or more attached dwelling units where each unit occupies a separate lot of record.

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 prepared 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.

RETAIL, GENERAL. An establishment primarily engaged in selling goods to the public. This definition includes only those uses in the following NAICS group(s)

44131	Automotive Parts and Accessories Stores (indoor sales only)
442	Furniture and Home Furnishings Stores
443	Electronics and Appliance Stores
44413	Hardware Stores
446	Health and Personal Care Stores
448	Clothing and Clothing Accessories Stores
451	Sporting Goods, Hobby, Book, and Music Stores
452	General Merchandise Stores
453	Miscellaneous Store Retailers

RETAIL, NONSTORE. A use that retails merchandise using nonstore methods, such as the broadcasting and publishing of direct-response advertising, direct solicitation, and

electronic shopping. This definition includes only those uses in the following NAICS group(s)

4541	Electronic Shopping and Mail-Order Houses
4542	Vending Machine Operators
4543	Direct Selling Establishments (excluding Onsite Fuel Storage)

RETAIL STORE, LARGE. A single retail or wholesale use which occupies no less than 60,000 square feet of gross floor area, and may require high parking to building area ratios and have a regional sales market. Such stores include but are not limited to membership warehouse clubs that emphasize bulk sales, discount stores, and department stores.

RETAIL STORE, MEDIUM. A single retail or wholesale use which occupies between 25,000 and 60,000 square feet of gross floor area, typically requires moderate parking to building area ratios and usually has a local sales market.

RETAIL STORE, SMALL. A single retail or wholesale use which occupies less than 25,000 square feet of gross floor area, typically requires low parking to building area ratios and has a local or neighborhood sales market.

RIDING STABLES. An establishment where horses are boarded and cared for, where instruction in riding, jumping, and showing is offered, or where horses may be hired for riding.

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

ROOF LINE. The highest point of a flat roof or mansard roof, and the lowest point of a pitched roof, excluding any minor projections or ornamentation.

ROOF PITCH. A comparison of the vertical rise to the horizontal run of a roof structure above a building.

ROOF SIGN. See "*Sign, Roof.*"

ROOMING HOUSE. See "*Boarding or Rooming House*."

ROOT PROTECTION ZONE. Generally eighteen to twenty-four inches deep at a distance from the trunk equal to one-half of its height or to its drip line, whichever is greater.

SANITARY LANDFILL. See "*Landfill, Sanitary*."

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

SAWMILL. A facility where logs are sawn, split, shaved, stripped, chipped, or otherwise processed to produce wood products, not including the processing of timber for use on the same lot by the owner or resident of that lot.

SENSITIVE AREA. An area not suitable for development which includes the occupancy of animal and plant habitats that are rare and valuable due to their special role in an ecosystem, which could be disturbed by human activities and development. These areas are known to include wetlands, floodplains, and geologically hazardous sites.

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 KIOSK. A walk-up or drive-through self-service unit that provides convenience-type services including but not limited ice vending, movie rental, and household propane tanks.

SCHOOL, ELEMENTARY AND SECONDARY. A public or private school providing instruction to students in kindergarten through grade twelve.

SCHOOL, PRIVATE. A structure used primarily by and for any two 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 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 or more age or grade levels in grades kindergarten through twelve 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 or under not meeting these requirements shall be considered a day care facility for purposes of this ordinance.

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 a home occupation, college or university, or elementary or secondary school.

SCREENING. A fence, wall, hedge, landscaping, buffer area or any combination of these provided to visually shield or obscure one abutting or nearby structure or use from another.

SERVICES A, BUSINESS. An establishment primarily engaged in providing a service(s) to businesses and to a lesser extent, individuals. All merchandise and rental equipment are stored inside enclosed buildings. This definition includes only those uses in the following NAICS group(s):

5322 Consumer Goods Rental

5414	Specialized Design Services
5415	Computer Systems Design and Related Services
5614	Business Support Services
56141	Document Prep Services

SERVICES B, BUSINESS. 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. This definition includes only those uses in the following NAICS group(s):

5323	General Rental Centers
5418	Advertising and Related Services
5617	Services to Buildings and Dwellings
8113	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance
8114	Personal and Household Goods Repair and Maintenance
8123	Dry Cleaning and Laundry Services

SERVICES, PERSONAL. See "*Personal Services*."

SERVICE STATION. See "*Gasoline Station, Large*" or "*Gasoline Station, Neighborhood*."

SETBACK. The minimum required horizontal distance between a structure and the lot line or street centerline.

SETBACK, ESTABLISHED. The setback established by existing structures along a block front.

SETBACK, REQUIRED. The setback required by this ordinance.

SHADE TREE. Usually a deciduous tree, rarely an evergreen, planted primarily for its high crown of foliage or overhead canopy.

SHARED-USE PATH. Also known as a multi-use path, a shared use path is an 8-10 foot wide path that accommodate pedestrian and bicycle traffic located within or immediately adjacent to a street right-of-way as part of a multi-modal transportation network. Shared-use paths are typically paved with asphalt.

SHOOTING RANGE, INDOOR. The use of a completely enclosed structure for archery and/or the discharging of firearms for the purposes of target practice or temporary competitions.

SHOOTING RANGE, OUTDOOR. The use of land for archery and/or the discharging of firearms for the purposes of target practice or temporary competitions.

SHOPPING CENTER. A building or group of buildings with two or more uses, 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. Shopping centers shall be construed to include all out-parcels, whether or not developed, and shall permit any permitted within the zoning district in which it is located except for those uses that require outdoor storage.

SHOPPING CENTER, LARGE. A shopping center totaling 75,000 square feet or more of gross floor area.

SHOPPING CENTER, MEDIUM. A shopping center containing between 25,000 and 75,000 square feet of gross floor area.

SHOPPING CENTER, SMALL. A shopping center totaling twenty-five thousand square feet or less of gross floor area.

SHRUB. A woody, branching plant of relatively low height.

SIGHT DISTANCE TRIANGLE. The triangular area formed by the point of intersection of two street right-of-way lines and a point located along each right-of-way line at a distance of thirty-five feet from the point of intersection.

SIGHT EASEMENT. See "*Easement, Sight*."

SIGN. Any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

SIGN AREA. The area of a sign face.

SIGN FACE. That part of the sign that is or can be used to identify, advertise, or communicate information or that is used to attract the attention of the public for any purpose. This definition includes any frame, structural member, or other part of the sign when such is designed or used, including the use of color or lighting, to attract the attention of the public.

SIGN HEIGHT. The distance from the base of the sign at normal grade to the top of the highest attached component of the sign.

SIGN STRUCTURE. The frame supporting a freestanding sign, wall sign, projecting sign, suspended sign, portable sign, marquee sign, or roof sign and poles or supports used to elevate or support the frame.

SIGN, ANIMATED. Any sign that uses movement or change of lighting to depict action or create a special effect or scene.

SIGN, AWNING. See "*Sign, Canopy*".

SIGN, BANNER (OUTDOOR ADVERTISING). A sign intended to be hung either with or without a frame, possessing characters, letters, illustrations, or ornamentations applied to plastic or fabric of any kind, excluding flags and emblems of political, professional, religious, educational, or corporate organizations.

SIGN, BEACON. Any sign with one or more beams directed into the atmosphere or directed at one or more points not on the same zoning lot as the light source; also, any light with one or more beams that rotate or move.

SIGN, BILLBOARD. A type of off-premises sign, generally, but not always, consisting of a rigidly assembled sign, display, or devise, that is affixed to the ground or to a building, the primary purpose of which is to display advertising posters.

SIGN, BOX. A sign that is self-enclosed in structure with or without internal lighting, typically square or rectangular with a metal frame and plastic sign face. Also know as a cabinet sign.

SIGN, BUILDING. Any sign attached to any part of a building, as contrasted to a freestanding sign. Examples include, but are not limited to; wall, projecting; suspended; and roof (including integral roof) signs; marquees; canopies; banners; and building markers.

SIGN, CABINET. See "Sign, Box" definition.

SIGN, CAMPAIGN OR ELECTION. A sign that advertises a candidate or issue to be voted upon on a definite election day.

SIGN, CANOPY. Any sign that is a part of, or attached to, an awning, canopy, fabric or plastic, or structural protective cover over a door, entrance, window, or service area. Canopy signs do not project from the surfaces of the canopy. A marquee is not a canopy (see "*Sign, Marquee*").

SIGN, CHANGEABLE COPY. A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the remaining face or the surface of the sign. This does not include electronic message board signs.

SIGN, CHANNEL LETTERS. A type of custom wall sign for which the individual letters are three dimensional and may or may not be internally illuminated.

SIGN, COPY. Any words, letters, numbers, figures, characters, symbols, logos, or insignia that are used on a sign face.

SIGN, DEVELOPMENT ENTRYWAY SIGN. A freestanding ground sign that is located at the entrance of a residential, mixed use, commercial, or industrial development.

SIGN, DIRECTIONAL OR INSTRUCTIONAL. An on-premises sign designed to guide vehicular and/or pedestrian traffic.

SIGN, DIRECTORY. A sign other than an identification sign, listing the names, uses, or locations of the various businesses or activities conducted within a building or group of buildings that is centrally located and intended to provide direction.

SIGN, ELECTRONIC MESSAGE BOARD. Any portion of a sign that includes a message that is electronically changed without altering the surface of the sign.

SIGN FACE. The area or display surface of the sign used for the message.

SIGN, FLAG. Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols, provided that the height of the flag does not exceeds 25 percent of the height of the pole when erected in its display position.

SIGN, FLASHING. A sign that uses an intermittent or flashing light source to attract attention. A flashing sign shall include any sign whose message that scrolls or changes more often than every 30 seconds.

SIGN, FREESTANDING. Any sign supported by structures or supports that are placed on, or anchored in the ground and that are independent from any building or other structure. Examples include, but are not limited to, ground and pole signs.

SIGN, GOVERNMENT. Any temporary or permanent sign erected and maintained for any governmental purposes.

SIGN, GROUND. A freestanding sign, the entire bottom of which is generally in contact with, or in close proximity to, the ground.

SIGN, INCIDENTAL. A sign not legible from off-site, generally informational, that has a purpose secondary to the use of the zoning lot on which it is to be located, such as “no parking”, “entrance”, “loading only”, “telephone”, and other similar directives.

SIGN, KIOSK. A freestanding sign consisting of three to five sides within a planned development that is not legible from off-site.

SIGN, KNOCKOUT. An internally illuminated sign on which only the lettering and graphics are transparent to the light.

SIGN, MARQUEE. Any sign attached to, in any manner, a marquee. For purposes of this definition, a marquee is defined as a permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

SIGN, MONUMENT. A freestanding sign supported primarily by an internal structural framework or integrated into landscaping or solid structural features other than support poles where the base of the sign is on the ground or no more than twelve inches above the adjacent grade.

SIGN, MULTI-FACED. A sign having more than one face.

SIGN, MULTI-TENANT. A sign that contains identification for more than one business, when two or more businesses occupy the same lot of record and/or are located within a shopping center.

SIGN, PENNANT. Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

SIGN, PERMANENT BANNER. Any banner constructed of lightweight fabric or similar material that is permanently mounted to a building by a permanent frame, excluding flags (see "*Sign, Flag*").

SIGN, PLANNED DEVELOPMENT. Any type of sign that is part of an approved master sign package for a planned development.

SIGN, POLE. A freestanding sign that is supported by a pole(s) and otherwise separated from the ground by air.

SIGN, PORTABLE. Any sign not permanently attached to the ground or other permanent structures, or a sign designed to be transported including but not limited to, signs designed to be transported by means of wheels; signs converted to A- or T- frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless the vehicle is used in the normal day-to-day operations of the business.

SIGN, PROJECTING. A sign affixed to a building or wall in such a manner that its leading edge extends more than six inches beyond the surface of such building or wall.

SIGN, RIDER. A sign designed to accommodate other signs suspended from its frame.

SIGN, ROOF. Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, or extending vertically above the highest portion of the roof or parapet wall.

SIGN, SUSPENDED. A sign that is suspended from the underside of a horizontal plane surface which is supported by such surface.

SIGN, TEMPORARY. A sign which is not permanently installed in the ground or affixed to any structure or building, which is displayed for a limited period of time as established by this ordinance.

SIGN, WALL. Any sign attached parallel to, but within six inches of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.

SIGN, WINDOW. Any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

SIGNIFICANT TREE. Any tree other than a pine tree with a caliper of eighteen inches or more.

SINGLE-FAMILY DWELLING. See "*Residential Building, Single-Family*."

SITE PLAN. A scaled plan showing uses and structures proposed for a parcel of land as required by this ordinance, which includes lot lines, streets, building sites and buildings, reserved open space, major landscape features (natural and manmade), and the location of proposed utility lines when applicable in addition to other features which may be required by this ordinance.

SMALL MATURING TREES. A tree whose height is less than thirty-five feet at maturity and meets the specifications of *American Standards for Nursery Stock* published by the American Association of Nurserymen.

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

(A) Fowl and animal fecal waste;

(B) Solid or dissolved material in any of the following:

(1) Domestic sewage, and sludge generated by the treatment thereof, in sanitary sewage disposal systems which have a design capacity of more than 3,000 gallons or which discharge effluents to the surface waters,

(2) Irrigation return flows; or

(3) Wastewater discharges, and the sludge incidental thereto and generated by the treatment thereof, which are point sources subject to permits granted under Section 402 of the Federal Water Pollution Control Act, as amended (33 U.S.C. Sec. 1251 et seq.) and permits granted under G.S. 143-215.1 by the Environmental Management Commission;

(C) Oils and other liquid hydrocarbons controlled under Article 21A of Chapter 143 of the North Carolina General Statutes;

(D) Any radioactive material as defined by the North Carolina Radiation Protection Act (G.S. 104E-1 through 104E-23); or

(E) Mining refuse covered by the North Carolina Mining Act (G.S. 74-46 through 74-68), and regulated by the North Carolina Mining Commission (as defined under G.S. 143B-290).

SPECIMEN TREE. A specimen tree is a tree (or group of trees) that may be considered important community assets due to their unique or noteworthy characteristics or values. A tree may be considered a specimen tree based on its size, age, rarity or special historical or ecological significance and may also meet the following criteria:

(A) Large hardwoods (e.g., oaks, poplars, maples, etc.) and softwoods (e.g., pines sp.) in good or better condition with a DBH of twenty-four inches or greater.

(B) Smaller understory trees (e.g., dogwoods, redbuds, sourwoods, persimmons, etc.) in good or better condition with a DBH of twelve inches or greater

(C) Lesser-sized trees of rare species or special intrinsic value as approved by the town.

SPOT LIGHT. A lighting assembly designed to direct the output of a contained lamp in a specific tightly focused direction (a beam) with a reflector located external to the lamp.

STEALTH TELECOMMUNICATIONS ANTENNAE. Telecommunications antennae which are housed within a building or on a structure so that the antennae are disguised as some other permitted structure or use.

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, motor vehicle dismantling operations, or junkyards.

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 TANK, WATER. A standpipe or elevated tank used to store a supply of water or to maintain equal pressure on a water system.

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

STREAM BUFFER. An area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The stream buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

STREET. A right-of-way for vehicular travel.

STREET, ARTERIAL. A federal and/or state highway designed primarily for the movement of large volumes of vehicular traffic from one area or region to another; a thoroughfare. Also referred to as a major thoroughfare.

STREET, COLLECTOR. A public way designed primarily to connect minor streets with arterial streets and/or to provide direct connection between two or more arterial streets and which may be designed to carry significant volumes of vehicular traffic having neither origin nor destination on the street.

STREET, CUL-DE-SAC. A short minor street having one end open to traffic and the other permanently terminated by a vehicular turnaround.

STREET, MINOR NON-RESIDENTIAL. Those streets whose primary function is to provide direct access to commercial or industrial property.

STREET, MINOR RESIDENTIAL. Those streets whose primary function is to provide direct access to residential property.

STREET, PARALLEL FRONTAGE ROAD. A public or private street adjoining or parallel to an arterial street designed to provide access to abutting property in place of the arterial.

STREET, PRIMARY FRONTING. A public or private street upon which a corner lot has frontage and has a higher traffic volume than the other street(s) creating the corner lot.

STREET, SECONDARY FRONTING. A public or private street upon which a corner lot has frontage and has a lower traffic volume than the other street creating the corner lot.

STREET, PRIVATE. An interior circulation road designed and constructed to carry vehicular traffic from public streets within or adjoining a site to parking and service areas; it is not maintained nor intended to be maintained by the public.

STREET, PUBLIC. A right-of-way or fee simple tract of land which has been set aside for public travel, dedicated to the public by the recording of a subdivision plat, built to public street standards, and eligible for maintenance by either the Town of Bermuda Run or the State of North Carolina.

STREET, RURAL. A street designed for and located in non-urban and non-urbanizing areas as classified by the town.

STREET, STUB. A non-permanent dead-end street intended to be extended in conjunction with the subdivision or development of adjacent land.

STREET, URBAN. A street designed for and located in urban or urbanizing areas as classified by the town.

STREET LINE. The outer boundary of a street right-of-way.

STREET ORIENTATION. See "*Building Presentation*."

STREET RIGHT-OF-WAY. Street right-of-way shall mean any public right-of-way set aside for public travel which is accepted or eligible to be accepted for maintenance by the State of North Carolina or the Town of Bermuda Run or Davie County, if so authorized; or has been dedicated for public travel by the recording of a plat or a subdivision which has been approved or is subsequently approved by the Town of Bermuda Run; or has otherwise been established as a public street prior to the adoption of this ordinance.

STREET VISTA. A view framed by buildings at the termination of the axis of a thoroughfare or large neighborhood street.

STREET YARD. The area of land along the front property line parallel to a right-of-way reserved for tree planting and landscaping

STREETSCAPE. An area within a street's right-of-way that may contain sidewalks, street furniture, landscaping or trees, and similar features.

STRUCTURE. Anything constructed, installed, or portable, the use of which requires a location on a parcel of land. This includes a fixed or movable building which can be used for residential, business, commercial, agricultural, or office purposes, either temporarily or permanently. "Structure" also includes, but is not limited to, swimming pools, tennis courts, signs, cisterns, sewage treatment plants, sheds, and similar accessory construction; however, it 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, small non-permanent shelters for pets, playhouses, open stairs, recreational equipment, flagpoles, underground fallout shelters, air-conditioning compressors, pump houses, wells, mailboxes, outdoor fireplaces, burial vaults, or cemetery marker monuments.

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

STUDIOS. A working place or place of study for a painter, sculptor, photographer, dancer or person engaged in a similar artistic pursuit. This definition includes only those uses in the following NAICS group(s):

541430	Graphic Design Services
541921	Photography Studios, Portrait
541922	Commercial Photography
611610	Fine Arts Schools

SUBDIVIDER. Any person, firm, corporation, or entity who subdivides or develops any land deemed to be a subdivision as herein defined.

SUBDIVISION. All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all divisions 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:

(A) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the Town of Bermuda Run subdivision regulations;

(B) The division of land into parcels greater than ten acres where no street right-of-way dedication is involved;

(C) The public acquisition by purchase of strips of land for the widening or opening of streets or the location of public utility rights-of-way;

(D) 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 Town of Bermuda Run subdivision regulations;

(E) The division of land into plots or lots for use as a cemetery; and

(F) Subdivisions resulting from proceedings to partition interests in lots or parcels pursuant to Chapter 46 of the North Carolina General Statutes (or any successor statute) resulting in the division of a lot or parcel into two or more lots or parcels except where the partition proceeding is brought to circumvent the provisions of this ordinance or the Town of Bermuda Run subdivision regulations.

SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction, expansion, or improvement of a structure, the cost of which exceeds fifty percent of the assessed value of a structure as determined either before the expansion or improvement begins or before the damage occurred giving rise to the repair or reconstruction. "Substantial improvement" shall not include, however, any repair or improvement required to bring the structure into compliance with existing state or town code specifications necessary to insure safe habitation of the structure.

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

TELECOMMUNICATION TOWER. A structure either freestanding or attached to a building, principally intended to radiate or receive a source of non-ionizing electromagnetic radiation (NIER), and primary and accessory equipment related to broadcast services, cellular or digital telephone services, pagers, beepers, data, and common carriers (as regulated by the Federal Communications Commission), including FM, AM, two-way radio, fixed point microwave, commercial, satellite, cellular and PCS communication systems. The term telecommunication 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 feet in height with transmitting power of two hundred fifty watts or less.

TEMPORARY STRUCTURE. A building placed on a lot for a specific purpose which is to be removed within a specified time period. Examples of temporary structures are monitoring stations, mobile classrooms, construction trailers and guard houses, and produce stands.

TENANT BAY. The exterior portion of a multi-tenant building devoted to a single tenant.

THE 10/70 PROVISION. A provision of NCAC Section .0200 et. seq. that allows a local government to permit up to ten percent of its watershed jurisdiction outside of the critical area to be covered with up to seventy percent built-upon (impervious) surface.

TERMINAL, BUS OR TAXI. A facility for the storage, maintenance, and dispatch of buses or taxi, and associated customer ticketing and waiting areas. This definition includes only those uses in the following NAICS group(s):

485 Transit and Ground Passenger Transportation

TERMINAL, FREIGHT. Any facility for handling freight, with or without storage and maintenance facilities. This definition includes only those uses in the following NAICS group(s):

492 Couriers and Messengers
48849 Other Support Activities for Road Transportation

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 only those uses in the following NAICS group(s)

5417 Scientific Research and Development Services

THEATER, DRIVE-IN. An establishment for the outdoor viewing of motion pictures by patrons while in motor vehicles. This definition includes only those uses in the following NAICS group(s)

512132 Drive-In Motion Picture Theaters

THEATER, INDOOR. An establishment for the indoor viewing of motion pictures by patrons. This definition includes only those uses in the following NAICS group(s)

512131 Motion Picture Theaters (except Drive-Ins)

THOROUGHFARE. See "*Street, Arterial*."

THOROUGHFARE PLAN. The most recent map adopted by the town council which indicates the system of roads expected to serve major access and travel needs with regard to auto, truck, and transit transportation.

TIRE RECAPPING SHOPS. Establishments primarily engaged in repairing, re-treading, and rebuilding tires from natural or synthetic rubber. This definition includes only those uses in the following NAICS group(s):

326212 Tire Re-treading

TOWER, GUYED. A type of wireless transmission tower that is supported by guy wires.

TOWER, LATTICE. A self-supporting three or four-sided, open steel frame structure used to support telecommunications equipment.

TOWER, MONOPOLE. A slender, often telescoping, self-supporting tower used to support telecommunications equipment.

TOWER, STEALTH. Any tower which is designed to blend into the surrounding environment.

TOWER, TELECOMMUNCATIONS. A structure, either freestanding or attached to a building, principally intended to support a telecommunications antenna.

TOWNHOUSE. See "*Residential Building, Townhouse*."

TRADITIONAL NEIGHBORHOOD. A traditional neighborhood is one that incorporates design principles that produce compact, mixed-use, pedestrian scaled communities designed to:

(A) Promote independence of movement for the elderly and young by bringing many activities of daily living within walking distance.

(B) Reduce traffic congestion and road construction costs by reducing number and length of car trips.

(C) Use or allow for future use of alternative forms of transportation by organizing appropriate building densities.

(D) Improve security of public spaces organized to stimulate informal surveillance by residents and business operators.

(E) Enhance the sense of community and improve security through the provision of a range of housing types and workplaces in proximity to one another.

(F) Provide accessible places for public assembly and civic engagement by identification of suitable sites for civic buildings.

TRANSITIONAL SETBACK OR YARD. That area, if any, along a thoroughfare, which lies between: a) the minimum setback or yard line for the zoning district measured from the existing street right-of-way line; and b) the minimum setback or yard line measured from the proposed right-of-way line.

TRANSITIONAL USE. A permitted use or structure that, by nature, level of activity, or physical scale, acts as a transition or intermediate use between two or more incompatible uses.

TREE. A large, woody plant having one or more self-supporting stems or trunks and numerous branches. May be classified as deciduous or evergreen.

TREE STAND. An aggregation of trees occupying a specific area and sufficiently uniform in composition, age, arrangement, and condition to make it distinguishable from the forest or adjoining areas.

UNDERSTORY TREE. A species of tree which normally grows to a mature height of fifteen to thirty-five feet in height and meets the specifications of the *American Standards for Nursery Stock* published by the American Association of Nurseryman.

UNIVERSITY, COLLEGE AND JUNIOR COLLEGE. A use, whether privately-owned or publicly-owned, providing academic education beyond the high school level.

USE, PRINCIPAL. The primary or predominant use of any lot or parcel.

USE, TEMPORARY. A use established for a limited duration with the intent to discontinue such use upon the expiration of the time period.

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 sign, 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.

UTILITIES, ABOVE GROUND. Above ground facilities associated with the distribution and collection of water, sewer, electric, gas, cable TV, telephone, or internet service except that such shall not include any facility otherwise defined and regulated by this ordinance such as telecommunication towers or public works facilities.

UTILITIES, BELOW GROUND. Utility facilities located entirely below ground associated with the distribution and collection of water, sewer, electric, gas, cable TV, telephone, or internet service except that such shall not include any facility otherwise defined and regulated by this ordinance.

UTILITIES 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, switch gear, transformers, water towers, pump stations, lift stations, utility substations or similar appurtenances 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 structure owned by a utility for the service of one or more premises, but excluding utility substations.

VARIANCE. Relief from the requirements of this ordinance granted by the board of adjustment.

VESTED RIGHT (ZONING). A right established pursuant to the provisions of this ordinance to undertake and complete the development and use of property.

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. This definition includes only those uses in the following NAICS group(s):

54194 Veterinary Services
81291 Pet Care (except Veterinary) Services

WALL SIGN. See "*Sign, Wall*."

WAREHOUSING. Establishments primarily engaged in the warehousing and storage of general merchandise, refrigerated goods, and farm products. This definition includes only those uses in the following NAICS group(s)

4931 Warehousing and Storage

WAREHOUSING, SELF STORAGE. Establishments primarily engaged in the rental or leasing of mini-warehouses and self-storage units. This definition includes only those uses in the following NAICS group(s)

531130 Lessors of Mini Warehouses and Self-Storage Units

WASTE INCINERATOR. A site with one or more facilities that use thermal combustion processes to destroy or alter the character or composition of waste products, not including hazardous waste management facilities.

WASTE TRANSFER STATION. A fixed facility where solid waste from collection vehicles is consolidated and temporarily stored for subsequent transport to a permanent disposal site.

WATER DEPENDENT STRUCTURES. Those structures for which the use requires access or proximity to or sitting within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks, piers, bulkheads and similar structures. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots, and commercial boat storage areas are not water dependent structures.

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.

WATERSHED. The entire land area contributing surface drainage into a specific stream, creek, lake or other body of water.

WATERSHED BUFFER. A natural or vegetated area through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized, and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

WATERSHED 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 is defined as extending 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).

WATERSHED PROTECTED AREA. The area adjoining and upstream of the critical areas and encompassing the remainder of the watershed where risk of water quality degradation from pollution is less than in the critical area.

WHOLESALE TRADE A. An establishment primarily engaged in selling durable and non-durable goods to retailers; to industrial, commercial, institutional, farm, construction contractors; or for 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 lots 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 of sales to retail customers require the appropriate retail zoning district. This definition includes only those uses in the following NAICS group(s):

4231	Motor Vehicle and Motor Vehicle Parts and Supplies Merchant Wholesalers
4232	Furniture and Home Furnishing Merchant Wholesalers
4233	Lumber and Other Construction Materials Merchant Wholesalers
4234	Professional and Commercial Equipment and Supplies Merchant Wholesalers
4236	Electrical and Electronic Goods Merchant Wholesalers
4237	Hardware and Plumbing and Heating Equipment and Supplies Merchant Wholesalers
4239	Miscellaneous Durable Goods Merchant Wholesalers
4241	Paper and Paper Products Merchant Wholesalers
4242	Drugs and Druggists' Sundries Merchant Wholesalers
4243	Apparel, Piece Goods, and Notions Merchant Wholesalers
4244	Grocery and Related Product Merchant Wholesalers
4248	Beer, Wine, and Distilled Alcoholic Beverage Merchant Wholesalers (unless associated with permitted winery, micro-brewery, -winery, -distillery)

4249 Miscellaneous Non-durable Goods Merchant Wholesalers (except 424910 Farm Supplies Merchant Wholesalers)

WHOLESALE TRADE B. An establishment primarily engaged in selling durable and non durable goods to retailers; to industrial, commercial, institutional, farm, construction contractors; or to professional business uses; or to other wholesalers. Merchandise may be stored outside or inside enclosed buildings. Activities including physically assembling, sorting, and grading goods in large lots, and breaking bulk lots for redistribution in smaller lots may be conducted outside enclosed buildings. Operations with over twenty-five percent of sales to retail customers require the appropriate retail zoning district. This definition includes only those uses in the following NAICS group(s):

4211	Motor Vehicle and Motor Vehicle Parts and Supplies Merchant Wholesalers (except 42314 Motor Vehicle Parts (Used) Merchant Wholesalers)
4215	Metal and Mineral (excluding Petroleum) Merchant Wholesalers
4218	Machinery, Equipment and Supplies Merchant Wholesalers
4225	Farm Product Raw Material Merchant Wholesalers
4226	Chemical and Allied Products Merchant Wholesalers
422910	Farm Supplies Merchant Wholesalers

WINE CENTER. An establishment intended to encourage tourism within the Yadkin Valley American Viticultural Area (AVA) that may include enological and/or viticultural education, small-scale wine production, wine tastings, retail sales of wine and related products, a base of operations for area winery tours, and related culinary establishments or restaurants and overnight accommodations.

WINERY. An operation where wine is fermented and produced from fruit primarily grown on-site for distribution and consumption, and which possesses the appropriate license from the State of North Carolina Alcoholic Beverage Control Commission in accordance with N.C.G.S. 18B. A winery may include associated retail outlets, tasting rooms, and restaurants. If production exceeds the equivalent of 50,000 gallons, then the facility shall be classified as Beverage Manufacturing under the definition of "Manufacturing B".

WORKING DAY. Any day on which the offices of the Town of Bermuda Run are officially open, not including Saturdays, Sundays, and other holidays designated by the town council.

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 line of the principle structure 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 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 line of the principle structure as required in this ordinance.