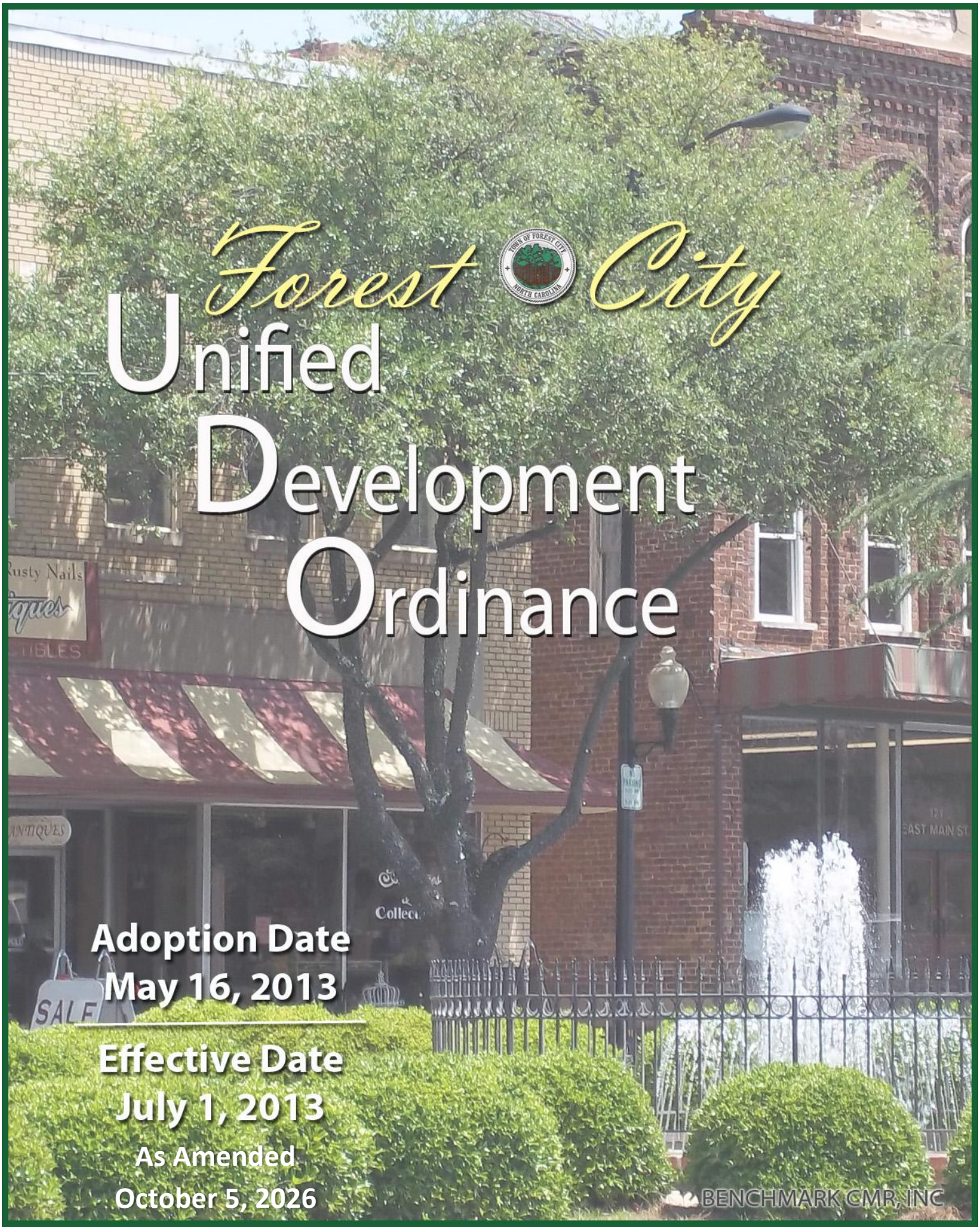

Forest City
Unified
Development
Ordinance
Adoption Date
May 16, 2013
Effective Date
July 1, 2013
As Amended
October 5, 2026
BENCHMARK CMR, INC

UDO Text Amendment Record

Date	Case #	Case Title	Amended Sections
5/19/2014	TA 2014-02	Board of Adjustment legislative changes	15.4
8/18/2014	TA 2014-01	Electronic changeable copy signs	6.3.4, 6.5
11/17/2014	TA 2014-03	Highway 74 Bypass sign height	6.4.3
4/20/2015	TA 2015-03	Sidewalks, Micro-breweries, distilleries, wineries	3.3, 4.5, App. A
8/15/2015	TA 2015-02	PRD Broadcasting and Caretakers Residence	3.3, 4.7.3, App. A
10/5/2015	TA 2015-02	C-2 Signs	6.4.3
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6/20/2016	TA 2016-02	Nonconforming Manufactured Homes	13.6
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1/7/2019	TA 2018-02	C-2 Residential Dimensions	3.4.2
7/15/2019	TA 2019-01	Accessory Dwellings in R-20	4.2.1
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11/4/2019	TA 2019-03	Zoning Protest Petition	14.7
11/4/2019	TA 2019-04	Accessory Dwelling Owner-Occupancy	4.2.1
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CHAPTER 1
PURPOSE AND AUTHORITY

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1.1 Title

This Ordinance shall be known and may be cited as the *Unified Development Ordinance* of the Town of Forest City, North Carolina and shall be known as the UDO. The official map designating the various zoning districts shall be titled, Town of Forest City Zoning Map and shall be known as the Zoning Map.

1.2 Purpose

The zoning regulations and districts as herein set forth have been with reasonable consideration, among other things to the character of each Zoning District and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the Town and have been made in accordance with the Comprehensive Land Use Plan and for the purpose of:

(A) Promoting the public health, safety, morals and general welfare;

(B) Promoting the orderly growth and development of the Town of Forest City;

(C) Lessening congestion in the street and roads;

(D) Providing adequate light and air;

(E) Securing safety from fire, panic and other dangers;

(F) Preventing the overcrowding of land;

(G) Avoiding undue congestion of population; and

(H) Facilitating the adequate provision of transportation, water, sewerage, schools, parks and other public requirements.

1.3 Authority

This Ordinance is enacted pursuant to the authority conferred by Chapter 160D of the North Carolina General Statutes.

1.4 Applicability

1.4.1 Jurisdiction

For the purpose of this Ordinance, the zoning jurisdiction of the Town of Forest City shall include the land within the corporate limits of the Town and that land located between those limits and the boundaries established in the municipal ordinance establishing extraterritorial jurisdiction boundaries, now or hereafter fixed.

1.4.2 Exemptions to Applicability

(A) Subject to NCGS 160D-108 and Section 1.7, the regulations of this Ordinance shall not apply to any land or structure for which, prior to the effective date hereof, there is a properly approved site-specific plan as required by the requirements previously adopted.

(B) As set forth in NCGS 160D-903, bona fide farms, are not affected by these regulations but any use of farm property for non-farm purposes is subject to these regulations.

1.4.3 Minimum Regulations

Regulations set forth by this Ordinance shall be minimum regulations. If the requirements set forth in this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations or ordinance, the more restrictive or higher standards shall govern.

1.4.4 Incorporation of Zoning Map

The Official Zoning Map, Forest City, North Carolina and all notations, references and other information shown on the map are hereby incorporated and made a part of this Ordinance.

1.5 Abrogation

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, morals and general welfare. It is not intended by this Ordinance to interfere with, abrogate, or annul easements, covenants, water supply watershed regulations, or other agreements between parties; provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of this Ordinance shall govern.

1.6 Conformance with Adopted Plans and Right-of-Way Dedication

(A) In accordance with NCGS 160D-501, the regulations adopted pursuant to this Ordinance shall be consistent with the Comprehensive Land Use Plan and any specific plans adopted by the Board of Commissioners. All new developments shall be designed in conformance with adopted plans including but not limited to adopted comprehensive plans, comprehensive transportation plans, small area plans, land use plans, parks and recreation plans and any other adopted plans.

(B) When a proposed development includes any part of a thoroughfare which has been designated as such upon the officially adopted Comprehensive Transportation Plan, such thoroughfare right(s)-of-way shall be dedicated and constructed by the developer(s) as shown on the plan. Where such right-of way does not currently exist, the developer shall be required to dedicate the necessary right-of-way on the development side of the street.

1.7 Permit Choice and Vested Rights

1.7.1 Permit Choice

If a regulation of this Ordinance is amended between the time a development permit application was submitted and a development permit decision is made or if a land development regulation is amended after a development permit decision has been has been challenged and found to be wrongfully denied or illegal, NCGS 143-755 applies.

1.7.2 Vested Rights

(A) Amendments to this Ordinance are not applicable or enforceable without the written consent of the owner with regard to any of the following:

(1) Buildings or uses of buildings or land for which a development permit application has been submitted and subsequently issued in accordance with NCGS 143-755.

(2) Subdivisions of land for which a development permit application authorizing the subdivision has been submitted and subsequently issued in accordance with NCGS 143-755.

(3) A site-specific vesting plan pursuant to NCGS 160D-108.1.

(4) A multi-phased development pursuant to Section 1.7.5.

(5) A vested right established by the terms of a development agreement authorized by Article 10 of NCGS Chapter 160D.

(B) The establishment of a vested right under any subdivision of this subsection does not preclude vesting under one or more other subdivisions of this subsection or vesting by application of common law principles. A vested right, once established as provided for in this section or by common law, precludes any action by a Town that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property allowed by the applicable land development regulation or regulations, except where a change in State or federal law mandating Town enforcement occurs after the development application is submitted that has a fundamental and retroactive effect on the development or use.

1.7.3 Duration of Vesting

(A) Upon issuance of a development permit, the statutory vesting granted by Section 1.7.2 for a development project is effective upon filing of the application in accordance with NCGS 143-755, for so long as the permit remains valid pursuant to law. Unless otherwise specified by this section or other statute, local development permits expire one (1) year after issuance unless work authorized by the permit has substantially commenced. This Ordinance may provide for a longer permit expiration period for certain development types. For the purposes of this section, a permit is issued either in the ordinary course of business of the applicable governmental agency or by the applicable governmental agency as a court directive.

(B) Except where a longer vesting period is provided by statute or land development regulation, the statutory vesting granted by this section, once established, expires for an uncompleted development project if development work is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months, and the statutory vesting period granted by this section for a nonconforming use of property expires if the use is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months. The 24-month discontinuance period is automatically tolled during the pendency of any board of adjustment proceeding or civil action in a State or federal trial or appellate court regarding the validity of a development permit, the use of the property, or the existence of the statutory vesting period granted by this section. The 24-month discontinuance period is also tolled during the pendency of any litigation involving the development project or property that is the subject of the vesting.

1.7.4 Multiple Permits for Development Project

Subject to subsection (d) of this section, where multiple local development permits are required to complete a development project, the development permit applicant may choose the version of each of the local land development regulations applicable to the project upon submittal of the application for the initial development permit. This provision is applicable only for those subsequent development permit applications filed within 18 months of the date following the approval of an initial permit. For purposes of the vesting protections of this subsection, an erosion and sedimentation control permit or a sign permit is not an initial development permit.

1.7.5 Multi-Phased Development

(A) A multi-phased development is vested for the entire development with the land development regulations then in place at the time a site plan approval is granted for the initial phase of the multi-phased development. A right which has been vested as provided for in this subsection remains vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multi-phased development.

(B) A multi-phased development contains 25 acres or more that is submitted for development permit approval to occur in more than one phase and subject to a master development plan with committed elements showing the type and intensity of use of each phase.

1.7.6 Continuing Review

Following issuance of a development permit, a Town may make subsequent inspections and reviews to ensure compliance with the applicable land development regulations in effect at the time of the original application.

1.7.7 Process to Claim Vested Right

A person claiming a statutory or common law vested right may submit information to substantiate that claim to the zoning administrator or other officer designated by a land development regulation, who shall make an initial determination as to the existence of the vested right. The decision of the zoning administrator or officer may be appealed under NCGS 160D-405. On appeal, the existence of a vested right shall be reviewed de novo. In lieu of seeking such a determination or pursuing an appeal under NCGS 160D-405, a person claiming a vested right may bring an original civil action as provided by NCGS 160D-1403.1.

1.7.8 Site-Specific Vesting Plan

(A) A site-specific vesting plan consists of a plan submitted to a Town in which the applicant requests vesting pursuant to this section, describing with reasonable certainty on the plan the type and intensity of use for a specific parcel or parcels of property. The plan may be in the form of, but not be limited to, any of the following plans or approvals: a planned unit development plan, a subdivision plat, a preliminary or general development plan, a special use permit, a conditional district zoning plan, or any other land-use approval designation as may be utilized by a Town.

(B) Unless otherwise expressly provided by the Town, the plan shall include the approximate boundaries of the site; significant topographical and other natural features affecting development of the site; the approximate location on the site of the proposed buildings, structures, and other improvements; the approximate dimensions, including height, of the proposed buildings and other structures; and the approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways.

(C) What constitutes a site-specific vesting plan under this section that would trigger a vested right shall be finally determined by the Town pursuant to a development regulation, and the document that triggers the vesting shall be so identified at the time of its approval.

(D) A variance does not constitute a site-specific vesting plan, and approval of a site-specific vesting plan with the condition that a variance be obtained does not confer a vested right unless and until the necessary variance is obtained. If a sketch plan or other document fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property, it may not constitute a site-specific vesting plan.

1.7.9 Establishment of Vested Right

A vested right is established with respect to any property upon the valid approval, or conditional approval, of a site-specific vesting plan as provided in this section. Such a vested right confers upon the landowner the right to undertake and complete the development and use of the property under the terms and conditions of the site-specific vesting plan, including any amendments thereto.

1.7.10 Approval, Amendment, and Continuing Review of for Site-Specific Vesting Plans

(A) If a site-specific vesting plan is based on an approval required by a local development regulation, the Town shall provide whatever notice and hearing is required for that underlying approval. A duration of the underlying approval that is less than two years does not affect the duration of the site-specific vesting plan established under this section. If the site-specific vesting plan is not based on such an approval, a legislative hearing with notice as required by NCGS 160D-602 shall be held.

(B) A Town may approve a site-specific vesting plan upon any terms and conditions that may reasonably be necessary to protect the public health, safety, and welfare. Conditional approval results in a vested right, although failure to abide by the terms and conditions of the approval will result in a forfeiture of vested rights. A Town shall not require a landowner to waive the landowner's vested rights as a condition of developmental approval. A site-specific vesting plan is deemed approved upon the effective date of the Town's decision approving the plan or another date determined by the governing board upon approval. An approved site-specific vesting plan and its conditions may be amended with the approval of the owner and the Town as follows: any substantial modification must be reviewed and approved in the same manner as the original approval; minor modifications may be approved by staff, if such are defined and authorized by local regulation.

(C) Following approval or conditional approval of a site-specific vesting plan, a Town may make subsequent reviews and require subsequent approvals by the Town to ensure compliance with the terms and conditions of the original approval,

provided that these reviews and approvals are not inconsistent with the original approval. The Town may, pursuant to G.S. 160D-403(f), revoke the original approval for failure to comply with applicable terms and conditions of the original approval or the applicable local development regulations.

1.7.11 Duration and Termination of Vested Right for Site-Specific Vesting Plans

(A) A vested right for a site-specific vesting plan remains vested for a period of two (2) years. This vesting shall not be extended by any amendments or modifications to a site-specific vesting plan unless expressly provided by the Town.

(B) Notwithstanding the provisions of Subsection (A), the Town may provide for rights to be vested for a period exceeding two (2) years but not exceeding five (5) years where warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions or other considerations. These determinations are in the sound discretion of the Town and shall be made following the process specified for the particular form of a site-specific vesting plan involved in accordance with subsection (a) of this section.

(C) Upon issuance of a building permit, the provisions of NCGS 160D-1111 and NCGS 160D-1115 apply, except that a permit does not expire and shall not be revoked because of the running of time while a vested right under this section is outstanding.

(D) A right vested as provided in this section terminates at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed.

1.7.12 Subsequent Changes Prohibited; Exceptions

(A) A vested right, once established as provided for in this section, precludes any zoning action by a Town which would change, alter, impair, prevent , diminish, or otherwise delay the development or use of the property as set forth in an approved site-specific vesting plan, except under one or more of the following conditions:

(1) With the written consent of the affected landowner.

(2) Upon findings, by ordinance after notice and an evidentiary hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site-specific vesting plan.

(3) To the extent that the affected landowner receives compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consulting fees incurred after approval by the Town, together with interest as provided under NCGS 160D-106.

Compensation shall not include any diminution in the value of the property which is caused by the action.

(4) Upon findings, by ordinance after notice and an evidentiary hearing, that the landowner or the landowner's representative intentionally supplied inaccurate information or made material misrepresentations that made a difference in the approval by the Town of the site-specific vesting plan or the phased development plan.

(5) Upon the enactment or promulgation of a State or federal law or regulation that precludes development as contemplated in the site-specific vesting plan or the phased development plan, in which case the Town may modify the affected provisions, upon a finding that the change in State or federal law has a fundamental effect on the plan, by ordinance after notice and an evidentiary hearing.

(B) The establishment of a vested right under this section does not preclude the application of overlay zoning or other development regulations which impose additional requirements but do not affect the allowable type or intensity of use, or ordinances or regulations which are general in nature and are applicable to all property subject to development regulation by a Town, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise applicable new regulations become effective with respect to property which is subject to a site-specific vesting plan upon the expiration or termination of the vesting rights period provided for in this section.

(C) Notwithstanding any provision of this section, the establishment of a vested right does not preclude, change, or impair the authority of a Town to adopt and enforce development regulations governing nonconforming situations or uses.

1.7.13 Miscellaneous Provisions

The vested rights granted by this section run with the land except for the use of land for outdoor advertising governed by NCGS 136-131.1 and NCGS 136-131.2 in which case the rights granted by this section run with the owner of a permit issued by the North Carolina Department of Transportation. Nothing in this section precludes judicial determination, based on common law principles or other statutory provisions, that a vested right exists in a particular case or that a compensable taking has occurred. Except as expressly provided in this section, nothing in this section shall be construed to alter the existing common law.

1.8 Separability

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid by the courts, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Commissioners hereby declares that it has passed this Ordinance and each section, subsection, clause and phrase thereof, irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses, or phrases be declared invalid.

1.9 Effective Date

These regulations shall become effective on July 1, 2013, and each date subsequently amended. Upon such date, these regulations shall supersede, repeal and replace the Town of Forest City Zoning Ordinance and Subdivision Ordinance.

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CHAPTER 2
GENERAL PROVISIONS

2.1 Applicability of General Provisions 2-1
2.2 General Lot Standards 2-1
2.3 General Development Standards 2-2
2.4 Uses Not Expressly Permitted 2-3

2.1 Applicability of General Provisions

The following provisions shall apply throughout the jurisdiction of this Ordinance, regardless of the underlying regulating district.

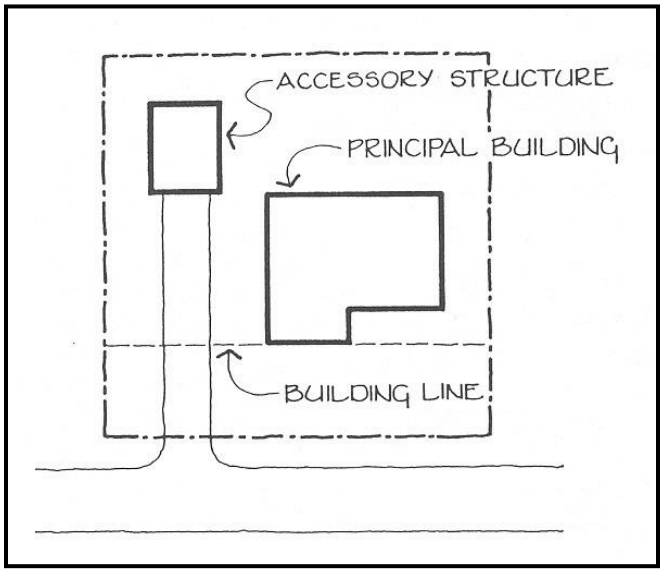
2.2 General Lot Standards

2.2.1 Use

(A) No building or land shall hereafter be used and no building or part thereof shall be erected, moved or altered except in conformity with the regulations herein specified for the district in which it is located, except as hereinafter provided in this Ordinance.

(B) Only one (1) principal building and its customary accessory structure(s) may hereafter be erected on any lot, except as allowed in individual districts for non-residential and mixed use developments.

FIGURE 2.1: PRINCIPAL AND ACCESSORY STRUCTURES



2.2.2 Lot of Record

(A) No yard or lot existing at the time of passage of this Ordinance shall be reduced in size or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall be at least the minimum requirements established by this Ordinance.

(B) Where the owner of a lawfully existing lot of official record in any residential district or the owner's successor in title thereto does not own sufficient contiguous land to enable the owner to conform to the minimum lot size requirements of this Ordinance, such lot may be used as a residential building site, where permitted, provided, however, that the other requirements of the district are compiled with or a variance is obtained from the Board of Adjustment.

(C) Notwithstanding the foregoing, whenever two (2) or more adjoining vacant lots of record are in a single ownership at any time after the adoption of this Ordinance and such lots individually have less area or width than the minimum requirements of the district in which such lots are located, such lots shall be considered as one (1) or more lots which meet the minimum requirements of this Ordinance for the district in which such lots are located and shall be combined by deed or plat prior to the development of any such lot.

2.2.3 Lot Access

(A) No building, structure or use of land for other than agricultural purposes shall be constructed on a lot, which does not abut a street at least 25 feet except as outlined in subsection (B).

(B) A maximum of two (2) lots may be divided from any tract of land in the city limits or the ETJ (extra territorial jurisdiction) that was "land locked" as of May 5, 2004. Said lot or lots shall meet the minimum size requirements of the district in which it is located and shall be served by an easement of no less than 25 feet in width, which is connected to a dedicated right-of-way. The said 25-foot easement shall serve only the two (2) lots to be subdivided and the original tract shall be legally described and recorded in the Rutherford County Register of Deeds.

(C) Through lots (double frontage lots) shall be avoided, wherever possible.

2.3 General Development Standards

2.3.1 Suitability of Land

(A) Land which, on the basis of engineering or other expert surveys, has been determined to pose an ascertainable danger to life or property by reason of its unsuitability for the use proposed shall not be developed for that purpose, unless and until the developer has taken the necessary measures to correct said conditions and to eliminate said dangers.

(B) Areas that have been used for disposal of solid waste shall not be developed unless tests by the Health Department, a structural engineer and a soils expert determine that the land is suitable for the purpose proposed.

(C) All development proposals shall be consistent with the need to minimize flood damage in accordance with regulations of the Flood Damage Prevention provisions of Chapter 7.

2.3.2 Name Duplication

The name of the development shall not duplicate nor closely approximate the name of an existing development within the Town of Forest City. All final development and street names shall be reviewed and approved by Rutherford County E-911/Addressing.

2.4 Uses Not Expressly Permitted

(A) Uses designated as "permitted uses" and “uses permitted with supplemental requirements” are allowed in a district as a matter of right if other applicable regulations of this Ordinance are met.

(B) Uses classified as “special uses” are permitted upon approval of a Special Use Permit and development plan by the Board of Adjustment.

(C) The Board of Adjustment may after having held a public hearing in accordance with Chapter 15 determine if a use is permitted within a zoning district based on its interpretation of this Ordinance if the Administrator determines that the use’s permissibility within a zoning district is unclear in the Ordinance.

(D) Unless a use is allowed as a "permitted", "use permitted with supplemental requirements”, "special use”, "nonconforming use", or "temporary use" in this Ordinance, then such use is prohibited.

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CHAPTER 3
ZONING DISTRICTS

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3.1 Interpretation

3.1.1 Definition of Zoning

(A) Zoning is the process by which an area is divided into various districts, each of which is specifically intended for different uses and intensity of uses and within which the use of land and buildings, the height and dimension of buildings, the size of required yards and the population density are regulated.

(B) Further, the regulations are to be made with reasonable consideration, among other things, to the character of the district and its unique suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the town's jurisdiction.

3.1.2 Zoning District Authority

(A) Pursuant to the authority established in NCGS 160D-702, the Town, as shown on the Zoning Map accompanying this Ordinance, is hereby divided into districts which shall be governed by all of the uniform use and dimensional requirements of this Ordinance.

(B) The town's territorial jurisdiction is divided into districts, or zones, of any number, shape and area that may be deemed best suited to carry out the purposes of Article 7 of NCGS Chapter 160D. Within those districts, the municipality may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land.

3.1.3 Zoning Map

(A) For the purposes of this Ordinance, the Town of Forest City is hereby divided into zoning districts whose locations and boundaries are shown on the Official Zoning Map for the Town of Forest City which is hereby adopted by reference and declared to be a part of this Ordinance.

(B) This Zoning Map and all the notations, references and all amendments thereto, and other information shown thereon are hereby made a part of this Ordinance the same as if such information set forth on the map were all fully described and set out herein. The Zoning Map properly attested is on file in the Town Hall and is available for inspection by the public.

(C) In accordance with NCGS 160D-105, the Administrator shall maintain in paper and/or digital format the official Zoning Map and any state or federal maps incorporated by reference into the Zoning Map, in accordance with NCGS 160D-105. Upon notification by the Town Board that a zoning change has been made, the Administrator shall make the necessary changes on the Official Zoning Map. Current and prior zoning maps shall be maintained for public inspection.

(D) Where uncertainty exists as to the boundaries of any district shown on the Official Zoning Map, the Administrator shall employ the following rules of interpretation.

(1) Centerline

Where a boundary line lies within and follows a street or alley right-of-way, a railroad right-of-way, or utility easement, the boundary shall be construed to be in the center of such street or alley right-of-right, railroad right-of-way, or utility easement forming the boundary between two (2) separate zoning districts. If such right-of-way is abandoned or removed from dedication, the district boundaries shall be construed as following the centerline of the abandoned or vacated street or utility easement.

(2) Edge Line

Where a boundary line follows the edge of a street or alley right-of-way, a railroad right-of-way, or utility easement, the boundary shall be construed to be on the edge of such street or alley right-of-way, railroad right-of-way, or utility easement. If such a street or alley right-of-way, railroad right-of-way, or utility easement forming the boundary between two (2) separate zoning districts is abandoned or removed from dedication, the district boundaries shall be construed as following the edge of the abandoned or vacated street or utility easement.

(3) Lot Line

Boundaries indicated as approximately following lot lines shall be construed as following such lot lines. In the event that a district boundary line divides a lot or tract, each part of the lot or tract so divided shall be used in conformity with the regulations established by this Ordinance for the district in which said part is located.

(4) Town Limits

Boundaries indicated as approximately following town limits or extraterritorial boundary lines shall be construed as following the town limits or extraterritorial boundary lines.

(5) Watercourses

Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines.

(6) Extensions

Boundaries indicated as parallel to or extensions of street or alley rights-of-way, utility easements, lot lines, city limits, county lines, or extraterritorial boundaries shall be so construed.

(7) Scaling

In a case where a district boundary does not coincide with any boundary lines as above and no distances are described by specific ordinance; the boundary shall be determined by the use of the scale appearing on the map.

(8) Where the Administrator determines that physical features existing on the ground, or actual property lines or other man-made boundary lines used to depict zoning district boundaries, are different than those shown on the Official Zoning Map, the Board of Adjustment shall have the authority to interpret Zoning district boundaries.

3.1.4 District and Permitted Use Interpretation

Each zoning district has uses permitted by right, uses permitted with supplemental requirements and special uses. Tables are shown for each district placing uses under one (1) of the three (3) categories. In addition to the individual district tables, is a detailed permitted uses table showing the uses allowed in each district. The following describes the processes of each of the three (3) categories that the uses are subject to:

(A) Permitted by Right

Administrative review and approval subject to district provisions and other applicable requirements only.

(B) Permitted with Special Requirements

Administrative review and approval subject to district provisions, other applicable requirements outlined in Chapter 4.

(C) Special Uses

Board of Adjustment review and approval of Special Use Permit subject to district provisions, other applicable requirements and conditions of approval. Some Special Uses may also be subject to supplemental requirements outlined in Chapter 4.

3.1.5 Other Requirements

Refer to all other local, state and federal requirements.

3.2 Zoning Districts

Zoning districts are created to provide comprehensive land use regulations throughout Forest City. There are 11 zoning districts that provide for a variety of uses that are appropriate to the character of the areas in which they are located. For the purpose of this Ordinance, Forest City is hereby divided into the following base zoning districts. These districts shall comply with all of the general and specific requirements of this Ordinance. These districts also have corresponding Conditional Zoning districts set forth in Section 3.5.

3.2.1 R-20 Low Density Residential/Agricultural District

The R-20 Low Density Residential District is established as a district in which the principal use of the land is for low density residential or agricultural uses and to provide and protect low density residential areas for those desiring that type of development. The R-20 district also permits associated public and private facilities typically associated with such districts.

3.2.2 R-15 Low Density Residential District

The R-15 Low Density Residential District is established as a district in which the principal use of the land is for low-density single-family residential purposes. This district is further intended to protect existing single-family neighborhoods in Forest City from incompatible land uses. It is also the intent of this district to allow for certain types of non-residential community facilities that would not be detrimental to the residential character of the district.

3.2.3 R-8 Medium Density Residential District

The R-8 Medium Density Residential District is established as a district in which the principal use of land is for medium density single-family residential purposes. This district thus allows for a variety of residential uses in areas where the traffic circulation pattern would accommodate medium density residential development. It is also the intent of this district to allow for certain type of nonresidential community facilities that would not be detrimental to the residential character of the district.

3.2.4 R-6 High Density Residential District

The R-6 High Density Residential District is established as a district in which the principal use of land is for high-density residential purposes. This district thus allows the highest residential density in the town in a variety of residential uses in areas where traffic circulation patterns can accommodate such densities. It is also the intent of this district to allow for certain types of nonresidential community facilities and services that would not be detrimental to the residential character of the district.

3.2.5 R-4 Flexible Multi-Family Residential District (Conditional Zoning Only)

The R-4 Multi-Family Residential District is established as a district in which the principal use of land is for high-density multi-family residential purposes. This district allows the highest residential density in the town in a variety of residential uses in areas where traffic circulation patterns can accommodate such densities. It is also the intent of this district to allow for certain types of non-residential community facilities and services that would not be detrimental to the residential character of the district and to potentially incentivize multi-use development. The degree of intensity of development in this district will be governed by the development's geographic location and relationship to surrounding land uses. Based on the impact on surrounding land uses

and the flexible nature of this district, all requests for rezoning to a R-4 shall be as Conditional Zoning Districts only, subject to Section 3.5.

3.2.6 OI Office and Institutional District

The Office and Institutional District is a district in which the principal use of land is for residences, general business offices, professional offices and institutional types such as hospitals and medical clinics, which do not materially detract from nearby residential areas.

3.2.7 C-1 Central Business District

The C-1 Central Business District is established as a district intended to protect and promote the continued vitality of the downtown commercial area of Forest City. This district is intended to allow for a wide variety of commercial and service oriented uses and to discourage any land uses that would be detrimental to the continuation of this district as the primary shopping and service area of the town.

3.2.8 3.2.7 C-T Commercial Transition District

The C-T Commercial Transition District is established as a district where a mix of commercial, civic, and high-density residential uses are allowed. This district is intended to become part of the Downtown Core in the Future Land Use Map of the Comprehensive Plan. Permitted uses should serve as a complement to the C-1 District and act as a transition between more intensive commercial uses and those typically found in a downtown area. Uses requiring outside storage, excessive parking, or other sprawling characteristics incompatible with a downtown area are not permitted.

3.2.9 C-2 General Business District

The C-2 General Business District is established as a district intended to provide for a wide variety of general and commercial uses at convenient locations throughout the town in areas where traffic patterns can accommodate traffic generated by such uses. It is the intent of this district to discourage extensive strip commercial development along major highways within the town.

3.2.10 C-3 Highway Business District

The C-3 Highway Business District is established as a district intended to provide for a wide variety of general and commercial uses that usually cater to the motoring public and require major highway frontage. This district is thus intended to provide for controlled commercial development along major highways within the town.

3.2.11 M-1 Industrial District

The M-1 Industrial District is established as a district intended to provide for manufacturing and warehousing and similar uses. It is not the intent of this district to allow such uses in areas where they would be incompatible with surrounding land uses.

3.2.12 PRD Planned Adaptive Re-use District (Conditional Zoning only)

The PRD is established to provide options for the redevelopment of architecturally or locally significant structures such as textile mills, industrial buildings, schools and other relatively large buildings that have ceased to be utilized for their originally intended use, as well as the housing stock that has historically supported the manufacturing community (mill villages). The degree of intensity of development in this district will be governed by the development's geographic location and relationship to surrounding land uses. Based on the impact on surrounding land uses and the flexible nature of this district, all requests for rezoning to a PRD shall be as Conditional Zoning Districts only, subject to Section 3.5.

3.3 Permitted Uses Table

3.3.1 Intent

The Permitted Uses Table contains a listing of uses which may be permitted in one (1) or more of the various zoning districts. Uses are listed in alphabetical order within eight (8) categories as follows:

(A) Residential

(B) Civic, Government and Institutional

(C) Office and Service

(D) Retail and Wholesale

(E) Recreation and Entertainment

(F) Industrial, Warehousing, Transportation and Utility

(G) Agricultural

(H) Other

3.3.2 Determining Uses

(A) The listings of permitted and special uses in the various districts in this Ordinance are considered to be specific in regard to the types of uses intended for each of the various districts. In determining proposed uses, the Administrator shall classify the form and function of the use. When a proposed use is not specifically

listed in the Permitted Uses Table, the Administrator shall determine if the use is the same as, or manifestly similar to, a listed use in form and function. If the Administrator finds that the proposed use is the same as, or manifestly similar to, a listed use, he shall classify the proposed use as the listed use. If the Administrator finds that a proposed use is not the same as, or is not manifestly similar to, a listed use, he shall classify the proposed use as not permitted. In order to assist the Administrator in interpretation of the Use Matrix, the North American Industrial Classification System (NAICS) shall be used to determine if a use is similarly material to a use in the Permitted Uses Table.

(B) In determining what is a principal use, the principal use shall be considered as the primary purpose or function that a lot or structure services or is proposed to serve. An accessory use shall be considered a structure or use that:

(1) Is clearly incidental to and customarily found in connection with a principal building or use;

(2) Is subordinate to and serves a principal building or a principal use;

(3) Is subordinate in area, extent, or purpose to the principal building or principal use served;

(4) Contributes to the comfort, convenience, or necessity of occupants, business, or industry in the principal building or principal use served; and

(5) Is located on the same lot and zones the same as the principal building or use served.

(C) Two (2) or more principal uses may, in some cases, be permitted to occupy the same land or building as long as each use is a permitted use.

3.3.3 Table Key

The following is a list of the meanings of table entries:

(A) "P" indicates that the use is permitted by right in the zoning district.

(B) "S" indicates that the use is permitted with a Special Use Permit in the zoning district.

(C) A blank space under a zoning district column indicates that a use is not permitted in that district.

(D) A section number listed in the "SR" column indicates that the use has supplemental requirements for the zoning district in which it is permitted. The section number refers to the regulations in Chapter 4.

PERMITTED USES TABLE

Residential Uses	R-20	R-15	R-8	R-6	R-4	OI	C-1	C-T	C-2	C-3	M-1	PRD	SR
Accessory dwellings	P	P	P	P	P	P		P	P				4.2.1
Accessory structures (residential)	P	P	P	P	P	P	P	P	P	P			4.2.2
Caretaker's Residence										P	P	P	
Conservation developments	P	P											4.2.3
Family care homes	P	P	P	P	P	P		P	P			P	4.2.4
Home occupations	P	P	P	P	P	P		P	P			P	4.2.5
Manufactured homes on individual lots	P			P									4.2.6
Manufactured home park													
Multi-family dwellings (includes apartments & townhomes)				S				P	S	P		P	4.2.7
Recreational Vehicle (Temporary Dwelling Unit)	P	P											4.2.13
Single-family dwellings (detached)	P	P	P	P	P	P		P	P	P		P	4.2.12
Temporary emergency manufactured homes	P	P	P	P	P	P	P	P	P	P	P	P	4.2.8
Traditional Neighborhood Development				S	S								4.2.9
Two-family dwellings (duplexes)			P	P	P	P		P	P			P	4.2.10
Upper-story residential unit					P	P	P	P	P			P	4.2.11
Civic, Government, & Institutional Uses	**R-20**	**R-15**	**R-8**	**R-6**	**R-4**	**OI**	**C-1**	**C-T**	**C-2**	**C-3**	**M-1**	**PRD**	**SR**
Cemeteries									P	P	P		
Colleges, Universities, & associated facilities	S	S	S	S	S	P	P	P	P			P	
Correctional facilities											P		
Daycare Centers	S		S	S		P	P	P	P	P		P	4.3.1
Emergency Services (fire, police, EMT, & similar uses)	S	S	S	S	S	P	P	P	P	P	P	P	
Government office buildings	S	S	S	S	S	P	P	P	P	P	P	P	
Hospitals, public and private						P	P	P	P	P	P	P	
Libraries, museums, art galleries, & similar uses			S	S	S	P	P	P	P	P	P	P	
Post Offices			S	S	S	P	P	P	P	P	P	P	
Religious institutions & related uses	P	P	P	P	P	P	P	P	P			P	
Research facilities										P	P	P	
Residential care facilities	S	S	S	S	S	P			P	P		P	4.3.2
Schools, instructional						P	P	P	P	P	P	P	
Schools & associated facilities (public & private)	S	S	S	S	S	P	P	P	P	P	P	P	
Schools (trade & vocational)					S	P	P	P	P	P	P	P	
Social, fraternal, & philanthropic clubs & non-profit uses	S		S	S	S	P	P	P	P	P	P	P	

PERMITTED USES TABLE

P= Permitted Use S=Special Use Permit required Blank=Not Permitted SR=See Chapter 4 for Supplemental Requirements

Office & Service Uses	R-20	R-15	R-8	R-6	R-4	OI	C-1	C-T	C-2	C-3	M-1	PRD	SR
Animal services (no outdoor kennels)	S	S						P	P	P	P	P	4.4.1
Animal services (with outdoor kennels)											P		4.4.1
Artists, craftsman	P					P	P	P	P	P	P		
Banks, financial services						P	P	P	P	P	P	P	
Bed & breakfast inns	P			P	S	P	P	P	P	P			
Body piercing & tattoo studios										P	P		4.4.2
Dry cleaning and laundry establishments (non-industrial)							P	P	P	P	P	P	
Fortune tellers, astrologers										P	P		
Funeral homes and mortuaries									P	P	P	P	
Hotels and motels									P	P	P	P	
Internal service facilities (incidental to permitted uses)						P	P	P	P	P	P	P	
Motion picture production							P	P	P	P	P	P	
Motor vehicle or boat services (no outdoor storage)									P	P	P		4.4.3
Motor vehicle boat services (with outdoor storage)										S	P		4.4.3
Medical, dental, chiropractic, optical, psychiatric clinics or related offices and/or laboratories						P	P	P	P	P	P	P	
Personal service uses						P	P		P	P	P	P	
Professional offices						P	P		P	P	P	P	
Research, development, or testing services										P	P	P	
Services, other (no outdoor storage)							P		P	P	P	P	
Services, other (with outdoor storage)										S	P		
Retail & Wholesale Uses	**R-20**	**R-15**	**R-8**	**R-6**	**R-4**	**OI**	**C-1**	**C-T**	**C-2**	**C-3**	**M-1**	**PRD**	**SR**
ABC sales for on premises consumption					S		P	P	P	P	P		
Auction houses								P	P	P	P		
Farmers' markets					S		P	P	P	P	P		
Microbrewery, microdistillery, microwinery					S		P	P	P	P	P	P	
Motor vehicle or boat sales or rental									P	P	P		4.5.1
Pawn shops							P	P	P	P	P		
Restaurants (no drive-through)					P		P	P	P	P	P	P	
Restaurants (with drive-through)										P	P		4.9.2

PERMITTED USES TABLE

P= Permitted Use S=Special Use Permit required Blank=Not Permitted SR=See Chapter 4 for Supplemental Requirements

Retail & Wholesale Uses (cont.)	R-20	R-15	R-8	R-6	R-4	OI	C-1	C-T	C-2	C-3	M-1	PRD	SR
Retail uses (less than 10,000 square feet, inside fully enclosed building)					S		P	P	P	P	P	P	
Retail uses (10,000-60,000 square feet, inside fully enclosed building)					S		S	S	P	P	P	P	
Retail uses (greater than 60,000 square feet, inside fully enclosed building)									S	P	P	P	
Retail uses (outside fully enclosed building)									S	S	P		4.5.2
Shopping centers & malls									S	P	P		
Smoke Shops & Tobacco Shops									P	P	P		4.5.3
Wholesale									P	P	P		
Recreation & Entertainment Uses	**R-20**	**R-15**	**R-8**	**R-6**	**R-4**	**OI**	**C-1**	**C-T**	**C-2**	**C-3**	**M-1**	**PRD**	**SR**
Adult oriented businesses										S			4.6.1
Auditorium, assembly hall						P	P	P	P	P	P	P	
Banquet, events facility	S					P	P	P	P	P	P	P	
Billiards hall									P				
Campgrounds											P		4.6.2
Electronic gaming operations													
Golf, tennis, swimming clubs & related uses (private, not in development)	S	S	S	S	P	P	P	P	P	P	P		4.6.3
Golf, tennis, swimming facilities, athletic fields & related uses (public)	P	P	P	P	P	P	P	P	P	P	P	P	4.6.3
Parks (public)	P	P	P	P	P	P	P	P	P	P	P	P	
Private clubs					P		P	P	P	P			
Recreation facilities associated with a residential development	P	P	P	P	P	P	P	P	P	P	P	P	
Recreation facilities, fitness					P		P	P	P	P	P	P	
Recreation facilities, indoor (including vintage arcades, bowling, skating, and similar uses)					P		P	P	P	P	P	P	
Recreation facilities (outdoor, including golf driving ranges, miniature golf, skateboard parks, water slides, batting cages & similar uses)					P					S	P		4.6.4
Shooting ranges (indoor)										P	P		4.6.5
Shooting ranges (outdoor-local government only)											P		

PERMITTED USES TABLE

Theater (drive-in)										P	P		
P = Permitted Use S = Special Use Permit required Blank = Not Permitted SR = See Chapter 4 for Supplemental Requirements													
Theater (indoor)							P		P	P	P	P	
Theater (open-air)						P	P		P	P	P		
Industrial, Warehousing, Transportation, & Utility Uses	**R-20**	**R-15**	**R-8**	**R-6**	**R-4**	**OI**	**C-1**	**C-T**	**C-2**	**C-3**	**M-1**	**PRD**	**SR**
Airports & heliports											P		4.7.1
Asphalt plants											P		4.7.2
Automobile parking lots or garages (principal use)							P	P	P	P	P		
Broadcast towers and equipment (excluding wireless telecommunications towers)										P	P	P	4.7.3
Bus & train stations					S		P	P	P	P	P	P	
Data centers											P		
Distribution centers											P		
Electric transmission lines & appurtenances	P	P	P	P	P	P	P	P	P	P	P	P	
Junkyards, salvage yards, recycling operations and similar uses										S	P		4.7.4
Landfill (construction, demolition, land clearing & inert debris)													
Landfill (sanitary)													
Manufacturing, processing, & assembly (inside fully enclosed building)											P		
Manufacturing, processing, & assembly (outside fully enclosed building)											P		
Manufacturing, Small Scale										P	P		4.7.5
Mining & quarrying operations											S		4.7.6
Natural gas distribution lines & related appurtenances	P	P	P	P	P	P	P	P	P	P	P	P	
Power generation/production facilities (not including wind and solar)								P		P	P		
Power generation/production, solar (individual use)	P	P	P	P	P	P	P		P	P	P	P	
Power generation/production, wind (individual use)	P	P									P		
Rail terminals or yards											P		
Recycling centers (excluding recycling operations)										P	P		
Sewage collection lines, pump stations, & appurtenances	P	P	P	P	P	P	P	P	P	P	P	P	
Sewage treatment plants (non-government, public)	S	S	S	S	S	S	S		S	S	P		4.7.7
Solar power generation facilities (solar farms)	S	S											

PERMITTED USES TABLE

Taxicab stands or offices									P	P	P		
P = Permitted Use S = Special Use Permit required Blank = Not Permitted SR = See Chapter 4 for Supplemental Requirements													
Telecommunication lines & related appurtenances	P	P	P	P	P	P	P		P	P	P	P	
Transit stops	P	P	P	P	P	P	P		P	P	P	P	
Truck stops										S	P		
Industrial, Warehousing, Transportation, & Utility Uses (cont.)	**R-20**	**R-15**	**R-8**	**R-6**	**R-4**	**OI**	**C-1**	**C-T**	**C-2**	**C-3**	**M-1**	**PRD**	**SR**
Warehouse uses (excluding mini-warehouses)										P	P		
Warehouse, mini									S	P	P		
Water distribution lines, pumps, storage, tanks, & appurtenances	P	P	P	P	P	P	P		P	P	P	P	
Water treatment plants (non-government, public)	S	S	S	S		S	S		S	S	S		4.7.7
Wind power generation facilities (wind farms)													
Wireless telecommunications towers	S	S							S	P	P		4.7.8
Agricultural Uses	**R-20**	**R-15**	**R-8**	**R-6**	**R-4**	**OI**	**C-1**	**C-T**	**C-2**	**C-3**	**M-1**	**PRD**	**SR**
Bona fide farms	P	P	P	P	P	P	P	P	P	P	P	P	
Equestrian uses (horseback riding, stables)	S										P		4.8.1
Greenhouse or horticultural nursery (no on-premises sales)	P				P					P	P		
Greenhouse or horticultural nursery, commercial (with on-premises sales)									P	P	P		
Produce Stand (permanent)	S							S	S	S			4.8.2
Other Uses	**R-20**	**R-15**	**R-8**	**R-6**	**R-4**	**OI**	**C-1**	**C-T**	**C-2**	**C-3**	**M-1**	**PRD**	**SR**
Accessory structures (associated with permitted non-residential uses)	P	P	P	P	P	P	P	P	P	P	P	P	4.9.1
Drive-through/Drive-in uses (associated with permitted use)							S	S	P	P	P		4.9.2
Outdoor Storage (associated with a permitted use, excluding outdoor sales display)										P	P		4.9.3
Temporary Uses (per Chapter 4)	P	P	P	P	P	P	P	P	P	P	P	P	4.9.4
P= Permitted Use S=Special Use Permit required Blank=Not Permitted SR=See Chapter 4 for Supplemental Requirements													

PERMITTED USES TABLE

3.4 Dimensional Requirements

3.4.1 General Provisions

(A) The lot sizes required for the various districts in this Ordinance were drawn upon the assumption that adequate water supply and sewage disposal systems are available to each and every lot. The lack of adequate systems for one (1) or both facilities may require larger lot areas or, in some instances, because of Health Department Standards, may not permit development as intended.

(B) In all zoning districts, double frontage lots shall provide the minimum yard requirements for front yards along both street fronts.

(C) For dwellings in residential districts, where lots located on either side of a center lot are improved with buildings having a front yard setback of less than 25 feet, and the structures are no more than 200 feet apart, the required setback of the center lot shall be the average of the setback of the two (2) adjacent main buildings.

(D) All setbacks shall be measured from the property line to the nearest point of the structure.

(E) Where a property abuts a street right-of-way, the setback shall be measured from the right-of-way line.

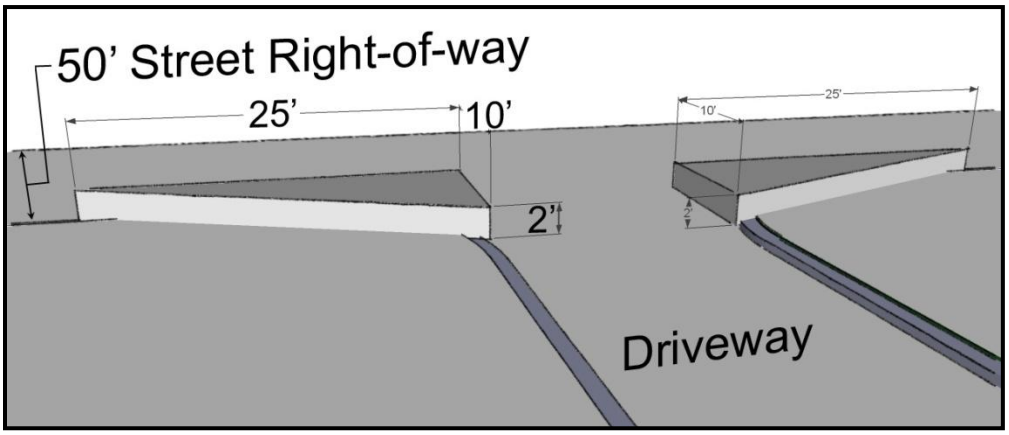
(F) A minimum of 25 feet of street frontage is required for each lot.

(G) The front setbacks of flag lots shall be established where the lot width is met.

(H) On a corner lot in any district other than the C-1 or C-T districts, no planting, structure, fence, wall, or other obstruction to vision that is more than two (2) feet tall as measured at street level shall be placed in the sight triangle. The sight triangle is the area formed by a diagonal line connecting two (2) points located on intersecting property lines (or a property line and the curb or a driveway). The following are the distances used to establish a sight triangle as measured from an intersecting right-of-way:

Right-of-Way Width (feet)	Distance (feet)
Driveway	10
50	25
60	30
70	35
80	40
90	45
100 or greater	50

FIGURE 3.1: SIGHT TRIANGLE



3.4.2 Dimensional Table

District	Max. Residential Density[1]	Min. Lot Area (sq. ft.)	Min. Lot Width (feet)[2]	Min. Lot Depth (feet)[2]	Front Setback (feet)[2]	Side Setback (feet)[2]	Rear Setback (feet)[2]	Max. Height (feet)
R-20	2 DUA	20,000	100	150	35	10	15	35
R-15	3 DUA	15,000	100	150	35	10	15	35
R-8	5 DUA	8,000	75	100	25	10	10	35
R-6[3]	7 DUA	6,000	50	100	20	10	10	35
R-4[3]	N/A	N/A	N/A	N/A	10	5	5	N/A
O-I	7 DUA	6,000	50	100	20	10	10	35
C-1	15 DUA	N/A	N/A	N/A	N/A	N/A	N/A	60
C-T	30 DUA	N/A	N/A	N/A	N/A	N/A	N/A	60
C-2	7 DUA	N/A	N/A	N/A	N/A	N/A	N/A	60
C-3[4]	7 DUA	N/A	N/A	N/A	35	N/A	N/A	60
M-1	N/A	10,000	N/A	N/A	35	20	20	60
PRD[5]	N/A	N/A	40	N/A	15	5	5	N/A

N/A=Not applicable
DUA=Dwelling Units per Acre

[1]Residential density applies to multi-family residential developments where allowed in the Permitted Uses Table and may be used for Conservation Developments in lieu of minimum lot areas in accordance with Section 4.2.3.

[2]Minimum lot widths and setbacks in Conservation Developments may be reduced in accordance Section 4.2.3.

[3]TND developments in the R-6 of R-4 district shall comply with Section 4.2.9

[4]For residential uses, the requirements for the R-6 shall apply.

[5]Because this district utilizes existing buildings, the lot width and setbacks are subject to Board of Commissioners approval through the Conditional Zoning District process. However, in no case shall a permit be issued for a development which

encroaches onto an adjacent piece of property. The minimum building size for the primary building of the PRD district shall be 30,000 square feet.

3.4.3 Exceptions

(A) Setback distances shall be measured from the property line or street right-of-way line to the nearest portion of any building, or structure include:

(1) Unenclosed porches, attached carports, balconies or decks which do not project into any required yard more than three (3) feet; and

(2) Chimneys, flues, eaves, roof overhangs, window sills and bay windows which do not project into any required yard more than three (3) feet; and

(3) Patios, drives, walkways, if no portion of the same extends more than 12 inches off the ground.

(B) The height limitations of this Section shall apply to public buildings, churches, temples, schools, hospitals, belfries, cupolas and domes not intended for residential purposes, or to monuments, water towers, observation towers, power and communication transmission towers, flag poles and similar structures provided such structures meet the required North Carolina Building Code. Height limitations shall apply to cellular telephone towers as regulated herein.

(C) The dimensional provisions of this section do not apply to residential accessory structures, which are regulated in Section 4.2.2.

(D) Utility uses as defined by this Ordinance are not subject to the minimum lot sizes set forth for each zoning district.

(E) Canopies, awnings, open stairways, uncovered porches, uncovered decks, uncovered patios, bay windows, chimneys and heating units may encroach into the setback up to three (3) feet.

3.5 Conditional Zoning Districts

3.5.1 Purpose

(A) Conditional Zoning (CZ) districts are created to correspond to each of the base zoning districts created in Section 3.2. CZ districts allow specific uses to be established in accordance with prescribed conditions pertaining to an individual project.

(B) The purpose is to provide a voluntary alternative procedure for the rezoning of a property for a specific use. A broad range of uses are permitted in each zoning district. However, there are instances where a zoning district designation is clearly inappropriate for a property, but a specific use or uses permitted under this district and subject to development requirements would be consistent with the spirit and intent of this Ordinance. Conditional Zoning districts, herein established, are intended to accommodate such situations. This voluntary procedure is intended for firm development proposals, and is neither intended nor suited for securing early zoning for tentative uses which may not be undertaken for a long period of time.

(C) Just as there are 12 zoning districts, there are 12 corresponding Conditional Zoning Districts.

(1) CZ R-20 Low Density Residential/Agricultural District

(2) CZ R-15 Low Density Residential District

(3) CZ R-8 Medium Density Residential District

(4) CZ R-6 High Density Residential District

(5) CZ R-4 Flexible Multi-Family Residential District

(6) CZ OI Office and Institutional District

(7) CZ C-1 Central Business District

(8) CZ C-T Commercial Transition District

(9) CZ C-2 General Business District

(10) CZ C-3 Highway Business District

(11) CZ M-1 Industrial District

(12) CZ PRD Planned Adaptive Re-use District

3.5.2 Applicability and Procedures

(A) Property may be placed in a Conditional Zoning district only in response to a petition by the owners of all the property to be included.

(B) Specific conditions applicable to these districts may be proposed by the petitioner or the Town or its agencies, but only those conditions mutually approved by the Town and the petitioner may be incorporated into the requirements of the district. Conditions and site-specific standards imposed in a Conditional Zoning District shall be limited to those that address the conformance of the development and use of the site to the Town's ordinances and to any 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.

(C) CZ Districts allows specific standards for a particular use after review and comment from the public. A petition to rezone a property to a Conditional Zoning District shall be accompanied by a site specific plan, in accordance with Section 14.6.

(D) Within a CZ district, only those uses authorized as either permitted or conditional uses in the base zoning district with which the CZ district corresponds shall be permitted, and all other requirements of the corresponding district shall be met as minimum standards.

(E) In approving a CZ district, the Board of Commissioners may impose such additional reasonable conditions upon such permit as it may deem necessary in order that the purpose and intent of this Ordinance are served, public welfare secured and substantial justice done, in accordance with the provisions of Section 14.6.

(F) CZ districts shall be approved in accordance with the process outlined in Chapter 14.

3.6 Overlay Districts

The Zoning Districts and Conditional Zoning Districts established in this Chapter may also be subject to one (1) or more overlay districts as designated herein and as shown on the Official Zoning Map. In such case, the land is subject to not only the requirements of the underlying Zoning Districts or Conditional Zoning District, but also the additional requirements of the overlay district.

3.6.1 Roadway Protection Overlay (RP-O) District

The requirements of this section shall apply to all uses in the district except one and two family dwellings.

3.6.1.1 Landscaped Roadway Yard

(A) A landscaped roadway yard shall be provided by each use subject to this requirement. A landscaped roadway yard is a landscaped area generally parallel to the public roadway designed to provide continuity of vegetation along the right-of-way and pleasing view from the road. The landscaped area shall be penetrated only by driveways and crosswalks.

(B) The minimum width of the roadway yard shall be 10 feet and shall be located within the 20 foot section of the lot closest to the public right-of-way.

(C) It shall be landscaped and maintained with a vegetative cover and shall be planted with small and/or medium shrubs at a rate of 10 shrubs per 100 linear feet of street yard not counting driveway and crosswalk area.

(D) The Administrator may approve a different vegetative landscape type when in his opinion equal or better performance will result.

3.6.1.2 Development with More Than One Principal Building

In addition to the building design requirements of Section 5.4, developments in the district with more than one principal building (including "out parcels" and multi-tenant buildings) shall include similar architectural styles but should not be identical throughout the development. All sides of the individual building shall be treated in an architecturally similar manner. More specifically, at least two (2) of the following three (3) "unifying elements" must be presented in each building (including accessory buildings and those buildings located on out parcels) and to the greatest extent practical, in other architectural features of the development (walls, fences, signs, etc.):

(A) Building Materials

Such material shall apply to at least 30 percent of each ground- mounted sign as well.

(B) Colors

A maximum of three colors may be designated as the unifying element but the maximum number of colors throughout the development is not limited.

(C) Architectural Features

These features include but are not limited to: roof treatment (style, color, and material), façade treatments or building form (overhangs, canopies, arcades, protected walkways, and entrance treatments).

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CHAPTER 4
SUPPLEMENTAL REQUIREMENTS

4.1 Purpose 4-1
4.2 Residential Uses 4-1
4.3 Civic, Government and Institutional Uses 4-14
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4.8 Agricultural Uses 4-29
4.9 Other Uses 4-30

4.1 Purpose

The Town of Forest City finds that there are certain uses that exist which may be constructed, continued and/or expanded provided they meet certain mitigating requirements specific to their design and/or operation. Such Supplemental Requirements ensure compatibility among other uses. The Permitted Uses Table of Chapter 3 contains a column on the far right labeled "SR" for Supplemental Requirements. In any case where a use listed in the Permitted Uses Table has a number in the SR column opposite the use, the use must comply with the additional Supplemental Requirements contained in this section corresponding to the Supplemental Requirement number. Each use shall be permitted in compliance with all conditions listed for the use in this Chapter. Certain uses are also classified as Special Uses and require Board of Adjustment approval.

4.2 Residential Uses

4.2.1 Accessory Dwellings

Accessory dwellings may be located in a building separate from the principal dwelling subject to the following requirements:

(A) The accessory dwelling shall not exceed one-half (½) of the total area of the principal dwelling of exceed 900 square feet, whichever is more.

(B) Accessory dwellings shall meet the principal structure setbacks as set forth for the zoning district in which it is located in Section 3.4.

(C) Accessory dwellings shall be built to North Carolina Building Standards in all districts except the R-20 district, where accessory dwellings shall be constructed after July 13, 1994 and shall meet or exceed the construction standards promulgated by the U.S. Department of Housing and Urban Development (HUD) that were in effect at the time of construction.

(D) In the R-20 district, all dwellings built to HUD standards shall meet the standards of Section 4.2.6 (A), (F), and (G) and have continuous underpinning installed around the exterior base perimeter of the home.

(E) Exclusive of all other provisions of this Section, accessory dwellings defined as Temporary Health Care Structures by NCGS 160D-914 shall not be required to obtain a Special Use Permit, and are subject to the provisions of that statute.

(F) Accessory dwelling shall be built in the side and rear yard in compliance with the setback standards.

4.2.2 Accessory Structures (Residential)

(A) No accessory building shall be erected in any front or side yard whether required or provided, except pursuant to section 3.4.3.

(B) Accessory buildings may be located in a rear yard and side not adjacent to a street within 10 feet of the property line. Accessory buildings adjacent to a street shall meet the principal building setback for that side.

(C) No accessory building shall be erected within 10 feet of any other building, excluding open carports. In residential districts, total square footage of accessory buildings combined shall not exceed one-half (1/2) of total square footage of the principal dwelling. In the R-15 and R-20 Residential districts, lots two (2) acres or greater in size are exempt from the accessory building size limitation, provided that any building that exceeds the limitation shall be setback a minimum of 20 feet from the property line.

(D) There shall be a principal residential structure on any lot for which there is an accessory structure. However, a building for the purpose of storing items to maintain the property may be constructed on lots without a principal structure if the following standards are met:

(1) The property is a minimum of five (5) acres.

(2) The structure shall be a minimum of 144 square feet and shall not exceed 1,000 square feet.

(3) The structure shall have a front setback a minimum of 150 feet.

(E) The maximum height for accessory structures shall be the height of the principal structure.

(F) Mailboxes, newspaper boxes, walls, fences, birdhouses, flagpoles and pump covers may be placed in any yard, and no zoning permit is needed for these structures.

(G) Doghouses up to 15 square feet of total area are permitted in the rear yard. No zoning permit is required.

(H) No accessory structure shall be permitted that involves or requires any external features which are not primarily residential in nature or character.

(I) Under no circumstances may a vehicle, trailer, manufactured home, POD, similar container, or parts thereof, be used as an accessory structure.

(J) Swimming pools shall be enclosed with a fence of at least four (4) feet in height.

4.2.3 Conservation Developments

The purpose of Conservation Development design is to preserve agricultural and forestry lands, natural and cultural features and environmentally sensitive areas that would be likely lost through conventional development approaches. Lot widths and setbacks in residential districts may be reduced subject to the following requirements:

(A) The development density shall not exceed the overall density permitted in the zoning district in which the development is located. Areas with slopes of greater than 50 percent and floodway areas shall not be included in the overall allowable density calculation.

(B) The district setbacks set forth in Section 3.4 shall apply along the boundaries of the development. Setbacks within the development shall be set forth as part of the design process as outlined in Subsection (C).

(C) A minimum of 50 percent of the total area of the development shall be set aside in Common Open Space and shall meet the requirements of Section 7.5.

(D) Each Master Plan for a Conservation Development shall follow a four-step design process as described below. When the conceptual Master Plan is submitted, applicants shall be prepared to demonstrate to the Town that these four (4) design steps were followed by their site designers in determining the layout of their proposed streets, house lots and greenway lands.

(1) During the first step all potential Conservation Areas (both Primary and Secondary) shall be identified, using the Existing Features Plan described in Section 7.2.1. Primary Conservation Areas shall consist of wetlands, floodplains, steep slopes (greater than 25%) and other environmentally protected areas. Secondary Conservation Areas shall include the most sensitive and noteworthy natural, scenic and cultural resources including viewsheds, rock outcroppings, specimen trees, significant tree stands and historic sites.

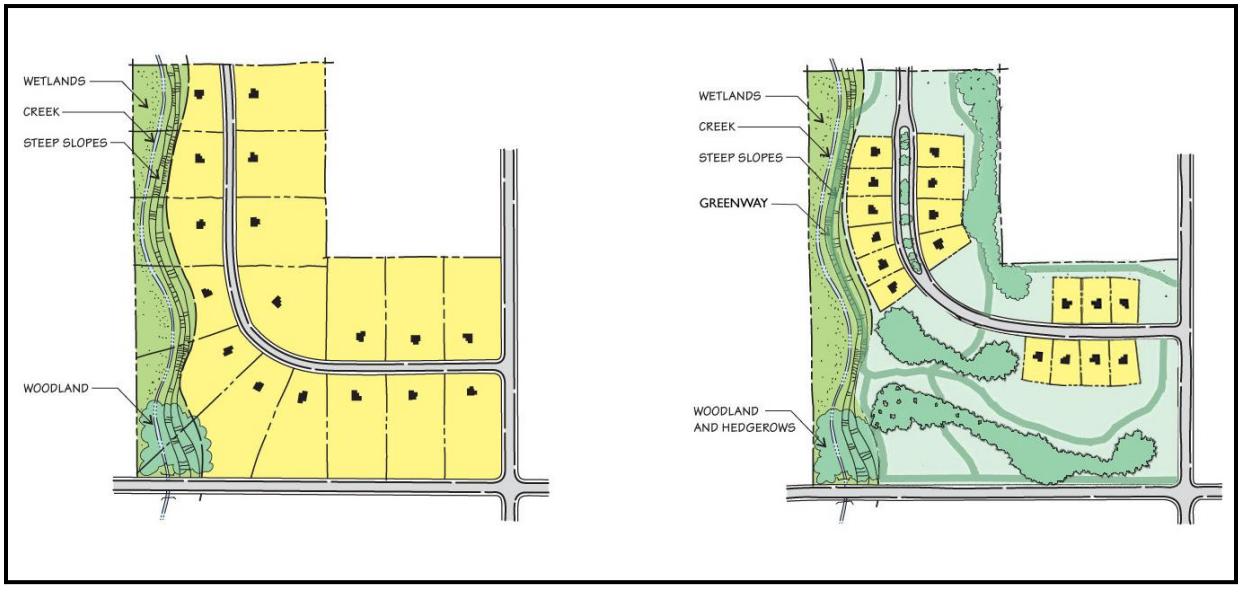
(2) During the second step, potential building sites are tentatively located. Because the proposed location of the buildings within each lot represents a significant decision with potential impacts on the ability of the development to meet the requirements of the Ordinance, applicants shall identify tentative house sites on the conceptual Sketch Plan. House sites should generally be located not closer than 50 feet to Primary Conservation Areas.

(3) The third step consists of aligning proposed streets to provide vehicular access to each house in the most reasonable and economical way. When lots and access streets are laid out, they shall be located in a way that avoids, or

at least minimizes, adverse impacts on both the Primary and Secondary Conservation Areas. Wetland crossings shall be avoided. Street connections shall be provided to minimize the number of cul-de-sacs and to facilitate easy access to and from homes in different parts of the property (and on adjoining parcels).

(4) The fourth step is simply to draw the lot lines where applicable.

FIGURE 4.1 CONSERVATION DEVELOPMENT EXAMPLE



Source: Southeastern Wisconsin Regional Planning Commission (SEWRPC). "Conservation Development Design." 2002 and modified by Benchmark, CMR, Inc., 2009

4.2.4 Family Care Homes

In accordance with NC General Statute 160D-906, these uses are deemed residential uses and are permitted in all residential districts subject to the following conditions:

(A) No more than six (6) residents other than the homeowner and the homeowner's immediate family are permitted to live in a Family Care Home.

(B) A Family Care Home must be licensed with the NC Department of Health and Human Services Division of Facility Services before operating.

(C) No Family Care Home may be located within a one-half (1/2) mile radius of any other family care home.

(D) No exterior signage is permitted.

(E) No lockdown, violent, or dangerous residents.

(F) Only incidental and occasional medical care may be provided.

4.2.5 Home Occupations

(A) Only one (1) person other than those residing in the home shall be engaged in the occupation.

(B) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25 percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation.

(C) There shall be no changes in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation except one (1) non-illuminated sign not exceeding four (4) square feet.

(D) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.

(E) No equipment or process shall be used in such home occupation, which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or which causes fluctuations in line voltage off the premises.

(F) Tattoo and/or body piercing operations shall not be considered as customary home occupations.

(G) A family day care home with five (5) or fewer persons may be operated as customary home occupation.

4.2.6 Manufactured Homes (on individual lots)

(A) The provisions of NCGS 160D-909 shall apply to manufactured homes.

(B) The manufactured home shall be constructed in accordance with federal Manufactured Home Construction and Safety Standards at 24 CFR 3280 (HUD Code) and shall have been manufactured on or after July 13, 1994, the date upon which HUD wind load requirements became effective.

(C) The manufactured home shall be at least 24 feet by 40 feet excluding towing apparatus.

(D) The pitch of the manufactured home's roof shall have minimum vertical rise of two and two tenths (2.2) feet for each 12 feet of horizontal run and the roof shall be finished with a type of shingle that is commonly used in standard residential construction.

(E) The exterior siding shall consist predominantly of vinyl or aluminum horizontal lap siding (that does not exceed the reflectivity of gloss white paint), wood, or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction.

(F) A continuous, permanent masonry foundation, unpierced except for required ventilation and access, shall be installed under the manufactured home.

(G) The tongue, axles, transporting lights and removable towing apparatus shall be removed subsequent to final placement.

(H) Installation shall be in accordance with North Carolina Department of Insurance Standards.

4.2.7 Multi-Family Dwellings

(A) Multi-family dwellings shall only be permitted with the issuance of a Special Use Permit in the R-6 and C-2 districts, or by right in the R-4, C-3 & C-T districts, subject to the standards of this subsection. Multi-family dwellings are also permitted as part of a PRD district, subject to the standards set forth in the Conditional Zoning District.

(B) A needs assessment shall be provided with all applications for multi-family dwellings that demonstrates the need for the proposed housing type within the Town of Forest City's jurisdiction.

(C) No multi-family dwellings or series of attached dwellings, multi-family building or other such arrangements shall exceed a length of 300 feet when measured along the longest axis of the building or series of attached units. This shall not apply to existing buildings converted to multi-family.

(D) Any development with more than 100 dwelling units shall submit a certified traffic engineering report evaluating the capability of the adjoining street system to carry the traffic generated by the development. Reasonable improvements shall be made based on the results of the certified traffic engineering report.

(E) Developments that are proposed to be developed under the North Carolina Unit Ownership Act shall meet the requirements of that Act by recording the declaration and plan with the Register of Deeds. Where land is to be conveyed in accordance with such declaration and plan, the developer shall comply with the development requirements of this Ordinance.

(F) The number of dwelling units per unit of land area shall not exceed the number of dwelling units per unit of land area permitted in the district in which the development is located.

(G) In no case shall any building be closer than 20 feet to any other building in the development. Furthermore, buildings shall not be arranged in straight rows oriented in such a way as to resemble rows of barracks.

(H) All portions of every building shall be located within 300 feet of a public street that furnishes direct access to the property unless the Fire Department determines that on site fire hydrants and service drives will offer adequate protection.

(I) All main utility lines, meters, taps and other appurtenances, up to and including the meter for each individual unit, (but not including the service lines and other facilities extending service to each individual unit) shall be built to the same standard as required for developments. All such facilities, together with an easement of sufficient width, shall be conveyed to and/or dedicated to the city for public use and maintenance. All utilities shall be placed underground.

(J) Each unit shall be individually metered for all utilities. Responsibility for the maintenance of common utility lines and/or facilities, which have not been conveyed to the Town and/or dedicated for public use shall be the responsibility of the project owner, or in the case of unit ownership clearly established in the declaration, protective covenants and other bylaws.

(K) All private streets or access ways providing ingress and egress from the development to an existing public street system shall comply with the current standards being required by the infrastructure regulations of Chapter 10, including street drainage.

(L) Stationary sanitary containers shall be located so as not to interfere with sight distance or the free movement of vehicles on streets or service drives and so as to allow collector trucks adequate maneuvering space to empty the containers and to leave the property without excessive backing. Such containers shall be screened in accordance with Section 8.6. Concrete pads in conformance with the public works department's stationary container location standards shall be located beneath of and in the approach to each stationary sanitary container. Where single-family attached units make up the total development and are all located along a public street in a manner similar to a typical single-family development, the Public Works Director may approve an individual household pick-up system.

4.2.8 Temporary Emergency Manufactured Homes

Manufactured homes may be allowed on a temporary basis in a zoning district in which such use is not listed as a permitted use, if a disaster occurs which results in an occupied, single-family dwelling being destroyed (i.e., it receives damage greater than 60 percent of its tax value as indicated on the most current tax listings). In this instance, a manufactured home may be placed on the lot containing the dwelling unit which was destroyed. The purpose of allowing such manufactured home on said lot is to give the occupants of the destroyed dwelling unit a place to live while a new dwelling unit is being constructed or damage to the original dwelling unit is being repaired. If a manufactured home is used for such an occurrence, it is subject to the following conditions:

(A) Temporary emergency residences shall not be placed in the front yard and shall be located no closer than 15 feet to another principal residential structure on another lot and no closer than 10 feet to any lot line.

(B) The Administrator shall be given the authority to issue a zoning permit for such temporary residence on a one-time basis only for a period of up to one (1) year. Such permit may be renewed on a one-time only basis (for a period of no greater than six months (6) months) by the Administrator.

4.2.9 Traditional Neighborhood Development (TND) (Special Use Permit only)

Traditional Neighborhood Developments are intended to allow for mixed-use, pedestrian-oriented neighborhoods to minimize traffic congestion, suburban sprawl, infrastructure costs and environmental degradation and should be based on the following design principles:

- All neighborhoods have identifiable centers and edges.
- Edge lots are pedestrian accessible to retail and recreation uses (a distance not greater than ¼ mile).
- Uses and housing types are mixed and in close proximity to one another.
- Street networks are interconnected and blocks are small.
- Civic buildings are given prominent sites throughout the neighborhood.

Traditional Neighborhood Developments shall be allowed in the R-6 and R-4 zoning district with a Special Use Permit only and shall meet the following supplemental requirements:

(A) The minimum size of a TND shall be 40 acres.

(B) Any development with more than 100 dwelling units shall submit a certified traffic engineering report evaluating the capability of the adjoining street system to carry the traffic generated by the development.

(C) All residential uses that are permitted in the R-6 district shall be permitted in a TND, except manufactured homes. A mixture of residential types is encouraged.

(D) The maximum residential density of residential development area of TND shall be one (1) dwelling unit per 6,000 square feet.

(E) The following lot requirements shall apply within the TND:

Building Type	Min. Lot Width	Min. Lot Depth	Front Setback	Side Setback	Rear Setback
Dwelling, Single-family detached	50 feet	n/a	Min. 10 feet Max. 25 feet	5 feet	10 feet 20 feet (for alley loaded lots)
Dwelling, Two-, Three-, or Four-family or Townhomes (duplex, triplex, quadraplex, or townhomes)	n/a	n/a	Min. 10 feet Max. 25 feet	0 feet 20 feet (between buildings)	10 feet 20 feet (for alley loaded lots)
Dwelling, Multi-family (condominiums, apartments)	n/a	n/a	Min. 10 feet Max. 25 feet	20 feet (between buildings)	20 feet (between buildings)
Institutional or Civic	n/a	n/a	Min. 0 feet Max. 25 feet	0 feet	0 feet
Commercial or Mixed Use	n/a	n/a	Min. 0 feet Max. 25 feet	0 feet	0 feet
Other	50 feet	n/a	Min. 0 feet Max. 25 feet	5 feet	10 eet

(F) No multi-family dwellings or series of attached single-family, multi-family building or other such arrangements shall exceed a length of 150 feet when measured along the longest axis of the building or series of attached units when placed in a theoretical straight alignment.

(G) A minimum of 10 percent of the total area of the TND shall be used for non-residential purposes limited to the following uses associated with the C-2 district:

- Golf, tennis, swimming clubs
- Recreation facilities (indoor)
- Parks (public)
- Religious institutions
- Day care centers
- Family care homes
- Schools (public and private)
- Banks, financial services
- Personal service uses
- Bus stations
- Services, other (non outdoor storage)
- Retail uses (less than 10,000 square feet)
- Dry cleaning and laundry establishments (non-industrial)
- Professional offices
- Medical, dental, chiropractor, optical, psychologists or related offices
- Artists, craftsman
- Libraries, museums, art galleries and similar uses
- Structures and uses clearly incidental to the permitted use

(H) Vertically mixed buildings are permitted with a non-residential use on the first floor and residential use on the second and subsequent floors.

(I) A minimum of 30 percent of the total area of the TND shall be set aside in open space as defined in the Section 7.5.

(J) A minimum 20 foot buffer yard shall be established around the TND adjacent to residential zoning districts.

(K) Yard trees are required for residential lots within a TND. Trees shall be planted behind the sidewalk outside of the public right-of-way. Maintenance of the trees shall be the responsibility of the individual property owner. Yard trees may be placed anywhere on the property except that at least one (1) tree is placed in the front yard. Each lot shall provide canopy trees in accordance with the following schedule:

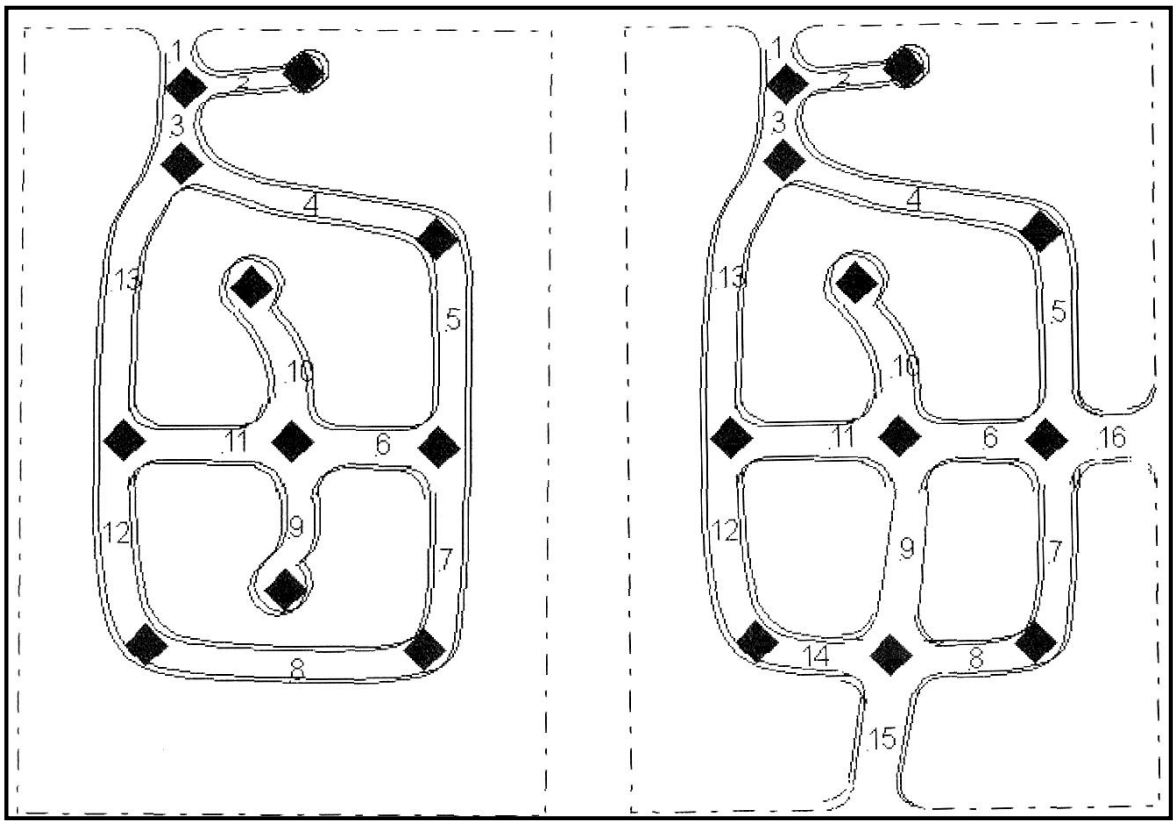
Lot Size	Yard Trees
Less than 10,000 square feet	1
10,000-20,000 square feet	2
More than 20,0000 square feet	3

The use of existing vegetation to satisfy this requirement is encouraged. Existing canopy trees over six (6) inches in caliper may be counted towards fulfilling this requirement.

(L) Each street within a TND shall be designated an alley, lane, street, avenue, main street, boulevard or parkway, and the design shall follow that shown in the latest of edition of the NCDOT Division of Highways *Traditional Neighborhood Development Guidelines*.

(M) The street network for a TND shall achieve a connectivity ratio of not less than 1.40 (see example below). The phrase "connectivity ratio" means the number of street links divided by the number of nodes or link ends, including cul-de-sac heads. A "link" means and refers to that portion of a street defined by a node at each end or at one (1) end. Approved stubs to adjacent property shall be considered links. However, alleys shall not be considered links. A "node" refers to the terminus of a street or the intersection of two (2) or more streets, except that intersections that use a roundabout shall not be counted as a node. For purposes of this subsection, the street links and nodes within the collector or thoroughfare streets providing access to a proposed development shall not be considered in computing the connectivity ratio.

FIGURE 4.2: TND CONNECTIVITY RATIO



Example 1: Development that does not meet the Ratio (13 links/11 nodes=1.18 ratio)

Example 2: Same development modified to meet Ratio (16 links/11 nodes=1.45 ratio)

(N) All portions of every building shall be located within 300 feet of a public street that furnishes direct access to the property unless the fire chief determines that on site fire hydrants and service drives will offer adequate protection.

(O) All main utility lines, meters, taps and other appurtenances, up to and including the meter for each individual unit, (but not including the service lines and other facilities extending service to each individual unit) shall be built to the same standard as required for developments. All such facilities, together with an easement of sufficient width, shall be conveyed to and/or dedicated to the city for public use and maintenance. All utilities shall be placed underground. Each unit shall be individually metered for all utilities. Responsibility for the maintenance of common utility lines and/or facilities, which have not been conveyed to the Town and/or dedicated for public use shall be the responsibility of the project owner, or in the case of unit ownership clearly established in the declaration, protective covenants and other bylaws.

(P) Stationary sanitary containers shall be located so as not to interfere with sight distance or the free movement of vehicles on streets or service drives and so as to allow collector trucks adequate maneuvering space to empty the containers and to leave the property without excessive backing. Concrete pads in conformance with the public works department's stationary container location standards shall be located beneath of and in the approach to each stationary sanitary container. Where single-family attached units make up the total development and are all located along a public street in a manner similar to a typical single-family development, the Public Works Director may approve an individual household pick-up system.

(Q) Parking shall be in accordance with Chapter 9, except that minimum parking space requirements may be completely or partially fulfilled with on-street parking.

(R) TND Building Design Requirements

Buildings within a TND shall adhere to the following design requirements. Building elevations shall be submitted to the Administrator for approval in accordance with these requirements prior to the issuance of a Zoning Compliance Certificate. Alternate design plans, building materials or construction techniques may be used when unreasonable or impractical situations would result from the application of architectural design standards. Such situations may result from unique site conditions, innovative design applications and/or unified development design. Alternate design plans shall be approved by the Planning Board.

(1) All Buildings

All buildings shall comply with the design requirements of Chapter 5.

(2) Residential Buildings

(a) Exterior materials shall be durable and residential in character. Exterior wall materials shall be wood clapboard siding, wood shingles, brick, stone, stucco, vinyl, or similar materials. Roof materials shall be asphalt shingles, standing seam metal, slate, or similar materials**.**

(b) Pitched roofs shall have a pitch between 4:12 and 12:12. Eaves shall be a minimum of six (6) inches in depth.

(c) Garages shall not have visual prominence on the front façade. Garages that face the street shall be recessed from the front façade as follows:

i. If the structure has a usable front porch that is at least six (6) feet deep and extends more than 50 percent of the front façade, then the garage may be flush with the front façade.

ii. If the structure *does not have* a usable front porch that is a least six (6) feet deep and extends more than 50 percent of the front façade, then the garage shall be recessed from the front façade a minimum of four (4) feet.

(d) Attached garages for more than two (2) cars shall not face the primary street. Such garages on corner lots may face the non-fronting street**.**

(e) Garage doors are not permitted on the front façade of any two-family or multi-family dwelling unit.

(f) No more than 20 percent of the residential buildings within a development shall have the same exterior house plan. House plans shall be disbursed throughout the development. Right and left hand versions shall be considered the same exterior house plan.

4.2.10 Two-family Dwellings (Duplexes)

(A) Developments consisting only of duplexes shall not exceed three (3) acres.

(B) Duplexes on corner lots shall be designed in a way that each unit fronts on a different street.

4.2.11 Upper-story residential units

(A) All of the habitable dwelling area shall be located above the ground floor levels.

(B) Each dwelling unit shall contain at least 500 square feet of habitable floor area.

(C) The residential density of the base zoning district shall apply.

(D) Off-street parking is not required in the C-1 or C-T districts. However, additional

parking may be required if adequate parking does not exist for all uses within the area.

4.2.12 Single Family Homes (detached)

(A) In C-3 districts, single family homes must be built on lots where surrounding uses are residential.

4.2.13 Recreation Vehicle (Temporary Dwelling Unit)

(A) During the construction of a single-family dwelling or the placement of a manufactured home but not for longer than 12 months.

(B) If the new construction or manufactured home permit expires or is deemed invalid the recreational vehicle use shall cease immediately.

(C) After the Certificate of Occupancy, the recreational vehicle use must cease within 30 days.

(D) At the discretion of the Zoning Administrator, the person permitted to have a Recreational Vehicle as a temporary dwelling unit may extend their permit for one 3-month increment.

4.3 Civic, Government and Institutional Uses

4.3.1 Daycare Centers

(A) The lot on which the daycare center is located shall have access onto a thoroughfare or collector street in residential zoning districts.

(B) Evidence that the facility will meet the minimum requirements to qualify for a State of North Carolina License is satisfied shall be submitted with the application.

(C) Evidence shall be submitted indicating that adequate access to and from the site, as well as adequate space off the road right-of-way, is provided for the safe pick-up and discharge of clients and is provided in such a manner that traffic generated by the facility is not disruptive to adjacent residentially developed properties.

(D) Fencing and/or screening shall be provided that assures the protection of clients receiving care, protects adjacent residentially developed properties from trespass, effectively screens the view of any outdoor recreational areas, and reduces noise associated with the operation of the use.

4.3.2 Residential Care Facilities

In the R-20, R-15, R-8 and R-6 residential districts:

(A) A minimum of 10,000 square feet shall be required to establish a residential care facility. Existing uses which do not meet the 10,000 square foot minimum at the

time of the adoption of that provision may expand or be reconstructed provided such expansion or reconstruction meets the minimum dimensional requirements of the district in which located.

(B) All residential care facilities shall meet the requirements of Title 15A Subchapter 18A of the North Carolina Administrative Code.

(C) All structures including secondary and accessory structures shall be located a minimum of 50 feet from any street line and, 20 feet from any other property line.

(D) Any use listed above located in a residential district on a site greater than three (3) acres shall have frontage on a collector or thoroughfare street.

4.4 Office and Service Uses

4.4.1 Animal Services

(A) No outdoor containment of animals shall be located less than 250 feet from any residentially zoned property and 50 feet from any other adjacent property line.

(B) Kennel areas must be surrounded by an opaque fence of not less than six (6) feet in height and enclosed as to prevent escape.

(C) Kennels shall be designed to effectively buffer noise audible to surrounding properties.

(D) In the R-15 & R-20 Districts:

a. Animal Services must be located on a property that is a minimum of 10 acres.
b. Animal Services shall be setback from property lines a minimum of 200 ft.
c. There shall be no nuisance created.

4.4.2 Body Piercing and Tattoo Studios

(A) No such business of either classification shall be located within 700 feet of any other such business or either classification, as measured in a straight line from property line to property line.

(B) No such business of either classification shall be located within 200 feet of a church, public or private elementary or secondary school, child day care or nursery school, public park, residentially zoned or residentially used property, or any establishment with an on-premise ABC license, as measured in a straight line from

property line to property line.

(C) Ear piercing, as a principal or accessory use shall not be subject to this classification and these provisions.

(D) Tattoo and or body piercing operations shall not be considered as customary home occupation.

4.4.3 Motor Vehicle or Boat Services

(A) All Motor Vehicle or Boat Services (including gasoline sales)

(1) The lot shall front on a collector or arterial street and have direct access thereto. Proposals for lots with double frontage that desire multiple driveways shall be limited to one (1) curb cut on the higher classified street. Additional cuts shall be on streets of lower classification. Driveway Permits shall be approved by the North Carolina Department of Transportation (NCDOT) for access to State roads.

(2) Air compressors, hydraulic hoists, pits, repair equipment, greasing and lubrication equipment and similar equipment shall be entirely enclosed within a building.

(3) No outside storage of materials shall be permitted. The number of vehicles temporarily stored outdoors shall not exceed the number of service bays at the establishment.

(4) Certification by a registered, licensed engineer shall be required to ensure the prevention of petroleum and petroleum related product runoffs into the existing municipal storm drainage system.

(5) The Fire Chief shall review and approve a submitted fire protection plan submitted by the applicant prior to the issuance of a Zoning Permit.

(6) All garbage and refuse shall be stored in mechanical loading containers located at the rear of the lot or building.

(7) A photometric lighting plan shall be submitted with the site plan that includes fixture details, light intensity contours and overlap and a statement

regarding light trespass on adjacent properties. Lighting shall not exceed six (6) footcandles anywhere on the site and shall not exceed one (1) footcandle at the property line.

(8) No outdoor servicing, repair or disassembly of vehicles shall be permitted.

(9) Outside storage of secondhand material for resale shall be prohibited.

(B) Motor Vehicle or Boat Services (with Vehicle Storage)
In addition to the requirements for all Motor Vehicle Services in Section 4.4.3(A) above, the following shall apply to motor vehicle services which have vehicle storage:

(1) Buildings shall be located forward towards the street and parking and vehicle storage areas shall be located to the side and rear of the lot whenever possible. Applicable setbacks shall be observed.

(2) Any vehicle stored on a lot where such use occurs must have a valid registration, be stored in a substantially enclosed structure, or located within a fenced or walled enclosure. Fences and/or walls used for such enclosure shall be at least six (6) feet in height and completely opaque**.**

4.5 Retail and Wholesale Uses

4.5.1 Motor Vehicle or Boat Sales or Rental

(A) A permanent structure with permanent restroom facilities built in accordance with NC Building Code shall be located on the premises.

(B) A written description of the proposed operation, including square footage, number of employees, hours of operation and activities expected on site shall be submitted with the application.

(C) The lot shall front on a collector or arterial street and have direct access thereto.

(D) No outdoor sound system shall be permitted which can be heard beyond the boundaries of the property.

(E) No vehicle or boat shall be stored or displayed within the right-of-way of any public street.

(F) A North Carolina auto manufacturer dealership license shall be obtained prior to occupancy and shall be prominently displayed at the place of business.

4.5.2 Retail Sales (outside fully enclosed building)

(A) A permanent structure with permanent restroom facilities built in accordance with NC Building Code shall be located on the premises.

(B) A written description of the proposed operation, including square footage, number of employees, hours of operation and activities expected on site shall be submitted with the application.

(C) Items for sale shall not be displayed within any right-of-way.

(D) No outdoor sound system shall be permitted which can be heard beyond the boundaries of the property.

4.5.3 Smoke Shops & Tobacco Shops

(A) No such business shall front E Main St or W Main St.

4.6 Recreational and Entertainment Uses

4.6.1 Adult Oriented Businesses

(A) Adult Oriented Businesses are subject to the provisions of NCGS 160D-902.

(B) No such business shall be located within 1,000 feet of any other Adult Oriented Business, as measured in a straight line from property line to property line.

(C) No Adult Oriented Business shall be located within 1,200 feet of a church, public or private elementary or secondary school, child day care or nursery school, public park, residentially zoned or residentially used property, or any establishment with an on-premise ABC license, as measured in a straight line from property line to property line.

(D) The gross floor area of any Adult Oriented Business shall not exceed 3,000 square feet and all business related activity shall be conducted in a building.

(E) Except for an adult motel, no Adult Oriented Business may have sleeping quarters.

(F) There shall not be more than one (1) Adult Oriented Business in the same building,

structure, or portion thereof. No other principal or accessory use may occupy the same building, structure, property, or portion thereof with any Adult Oriented Business.

(G) Except for signs as may be permitted by Chapter 6 of this Ordinance, no printed material, slide, video, photograph, written text, live show, or other visual presentation format all be visible from outside the walls of the establishment, nor shall any live or recorded voices, music, or sounds be heard from outside the walls of the establishment.

(H) No enclosed or underground parking shall be permitted.

4.6.2 Campgrounds

(A) The lot for the park shall be a minimum of two (2) acres.

(B) Along any public street or public right-of-way, a setback of at least 40 feet from the edge of the public right-of-way shall be maintained.

(C) A distance of at least 10 feet shall be maintained between any part of the trailers, structures, or tent pads.

(D) A recreational area of not less than 10 percent of the gross site area or 2,500 square feet, whichever is greater, shall be maintained in a central and convenient location to all camping spaces.

(E) The density shall not exceed 15 camping spaces per acre of gross area.

(F) Adequate off-street parking and maneuvering space shall be provided on site. The use of any public street, sidewalk or right-of-way or any other private grounds for the parking or maneuvering of vehicles is prohibited.

(G) All internal roadways shall be stabilized and of adequate width to accommodate the volume and type of anticipated traffic, and in any event, shall comply with the following minimum requirements:

(1) Internal one-way roadway and roadways on which parking is prohibited shall not extend for more than 500 feet in total length; service less than 25 trailer spaces; and be at least 11 feet in width.

(2) Internal one-way roadway and roadways on which parking is permitted on one (1) side and two-way roadways, which do not allow parking, shall be at least 24 feet in width.

(3) Internal two-way roadways, which permit parking on one (1) side only, shall be at least 27 feet in width.

(4) Internal two-way roadways, which permit parking on both sides, shall be at least 34 feet in width.

(H) Each camping space for travel trailers shall be connected to an approved water supply system, which provides an accessible, adequate, safe and potable supply of water.

(I) An adequate and safe sewer system shall be provided in all camping areas. Such system shall either be a municipal system or a system approved by the appropriate County or State agency vested with the authority to approve sewage disposal systems.

(J) A screening device at least six (6) feet high and 90 percent opaque shall be provided where the use adjoins residentially zoned property.

(K) A central service building containing all necessary toilets, bathhouses and other plumbing fixtures specified in the most current edition of the North Carolina State Plumbing Code, as amended, shall be provided in all camping areas. Service building shall be conveniently located within a radius of 300 feet to camping spaces, which it serves.

(L) The storage, collection and disposal of trash and refuse in the travel trailer-parking area shall comply with all applicable regulations.

(M) Neither any person nor any mobile unit shall occupy a camping space or the travel trailer parking area for a period in excess of 30 days. A register of all occupants, the space occupied and the time of arrival and departure shall be maintained.

4.6.3 Golf, Tennis, Swimming Clubs and related uses

(A) There will be a 50 foot minimum setback between clubhouses, swimming pools, lighted tennis courts, or athletic fields and adjacent residentially zoned property.

(B) Outdoor swimming pools shall be protected by a fence, or equal enclosure, a minimum of four (4) feet in height, and equipped with a self-closing and positive self-latching gate provided with hardware for permanent locking.

4.6.4 Recreation Facilities (outdoor, including golf driving ranges, miniature golf, skateboard parks, water slides, batting cages and similar uses)

(A) No principal buildings or structures shall be located within 50 feet of any property line.

(B) Security fencing, a minimum of six (6) feet in height, shall be provided along the entire boundary of park activities where adjoining a residential or O-I district.

(C) No amusement equipment, machinery, or mechanical device of any kind may be operated within 200 feet of any residentially zoned property.

4.6.5 Shooting Ranges (outdoor-local government only)

(A) No such facility shall locate within a 500 foot radius of any residentially zoned property.

(B) Security fencing shall be provided along the entire boundary of such a facility.

(C) The facility and its operation shall observe all Fire Prevention and Protection requirements.

4.7 Industrial, Warehousing, Distribution and Transportation Uses

4.7.1 Airports and Heliports

(A) A configuration diagram depicting the layout of runways, taxiways, approach zones and overrun areas shall be submitted with the application. These diagrams shall also be depicted on aerial photographs that also show the area within five (5) miles of the proposed site.

(B) A plan indicating isotonic contours that show the effects of aircraft operations upon land within one (1) mile of the boundary of the proposed site shall be submitted with the application.

(C) The number and type of aircraft proposed to be stored including the storage area for aircraft, fuel and motor vehicles and service areas for the aircraft shall be documented in the application and on the submitted site plan.

(D) A statement as to how on-site fire and rescue services will be provided, and a letter from the appropriate agency stating services are available and adequate to protect the proposed facility, shall be submitted with the application.

(E) A list of land uses within the final approach zones of the airport/heliport shall be submitted with the application.

(F) A certification that all Federal Aviation Administration (FAA) and State standards and requirements have been, or will be, met shall be submitted with the

application.

(G) A minimum of 50 acres is required for Basic Utility Stage 1 airports with a 2,000-foot runway. Additional area is required for larger airports.

(H) Airport and heliport size and layout shall conform to FAA Advisory Circular 150/5300-4B.

(I) There shall be a minimum 300-foot distance between the airport/heliport property and the nearest residence.

(J) Security fencing shall be provided that is sufficient to control access to runways and taxiways. The fencing shall be a minimum of six (6) feet in height.

(K) The site and its operations shall not adversely affect existing adjacent land uses.

(L) The land required for the provision of approach zones and overrun areas shall be owned or controlled by the applicant.

(M) Adequate land area shall be provided for all of the proposed uses, buildings and storage areas.

(N) Screening of buildings, storage and maintenance areas shall be provided from adjacent residentially-zoned or used land.

(O) A finding shall be made that compatible land uses are located in the final approach areas of the airport.

4.7.2 Asphalt Plants

(A) Any asphalt plant operations shall be located at least 50 feet from any property line.

(B) Security fencing, a minimum of six (6) feet in height, shall be provided around the perimeter of the operation.

(C) Rehabilitation:

(1) Within one (1) year after the cessation of production, all equipment and stockpiles incidental to such operation shall be dismantled and removed by and at the expense of the owner.

(2) The site shall be drained to prevent the accumulation of standing water, and channelization of the drainage shall be designed and controlled so as not to cause erosion or silting of neighboring properties or public drainage ways,

nor to appreciably increase the turbidity of any natural water course, or to occlude any existing drainage course.

(D) All unpaved storage areas shall be maintained in a manner, which prevents dust from adversely impacting adjacent properties.

(E) Access:

(1) Access roads leading to any part of the operation shall be constructed with a gravel or asphalt stone surface and maintained in a dust free manner.

(2) Access roads shall be located no closer than 15 feet to any property line other than a railroad right-of-way line.

(3) A plan shall be submitted showing truck routes to and from the site. Such routes shall be designed to minimize impacts on residential areas, schools, or other uses negatively affected by truck traffic. Such routes shall be adhered to.

4.7.3 Broadcast Towers

(A) Broadcast towers shall provide proof of compliance with all federal, state, and local regulations including the Federal Communications Commission, the Federal Aviation Agency, the Aviation Division of the North Carolina Department of Transportation, and Federal Radio Frequency Emission Standards.

(B) Broadcast towers located on properties within 150 feet of any residential district shall not exceed 150 feet in height.

(C) No telecommunication tower will be located within a front yard (as defined in this Ordinance).

(D) A buffer yard (as defined in this Ordinance) is required along all sides of the perimeter of the tower site. It shall be the responsibility of the provider to keep all landscaping material free from disease and property maintained in order to fulfill the purpose for which it was established. Any vegetation that constitutes part of the screening shall be replaced in the event it dies.

(E) The tower shall be situated in such a manner as to not fall across a public street or adjoining property line in the event of structural failure. Such assurance shall be made by either situating the tower a distance from the street or adjoining property line that is greater than the height of the tower or by using a self-collapsing or telescoping structure that will collapse upon itself. Any self-collapsing or telescoping design structure must be documented by a registered engineer or architect. Any lattice-type tower located in a commercial or industrial

zoned district which abuts any residential district shall not be located within 150 feet from any residential district.

(F) Telecommunications towers located within 150 feet of any residential district shall not contain light or light fixtures at a height exceeding 15 feet. Furthermore, lighting of all towers in any district shall be directed toward the tower and/or equipment shelters to reduce the effect of glare. (Strobe lights required by the FAA are exempt.)

(G) Towers and related facilities must be removed if abandoned for a period greater than six (6) months. Operator must provide a copy to the Town of the notice to the Federal Communications Commission to cease operation.

(H) Additional provider antennas and equipment shelters to an approved telecommunications tower site may be made with the approval of the Administrator, without additional review by the Board of Adjustment, provided said changes do not increase the height of the tower or type of tower construction.

(I) No signs, graphics, or text shall be located on the tower unless required for safety or federal law.

(J) The provider must show proof of adequate insurance coverage for any potential damage caused by or to the broadcast tower prior to the issuance of a zoning permit.

(K) Outdoor storage of equipment or other related items is prohibited on a broadcast tower site.

4.7.4 Junkyards, Salvage Yards, Recycling Operations and Similar Uses

(A) Automobile wrecking or junkyards, salvage and scrap processing uses shall require a minimum of three (3) acres. Any area covered by 600 square feet or more of scrap material or seven (7) or more junk vehicles shall qualify as a use of this category.

(B) Measures shall be taken to prevent dust and tracking of mud and debris onto adjoining streets.

(C) Any outdoor storage associated with the use may not be placed within 50 feet of a public street right-of-way.

(D) Outdoor storage shall be completely screened by a fence and landscaping at least eight (8) feet in height and 90 percent opaque.

(E) No items may be stacked in a manner so that they protrude above the top of the fence.

(F) Disposal of garbage shall be in an approved container and regularly maintained. Open dumping of garbage shall be prohibited.

(G) Disposal of toxic/hazardous matter is prohibited anywhere without a state permit.

(H) Storage of items shall be so arranged as to permit easy access for firefighting purposes.

4.7.5 Manufacturing, Small Scale

(A) The use must be operated in a manner that prevents external effects of the activity such as, but not limited to smoke, soot, dirt, vibration and odor from being detectable at any property line.

(B) Newly constructed shipping and receiving facilities shall be designated such that they are internal to the site, in service alleys or at the back of the building.

(C) The use shall not generate a high amount of truck traffic. Trucks should access the property from an arterial street. Traffic of trucks with four or more axles shall be limited to 4 times a week.

(D) Reuse of an existing building shall not exceed 20,000 square feet of building floor space.

(E) New construction shall not exceed 10,000 square feet of building floor space.

(F) Outdoor storage is discouraged, and will only be permitted when it is screened from view from any public street or adjoining property.

4.7.6 Mining and Quarrying Operations

(A) Setback

(1) The edges of any pit where a mining operation is taking place, any equipment used in the processing of rock and gravel, any asphalt plant, or other industrial use operated in conjunction with the mine or quarry shall be located at least 50 feet from any property line.

(2) Where the mining operation site is bounded by a railroad right-of-way currently being used for rail service to the mining operation, no setback shall be required between the railroad right-of-way and such operation.

(B) Rehabilitation

(1) Within one (1) year after the cessation of production at all mining operations, all equipment and stockpiles incidental to such operation shall be dismantled and removed by and at the expense of the owner.

(2) Except in a case where redevelopment for another permitted use is in progress on the site of an abandoned extraction operation, all excavations shall be graded to reduce the surface to gently rolling topography in substantial conformity to the land area immediately surrounding, and shall be planted with a cover of sod, trees, shrubs, legumes or grasses which will minimize erosion due to wind and rainfall.

(3) The site shall be drained to prevent the accumulation of standing water, and channelization of the drainage shall be designed and controlled so as not to cause erosion or silting of neighboring properties or public ways, nor appreciably increase the turbidity of any natural watercourse, or to occlude any existing drainage course.

(C) Access

(1) Access roads leading to any part of the operation shall be constructed with a gravel or asphalt stone surface and maintained in a dust-free manner.

(2) Access roads shall be located no closer than 15 feet to any property line other than a railroad right-of-way line.

(3) A plan shall be submitted showing truck routes to and from the site. Such routes shall be designed to minimize impacts on residential areas, schools, or other uses negatively affected by truck traffic. Such routes shall be adhered to.

(D) Other

(1) Security fencing, a minimum of six (6) feet in height, shall be provided around the perimeter of both existing and abandoned operations.

(2) All operations involving blasting discernible beyond the external property line of a quarry shall only be conducted between the hours of 7:00 a.m. and 6:00 p.m. Additionally, all requirements regarding noise in Chapter 12, Article IV in the Town Code of Ordinances shall be met.

(3) All unpaved storage areas shall be maintained in a manner, which prevents dust from adversely impacting adjacent properties.

4.7.7 Water Treatment Plants and Sewage Treatment Plants (non-government, public)

Except in the M-1 district:

(A) No use shall be made of the site that is not directly related to the operation of the plant.

(B) All buildings shall meet the minimum yard setbacks for the district in which located or 20 feet whichever is the greater.

(C) Screening shall be provided adjoining residential property lines with a six (6) feet high, 90 percent opaque screen.

(D) All structures shall be enclosed by a chain link fence at least eight (8) feet in height.

4.7.8 Wireless Telecommunications Towers

Wireless Telecommunications Towers are subject to the provisions of NCGS Chapter 160D, Article 3, Part 9. In recognition of the Telecommunications Act of 1996, it is the intent of the Town of Forest City to allow communication providers the opportunity to locate towers and related facilities within its jurisdiction in order to provide an adequate level of service to its customers while protecting the health, safety and welfare of the citizens of Forest City. Wireless towers may be considered undesirable with other types of uses, most notably in residential zoning districts; therefore, special regulations are necessary to ensure that any adverse effects to existing and future development are mitigated.

(A) Wireless telecommunications towers (including cellular towers, digital towers and PCS towers) are permitted uses by right in all M-I Industrial zoning districts pursuant to the regulations set forth in this section. Telecommunication towers require the issuance of a Special Use Permit in all other zoning districts pursuant to the regulations set forth in this Section.

(B) All telecommunications towers constructed within residential zoning districts R-20 and R-15, must be of the monopole variety. Telecommunications towers within the M-1, C-2 and C-3 zoning districts may be either a monopole or lattice type.

(C) It is the intent of the Town to encourage providers to co-locate facilities in an effort to reduce the number of towers in Forest City's jurisdiction. The Town encourages providers to construct telecommunications towers such that additional telecommunication providers may be afforded the opportunity to co-locate facilities on the tower. The Town further reserves the right to make co-location a condition on any tower permitted by a Special Use Permit under the guidelines listed above.

(D) The maximum height of telecommunication towers is as follows:

(1) In all residential districts, the maximum height will be 150 feet.

(2) In all other districts, the maximum tower height shall be 200 feet unless

documentation is provided to show a taller tower is required to meet minimal service levels.

(E) No telecommunication tower will be located within the front yard (as defined in this Ordinance).

(F) Town of Forest City, by Federal law, cannot prohibit a telecommunications tower or deny a Special Use Permit on the basis of environmental or health concerns relating to radio emission if the tower complies with the Federal Radio Frequency Emission Standards. The Town requires that the provider must provide documentation proving the proposed tower does comply with the Federal Radio Frequency Emission Standards.

(G) A buffer yard (as defined in this Ordinance) is required along all sides of the perimeter of the tower site. It shall be the responsibility of the provider to keep all landscaping material free from disease and property maintained in order to fulfill the purpose for which it was established. Any vegetation that constitutes part of the screening shall be replaced in the event it dies.

(H) The tower shall be situated in such a manner as to not fall across a public street or adjoining property line in the event of structural failure. Such assurance shall be made by either situating the tower a distance from the street or adjoining property line that is greater than the height of the tower or by using a self-collapsing or telescoping structure that will collapse upon itself. Any self-collapsing or telescoping design structure must be documented by a registered engineer or architect. Any lattice-type tower located in a commercial or industrial zoned district which abuts any residential zoned district shall not be located within 100 feet from any residential zoned district.

(I) Telecommunications towers located in all residential districts shall not contain light or light fixtures at a height exceeding 15 feet. Furthermore, lighting of all towers in any district shall be directed toward the tower and/or equipment shelters to reduce the effect of glare. (Strobe lights required by the FAA are exempt.)

(J) Towers and related facilities must be removed if abandoned for a period greater than six (6) months. Operator must provide a copy to the town of the notice to the Federal Communications Commission to cease operation.

(K) Additional provider antennas and equipment shelters to an approved telecommunications tower site may be made with the approval of the Administrator, without additional review by the Board of Adjustment, provided said changes do not increase the height of the tower or type of tower construction.

(L) Freestanding signs are prohibited. One (1) wall sign, for the purpose of

identification, is allowed on any equipment shelter provided it does not exceed 10 percent of the total wall area of the wall upon which it is located. No graphics or text shall be located on the tower.

(M) The provider must show proof of adequate insurance coverage for any potential damage caused by or to the telecommunications tower prior to the issuance of a zoning permit.

(N) Outdoor storage of equipment or other related items is prohibited on a telecommunications tower site.

(O) In addition to the requirements of this subsection, all applications for a telecommunications tower must include the following information on their site plan:

(1) Identification of intended provider(s);

(2) Documentation that the tower has been designed by a registered engineer and that the tower has sufficient integrity to accommodate more than one (1) user;

(3) A statement from the owner indicating intent to allow shared use of the tower and how others will be accommodated, if applicable;

(4) Documentation that the telecommunications tower complies with the Federal Radio Frequency Emission Standards;

(5) A statement regarding possible interference, if any, with respect to radio and/or television receptions.

4.8 Agricultural Uses

4.8.1 Equestrian facilities, riding/boarding stables

(A) Common barns and stables and manure storage areas shall be located a minimum of 100 feet from any adjacent residentially used or zoned property.

(B) All unpaved areas shall be maintained in a manner to prevent dust from adversely impacting adjacent properties.

(C) Outdoor lighting structures shall be located, angled, shielded, or limited in intensity so as to cast no direct light on adjacent property and to avoid the creation of a visual safety hazard to any adjacent right-of-way.

4.8.2 Produce Stands (permanent)

(A) A permanent produce stand shall be allowed as an accessory use to an agricultural operation only. All produce sold shall be grown on a lot under the same ownership as the lot upon which the produce stand is located. All other produce stands shall be considered temporary uses and shall follow the Supplemental Requirements for temporary uses.

(B) A produce stand shall not be located in a street right-of-way.

(C) A produce stand shall not be located closer than 10 feet to any side lot line unless a greater setback is required for the zoning district in which it is located.

(D) Signs for a produce stand shall not be illuminated, nor shall they exceed four (4) square feet in area. Off-premises signs are not permitted.

(E) During the times of the year in which the produce stand is not in operation, the stand shall be properly closed up and maintained.

4.9 Other Uses

4.9.1 Accessory Structures (non-residential)

(A) No accessory building shall be erected in any front or side yard whether required or provided.

(B) Accessory buildings may be located in a rear yard not adjacent to a street within 10 feet of the property line. Accessory buildings adjacent to a street shall meet the principal building setback for that side.

(C) No accessory building shall be erected within 10 feet of any other building.

(D) There shall be a principal structure on any lot for which there is an accessory structure.

(E) The maximum height for accessory structures shall be the height of the principal structure.

(F) Under no circumstances may a vehicle, trailer, manufactured home, POD, similar container, or parts thereof, be used as an accessory structure.

4.9.2 Drive-through Uses

(A) Stand alone ATMs and other drive-through service kiosks may be permitted as

accessory uses (i.e. in a shopping center parking lot).

(B) Drive-through lanes shall not be located to the front of a building or facing the primary street.

(C) Vehicle storage for drive-throughs shall be located outside of and physically separated from the right-of-way of any street. This area shall not interfere with the efficient internal circulation of traffic on the site, adjacent property, or adjacent street right-of-way. There shall be adequate vehicular stacking area so that vehicles waiting for the drive-through do not back up into the street.

4.9.3 Outdoor Storage (associated with a permitted use, excluding outdoor sales display)

(A) All outdoor storage shall be located in the rear yard only.

(B) All outdoor storage shall be screened from view of the street with a minimum six (6) foot opaque fence.

4.9.4 Temporary Uses

Temporary structures and uses, when in compliance with all applicable provisions of this Ordinance and all other ordinances of the Town of Forest City, shall be allowed. The following temporary structures and uses shall be permitted:

(A) Construction Trailers

Construction trailers used in conjunction with construction projects provided that the following requirements are met:

(1) Such construction trailers may be located at a building site where there is a valid building permit for the construction project, or, in the case of a residential development, a valid building permit for at least one (1) of the residential units being constructed.

(2) All construction trailers shall be located at least 10 feet off any street right-of-way and not be placed in any required rear or side yard setback.

(3) In addition to construction trailers, security guard houses may be installed. Use of such structures may include overnight stay provided adequate sanitary facilities are provided and the same conditions for construction trailers are met.

(B) Residential Sales Offices

(1) Structures, whether temporary or permanent, located in a development containing 20 or more lots and used as sales offices for the development are

permitted.

(2) Any temporary structure used as a sales office shall be located on a lot which is in compliance with the regulations of this Ordinance and shall meet all yard requirements for the applicable zoning district.

(3) At least five (5) off-street parking spaces shall be provided on the lot to accommodate persons using the sales office.

(4) If a permanent residential structure is used as the sales office, future use of said structure shall be for residential purposes.

(5) A trailer may be used as a temporary sales office, provided that the following conditions are met:

(a) The trailer shall be provided with underpinning, from the bottom of the walls to the ground, made of masonry, vinyl, pre-painted aluminum material, or other similar material.

(b) Landscaping shall be provided around the base of the trailer.

(c) At the completion of the sales in a tract, or two (2) years from the date the temporary sales office began operation, whichever is sooner, said sales office shall cease operation unless the Administrator determines that substantial progress is being made in the selling and/or marketing of the lots and/or homes in the development. In such case, one (1) or more extensions (each not to exceed one (1) year in duration) may be so authorized by the Administrator. If a temporary structure is used as the sales office, it shall be removed after its use as a sales office is terminated. Immediately after the structure is removed, the lot shall be returned to a natural state. Any paved or graveled driveway and/or parking area associated with the sales office shall also be removed. All bare soil areas on the lot shall be returned to a natural vegetative state (reseeded or sodded) immediately after removal of the sales office and driveway/parking area.

(C) School Manufactured Units

Public or private schools may install temporary manufactured classroom units with the issuance of a zoning permit for two-year renewable periods.

(D) Temporary Sales

(1) Certain uses of a temporary nature may be permitted. The Administrator may grant a zoning permit for the following temporary uses:

(a) Temporary retail sales (excluding produce stands)

(b) Christmas Trees Sales

(c) Civic and religious organization sales

(d) Government-sponsored sales

(2) Such uses are subject to the following conditions:

(a) Temporary retail sales shall be limited to the C-1, C-T, C-2, C-3 and M-1 zoning districts only.

(b) Truck trailers and flat beds are not permitted except for short-term delivery services.

(c) Temporary uses shall be permitted for a maximum of 45 days per calendar year on any individual property.

(d) No portion of the temporary use may be located within the public street right-of-way.

(e) Temporary uses shall present proof of property owner approval prior to the issuance of a permit.

(f) The proposed use will not materially endanger the public, health, welfare and safety.

(g) The proposed use will not have a substantial negative effect on adjoining properties.

(h) The site shall have adequate parking for the temporary use in addition to parking for any permanent use located on the property.

(E) Mobile Food/Beverage Vendors

(1) Temporary mobile food/beverage vendors are permitted in the Town of Forest City in accordance with the following provisions (except for mobile food/beverage vendors that are permitted during a Town sponsored event):

(a) Mobile food/beverage vendors shall be limited to the C-1, C-T, C-2, C-3 and M-1 zoning districts only.

(b) Mobile food/beverage vendors shall be permitted for a maximum of 180 days per calendar year on any individual property.

(c) No portion of the mobile food/beverage vendor may be located within the public street right-of-way.

(d) Mobile food/beverage vendors shall present proof of property owner approval prior to the issuance of a permit.

(e) The proposed use will not have a substantial negative effect on adjoining properties.

(f) The mobile food/beverage vendor should provide appropriate garbage receptacles that are emptied and stored out of sight after working hours.

(g) The mobile food/beverage vendor should be located on a paved surface that provides adequate parking.

(h) The mobile food/beverage vendor should remain on its temporary base to be readily moveable.

(F) Produce Stands (temporary)

(1) Temporary produce stands are permitted in residential districts (R-20, R-15, R-8 and R-6) for up to 90 days per calendar year, provided that the display and sales area does not exceed 100 square feet and the produce is grown on-site.

(2) Temporary produce stands are permitted in commercial districts (O-I, C-1, , C-T, C-2, C-3, M-1 and PRD) up to 365 days a year, provided that the temporary use permit is renewed annually and there is only one (1) temporary use on the property at a time.

(3) Truck trailers and flat beds are not permitted except for short-term delivery services.

(4) No portion of the produce stand may be located within the public street right-of-way.

(5) Temporary produce stands shall present proof of property owner approval prior to the issuance of a permit.

(6) The proposed use will not materially endanger the public, health, welfare and safety.

(7) The proposed use will not have a substantial negative effect on adjoining properties.

(8) The site shall have adequate parking for the temporary use in addition to parking for any permanent use located on the property.

(G) Yard Sales

(1) A yard sale may be conducted by civic or religious organization, an individual occupant of a residence, or in cooperation with neighbors for the purpose of selling surplus household items for profit or for charitable purposes.

(2) Yard sales shall not be conducted at the same location or by the same organizer(s) more than four (4) days per calendar year.

(H) Outdoor Display of Merchandise



(1) Outdoor display of merchandise on sidewalks is permitted for retail establishments in the C-1, C-T, and C-2 districts provided that not more than one-half (½) of the width of the sidewalk is obstructed and the minimum width to comply with the American's with Disabilities Act (ADA) is maintained.

(2) Such displays may only take place when the retail establishment is open for business and must be removed from the sidewalk when the business is closed.

(I) Outdoor Dining



Outdoor dining is permitted on the sidewalks immediately in front of permitted restaurant uses in the C-1, C-T, and C-2 districts provided that that not more than one-half (½) of the width of the sidewalk is obstructed and the minimum width to comply with the American's with Disabilities Act (ADA) is maintained. Outdoor dining is also subject to the requirements of Section 17.9 the Town Code of Ordinances.

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CHAPTER 5
BUILDING DESIGN GUIDELINES AND REQUIREMENTS

5.1 Purpose and Applicability 5-1
5.2 General Guidelines 5-1
5.3 Downtown Building Design Guidelines 5-1
5.4 Non-residential Building Requirements 5-8
5.5 Design Requirement Evaluation 5-12

5.1 Purpose and Applicability

The purpose of this Chapter is to encourage architectural compatibility and the establishment and preservation of architectural character throughout the Town. Enumerated in the sections below are general guidelines all buildings, guidelines for buildings in the Downtown Master Plan area, and requirements for all non-residential buildings not located within the M-1 district.

5.2 General Guidelines

(A) Adjacent buildings should be compatible in regards to spacing, setbacks, proportions, materials, massing and scale.

(B) The primary entrance should be architecturally and functionally designed on the front façade facing the primary public street.

(C) The front façade of the principal structure should be parallel to the front lot line and street.

5.3 Downtown Building Design Guidelines

5.3.1 Applicability

The guidelines enumerated in this Section apply to the area depicted in the Downtown Plan on Map 5 of the Town of Forest City Comprehensive Land Use Plan. The guidelines are intended to maintain Downtown Forest City's historic character and ensure that infill development is compatible. While these are only guidelines, the Town strongly encourages compliance in order to ensure compatibility with other Downtown development. To assist in compliance with these guidelines, the Town offers the Preservation Design Services Program through the Office of Downtown Development.

5.3.2 Guidelines for National Register Historic Districts: Secretary of the Interior's Standards for Rehabilitation

A large portion of the Downtown is in a National Register Historic District. In general, the Secretary of Interior's Standards for Rehabilitation are recommended when repairing, adding on, or rehabilitating existing buildings in the downtown, especially if the owner of the building wishes to utilize rehabilitation tax credits.

(A) A property should be used for its historical purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

(B) The historic character of a property should be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property should be avoided.

(C) Each property should be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, should not be undertaken.

(D) Most properties change over time; those changes that have acquired historical significance in their own right should be retained and preserved.

(E) Distinctive features, finishes and constructive techniques or examples of craftsmanship that characterize a property should be preserved.

(F) Deteriorated historic features should be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new one should match the old in design, color, texture and other visual qualities and where possible, materials. Replacement of missing features should be substantiated by documentary, physical, or pictorial evidence.

(G) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials should not be used. The surface cleaning of structures, if appropriate, should be undertaken using the gentlest means possible.

(H) Significant archeological resources affected by a project should be protected and preserved. If such resources must be disturbed, mitigation measures should be undertaken.

(I) New additions, exterior alterations, or related new construction should not destroy historical materials that characterize the property. The new work should be differentiated from the old and should be compatible with the massing, size and architectural features to protect the historic integrity of the property and its environment.

(J) New additions and adjacent or related new construction should be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

5.3.3 Guidelines for Maintenance and Repair of Existing Historic Features

(A) Historic entrances should be retained and not enclosed or relocated. If an entrance needs to be modified to meet ADA requirements, it should be modified in a manner that has minimal impact on the original location and configuration and meets the NC Building Code standards for rehabilitation.

(B) Existing display and transom windows openings should be retained, and the glass should remain unpainted. Original window openings that have been covered or altered may be restored by carefully removing the modern cladding or infill material.

(C) Properly paint or seal any wood or metal features, including doors, trim bulkheads and cornice to prevent deterioration and rust.

(D) Properly maintain and caulk or repoint any joints in brick, stone or other material to protect from water infiltration and deterioration.

(E) Replace broken glass in display windows, transoms and doors.



5.3.4 Guidelines for New Storefront Design

(A) When building a new storefront for an existing building, historical research and physical evidence can provide clues for an appropriate reconstruction. If no evidence of the original storefront can be found, a new design should incorporate traditional storefront elements that reflect the scale, design, materials and colors of nearby buildings.

(B) A traditional storefront configuration that is either flush with the building or has a recessed entrance with flanking display windows should be used.

(C) The new storefront and primary entrance should occupy the entire first floor façade.

(D) Transom windows or sign board panels can occupy the vertical space between the display windows and the storefront or roof cornice.

(E) Building materials that are compatible with the existing building should be used.

(F) Display windows and entrance doors should consist of large expanses of glass to allow visibility into the space.

(G) Awnings, canopies, or transparent low-E glass may be used to reduce excessive sunlight and heat gain. Tinted or reflective glass should not be used.

FIGURE 5.1: STOREFRONT DETAIL



5.3.5 Guidelines for New Building Design

(A) New buildings should be designed so that they are similar in mass, scale, rhythm, design, materials and orientation to surrounding buildings. Standing seam metal and similar materials are prohibited as exterior wall materials.

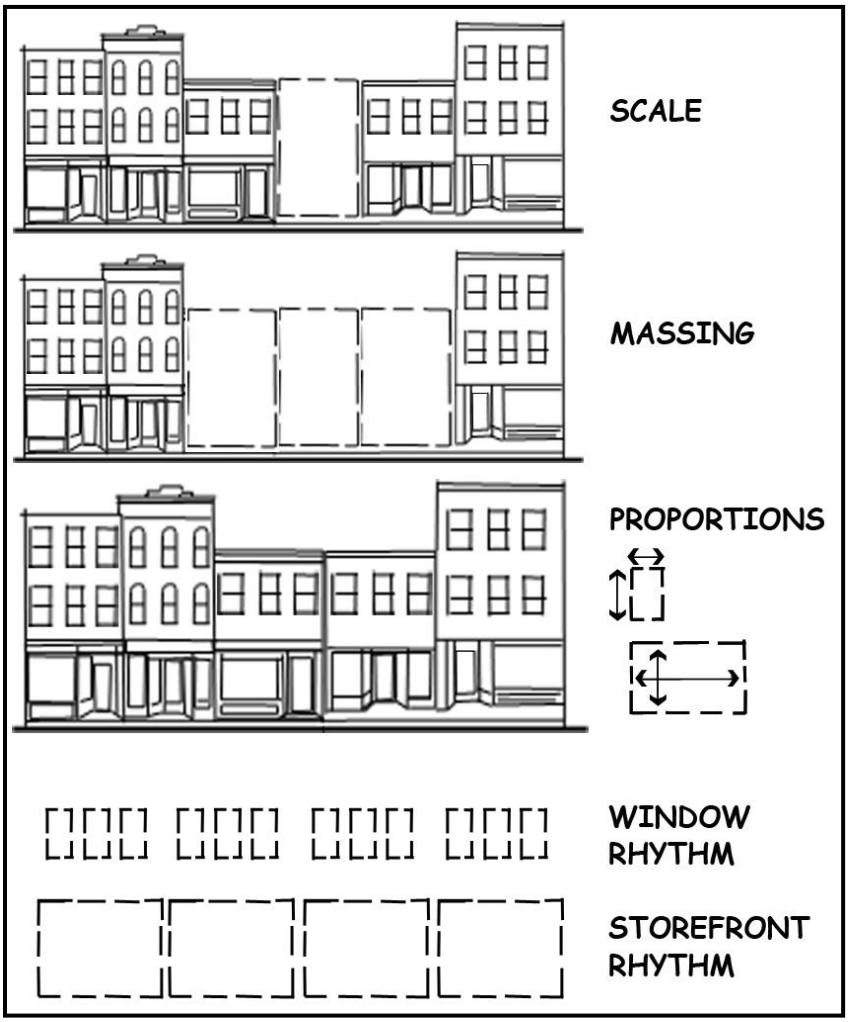
(B) New buildings should be oriented close to the street and in line with adjacent buildings.

(C) Window and door patterns that reflect the historic patterns found in existing buildings should be used.

(D) Infill buildings should not be constructed closer than five (5) feet from a wall with an existing functional window or doorway on the side of an adjacent existing building.



FIGURE 5.2: SCALE, MASSING, PROPORTIONS, RHYTHM



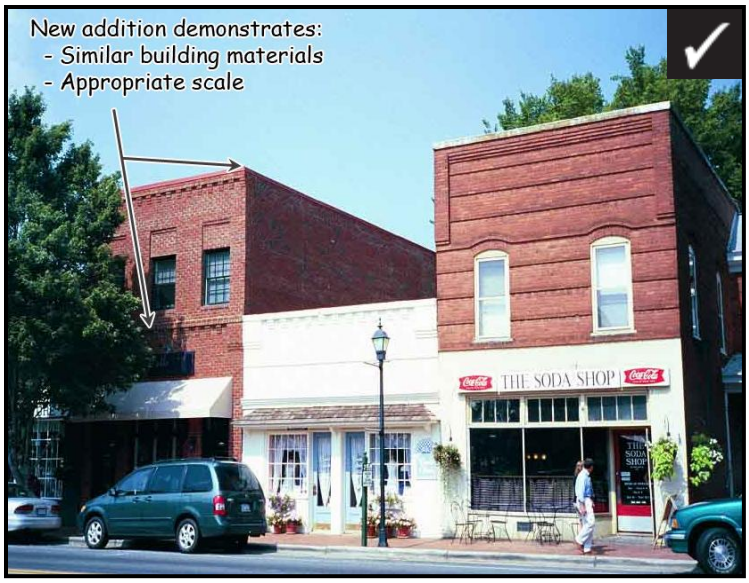
5.3.6 Guidelines for Building Addition Design

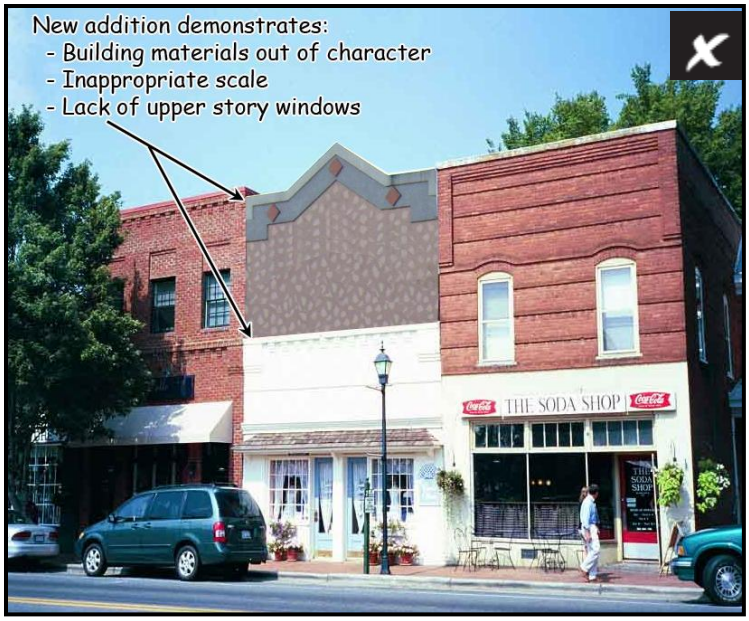
(A) Additions should be compatible with existing buildings in size, scale, proportions, color and materials.

(B) Additions should be oriented so that they are subordinate to the primary building. An addition should remain subordinate in location, size and appearance to the main body of the building.

(C) Care should be taken not to damage or block existing character-defining architectural features.

(D) Additions should be designed so that they can be removed at a later date without compromising the form and character of the original building. Additions should not be constructed closer than five (5) feet from a wall with an existing functional window or doorway on the side of an adjacent existing building.





5.3.7 Guidelines for Accessory Building Design

(A) The exterior materials of accessory buildings should substantially match the materials of the principal structure and surrounding buildings.

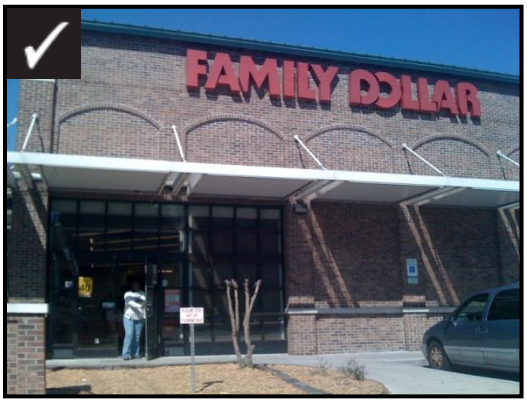
(B) Accessory structures should be located in the rear yard and should not exceed the height of the principal structure.

5.4 Non-residential Building Requirements

The requirements of this Section shall apply to all new non-residential buildings not located in the M-1 Industrial district (in exception to 5.4.1.B).

5.4.1 Materials and Color

(A) Front facades and exterior walls visible from the public right(s)-of-way shall be at least 75 percent brick, decorative concrete block, stucco, stone, or other materials similar in appearance and durability. Vinyl siding, plain concrete block, cast concrete, metal 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 percent of the façade. Two (2) wall materials may be combined horizontally on one (1) façade. The heavier material shall be below. Pitched roofs shall be clad in standing seam metal, slate, asphalt shingles, or similar material. All accessory buildings shall be similar in appearance and architecture to the principal structure.



Brick Facade



Plain Concrete Block and Metal Facade

(B) Facade colors shall be of low reflectance earth tone, muted, subtle, or neutral colors in the C-1 and C-T district. The use of high-intensity, metallic, fluorescent, or neon colors is not permitted. Variations in color schemes are encouraged in order to articulate entryways, architectural features and public amenities so as to give greater recognition to these features.



Muted Neutral Colors



High Intensity Colors

(C) The following regulations shall apply to the painting of murals upon exterior walls of any building, excluding buildings constructed to North Carolina Residential Building Code. The issuance of a Zoning Permit shall be required prior to the painting of a mural to ensure compliance with these regulations.

(1) In that the buildings located within the C-1 zoning district are primarily located within a National Register Historic District, previously unpainted exterior walls within the C-1 district shall not be painted with a mural.

(2) No mural shall be painted on a wall that fronts Main Street within the C-1 zoning district.

(3) All murals must be maintained in good repair by the owner of the building on which they are painted. Good repair includes no chipped paint, no graffiti defacement, and no excessive fading**.**

(4) No mural shall contain material that is obscene in accordance with NC G.S. 14-190.1

5.4.2 Building Design

(A) Roof pitches less than 2:12 and flat roofs shall incorporate a parapet wall on all sides visible from the street. Parapet walls shall have decorative cornices or caps. Roof lines shall be varied to reduce the scale of structures and visual interest.



Parapet with Decorate Cap and Varied Roof Line



Parapet on Front Façade Only-No Decorative Cap

(B) Except for civic and industrial buildings, at least 40 percent of the length of the first floor on primary street fronting facades shall be in windows or doorways. Street level windows shall be visually permeable. For buildings on a corner, the first floor secondary street façade shall be at least 10 percent windows. A window or functional general access doorway shall be located along the length of the facade at least every 20 feet. A window is measured as follows:

(1) Maximum Sill Height (first floor): 42 inches
(2) Minimum Area: 16 square feet
(3) Minimum Width: 3 feet
(4) Minimum Height: 4 feet



First Floor Windows



Windows Covered for Interior Display

(C) 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.



Screened Roof-top Equipment



Unscreened Roof-top Equipment

(D) Facades greater than 75 feet in length shall incorporate recesses and projections along at least 20 percent of the length of the façade.

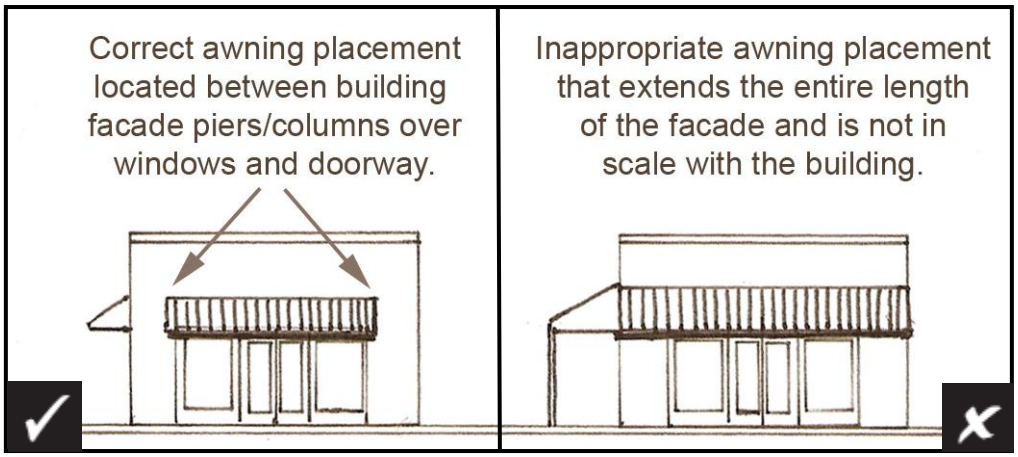


Façade with Recesses and Projections



Façade without Recesses and Projections

(E) When used, awnings and canopies shall be placed at the top of window or doorway openings, and shall not extend beyond such openings. No awning shall extend more than the width of the sidewalk or 10 feet, whichever is less. Awnings shall be self-supporting from the wall. No supports shall rest on or interfere with the use of pedestrian walkways or streets. In no case, shall any awning extend beyond the street curb or interfere with street trees or public utilities.



5.5 Design Requirement Evaluation

5.5.1 Use of Alternate Plan, Material, or Methods

Alternate design plans, building materials or construction techniques may be used when unreasonable or impractical situations would result from the application of architectural design standards. Such situations may result from unique site conditions, innovative design applications and/or unified development design.

5.5.2 Evaluation by Board of Adjustment

The performance of alternate design techniques shall be evaluated by the Board of Adjustment to determine if the alternate design meets the intent and purpose of this Ordinance. This determination shall take into account the land use of adjacent property, the orientation of the building to public streets, the building typology, the intended use of the structure, attention to architectural detail, scale and mass. Such review shall follow the quasi-judicial procedures set forth in Section 15.4.

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CHAPTER 6
SIGNS

6.1 Purpose and Applicability 6-1
6.2 General Provisions 6-2
6.3 Temporary Signs 6-6
6.4 Permanent Signs 6-11
6.5 Prohibited Signs 6-18

6.1 Purpose and Applicability

(A) The purpose of this Chapter is to support and complement the various land uses allowed in the Forest City area by the adoption of policies and regulations concerning the placement of signs. The outdoor placement of signs is a legitimate use of private property, but the erection of signs shall be controlled and regulated in order to promote the health, safety, welfare, convenience and enjoyment of travel on roadways, as well as protect the public investment in such roadways. The provisions of this Chapter are also intended to promote the reasonable, orderly and effective display of such signs, displays and devices. It is also the intent of this section to prevent signs from dominating the visual appearance of the area in which they are located and to enhance the aesthetic environment of the Forest City area.

(B) Except as otherwise provided in this Ordinance, it shall be unlawful for any person to construct, place, enlarge, move, or replace any sign, without first having obtained a sign permit for such sign from the Administrator as required by this Ordinance. A fee, in accordance with a fee schedule adopted by the Town Board of Commissioners, shall be charged for each sign permit issued.

(C) The following signs are exempt from the requirements of this Chapter:

(1) Wall signs of less than one (1) square foot

(2) Murals as defined in Appendix A.

(3) Repair, replacement or replicas of historic signs, that do not meet the requirements of this Chapter, within the C-1 zoning district and National Register Historic District are permitted. A photo, picture, drawing, or sketch of the *original* sign shall accompany the sign permit application that reasonably establishes a date of establishment of the original historic sign prior to January 1, 1967.

(4) Incidental signs not legible from off-site or a public right-of-way. Examples include gas pump signs, drive-through menu boards, on-site directional signs, and signs within a sports stadium

(5) Government signs posted or authorized by various local, state and federal agencies in the performance of their duties including providing community information and facilitating economic development. Examples of such signs include regulatory signs, traffic signs, welcome signs, wayfinding signs, bulletin board and directory signs.

(6) Address signs affixed to structures, mailboxes, decorative light posts, driveway entrances, etc., which serve to identify the address of the structure or occupant for the purposes of postal service and emergency E-911 location.

(7) Flags attached to a permanent flag pole that is permanently affixed to the ground provided that there are no more than four (4) flags per lot of record and flags are located outside the public right-of-way unless they are installed by a government entity.

6.2 General Provisions

6.2.1 Sign Design Guidelines

(A) Materials, colors and shapes of proposed signs shall be compatible with the buildings and the surrounding area of its location.

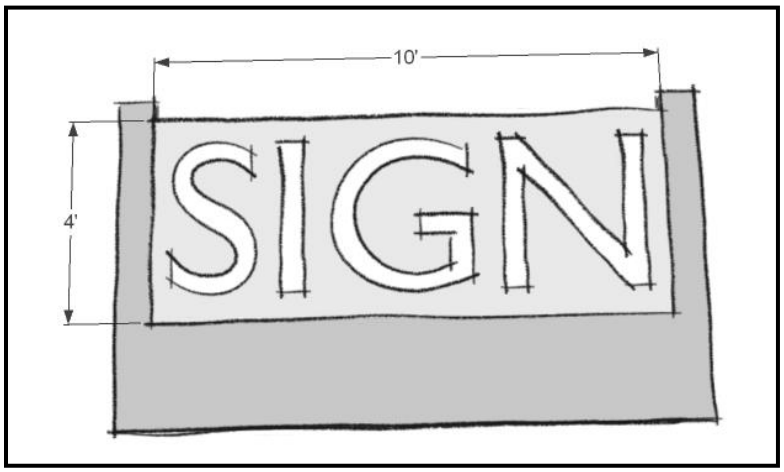
(B) The sign shall not be the dominant feature of its location.

(C) A uniform sign plan shall be required for all office and retail complexes and multi-tenant buildings. All tenants shall comply with the approved uniform sign plan.

6.2.2 Sign Area

The surface area of a sign is computed as including the entire area within a parallelogram, triangle, circle, semi-circle or other regular geometric figure, including all of the elements of the display, but not including blank masking (a plain strip, bearing no advertising matter around the edge of a sign), frames, display of identification or licensing officially required by any governmental body, or structural elements outside the sign surface and bearing no advertising matter. In the case of signs mounted back-to-back, only one (1) side of the sign shall be included in the area. Otherwise, the surface area of each sign is to be separately computed. In the case of cylindrical signs, signs in the shape of cubes, or other signs which are substantially three-dimensional (3-D) with respect to their display surfaces, the entire display surface or surfaces are included in computations of area. In the case of embellishments (display portions of signs extending outside the general display area), surface area extending outside the general display area and bearing advertising material is to be computed separately (according to the method described immediately above in this Section) as part of the total surface area of the sign. If a sign is attached to an entrance wall or fence, only that portion of that wall or fence onto which the sign face or letters are placed shall be calculated in the sign area onto which the sign face or letter.

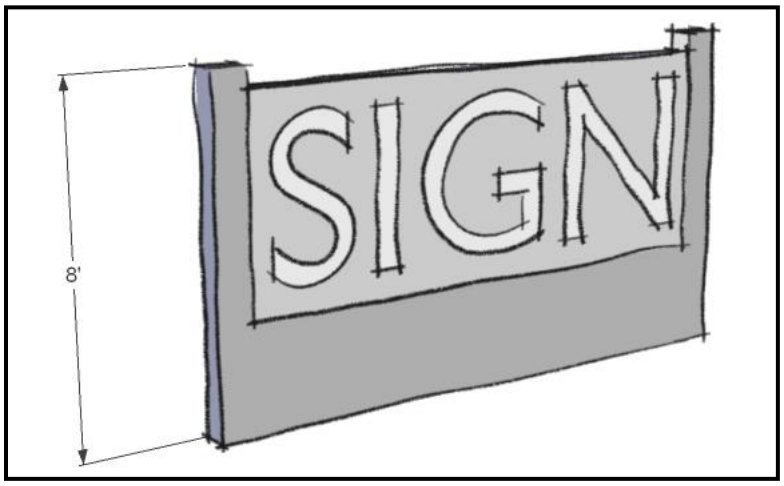
FIGURE 6.1: SIGN AREA



6.2.3 Sign Height

The height of a sign shall be measured from the highest point of a sign to the point of ground surface beneath it. Ornamentation such as caps, spires and finials shall not extend more than two (2) feet from the top of the sign. The use of berms or raised landscape areas is only permitted to raise the base of the sign to the mean elevation of the fronting street.

FIGURE 6.2: SIGN HEIGHT



6.2.4 Sign Setbacks

All freestanding signs shall be set back a minimum five (5) feet from the right-of-way or utility easement of a public or private street or eight (8) feet from the edge of pavement, whichever is greater. The setback shall be measured from the leading edge of the sign. At intersections, no sign shall be in the sight triangle as defined by this Ordinance. No freestanding sign shall be located within 50 feet of any other freestanding sign unless the Administrator determines that practical difficulties exist for locating the sign.

6.2.5 Sign Illumination

Illuminated signs shall conform to the following:

(A) All illuminated signs shall have their lighting directed in such a manner as to illuminate only the face of the sign.

(B) External light sources shall not be visible from the right-of-way nor cause glare hazards to pedestrians, motorists, or adjacent properties.

(C) All lighting shall meet all applicable electrical codes.

(D) A new commercial sign within 100 feet of an existing residential structure shall not be illuminated between the hours of 11:00 p.m. and 6:00 a.m.

6.2.6 Maintenance and Upkeep of Signs

(A) Every sign and its support, braces, guys, anchors and electrical equipment shall be maintained in safe condition at all times. All signs shall be kept in a state of good repair and aesthetic condition, free from defective, rusting, or missing parts (i.e. broken sign facing, broken supports, loose appendages or struts, disfigured, cracked, ripped or peeling paint or poster paper) or missing letters or numbers and shall be able to withstand the wind pressure as prescribed in the North Carolina Building Code. Illuminated signs shall not be allowed to operate with only partial illumination.

(B) Signs that are structurally unsafe and thereby endanger the public safety shall be removed unless they are repaired and made to comply with the requirements of the Building Code, as amended. If the Administrator shall find that any sign is dangerous or is menace to the public, he shall give written notice of such violations to the owner of the sign, or by leaving said notice with the manager or other person who is apparently in charge of the premises or by affixing a copy of the notice to the sign, sign structure or building for a period of five (5) days. The notice shall set forth the nature of the violation and order the violator to repair the sign in such a manner to be approved by the Administrator in conformance with the provisions of this Chapter or remove the sign forthwith in the case of imminent instability or immediate danger of falling, and in any case within 10 days of receipt. If within 10 days the notice is not complied with, the Administrator shall have the authority to remove the sign at the recipient's expense and to destroy or otherwise dispose of same. In cases of emergency, the Administrator may cause the immediate removal of a dangerous or unsafe sign without notice.

6.2.7 Removal of Discontinued Signs

If a sign advertises a business, service, commodity, accommodation, attraction or other enterprise or activity that is no longer operating or being offered or conducted, that sign and sign structure including, but not limited to, the supporting braces, anchors or similar components shall be considered discontinued regardless of reason or intent and shall, within 180 days after such discontinuation, be removed by the owner of the property where the sign is located.

6.2.8 Removal of Signs in the Right-of-Way

The Administrator or his designee may remove and destroy or otherwise dispose of any sign placed on public property or within any right-of-way of any public or private street. Penalties shall be levied for each such sign as outlined in Chapter 15 of this Ordinance.

6.3 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 6.4, Permanent Signs.

6.3.1 Common Standards

All temporary signs shall comply with the following common standards:

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

(B) 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.

(C) 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.

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

(E) 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.

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

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

(H) 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.

(I) Temporary signs shall be constructed of durable weatherproof materials and shall not be made with unfinished plywood or paper.

6.3.2 Temporary Freestanding Signs

6.3.2.1 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.

6.3.2.2 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 6.1. Such signs are also subject to NCGS 136-32(b).

6.3.2.3 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 6.1.

6.3.2.4 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 6.1.

6.3.2.5 Type 4 Freestanding Temporary Signs

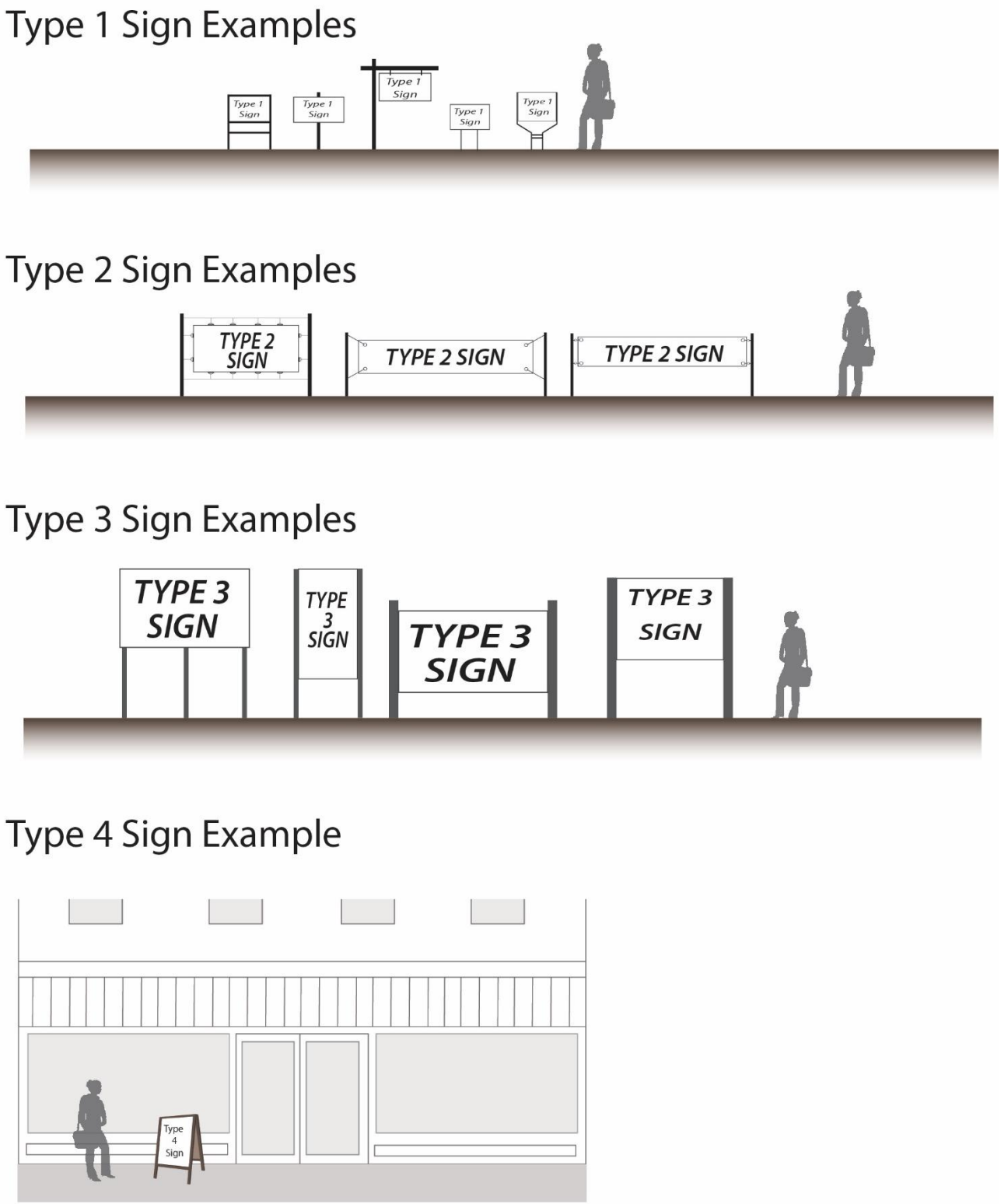
The category of signs defined as Type 4 Freestanding Temporary signs shall include only those signs which are constructed in a manner that is commonly referred to as an "A-frame" or "sandwich board" sign. The faces of the sign shall be connected at the top by hinges or similar mechanisms and the sign shall be self-supporting when placed in its display position. For examples of Type 4 Temporary Freestanding Signs, see Figure 6.1.

TABLE 6.1: FREESTANDING TEMPORARY SIGN CRITERIA

Criteria	Type 1	Type 2	Type 3	Type 4
Zoning District	Any district	O-I, C-1, C-T, C-2, C-3, M-1	Any District	C-1, C-T
Permit Required	No	No	Yes	No
Land Use	• Residential Use Group for lots or developments of 3 acres or less • Vacant or undeveloped properties of 1 acre or less	• Civic, Government and Institutional Use Group • Recreational Use Group	• Residential Use Group for lots or developments of greater than 3 acres • Vacant or undeveloped properties of greater than 1 acre and with a minimum of 200 feet of frontage on a public right-of-way • Properties of greater than 1 acre for which there is a valid building permit	• Retail and Wholesale Use Group • Civic, Government and Institutional Use Group • Office and Service Use Group • Recreational Use Group
Max. Size[1] (square feet)	6	16	16	6
Max. Height (feet)	4	4	6	4
Number Permitted[2]	1	1	1	1 per customer entrance[4]
Max. Duration	No Limit	14 days up to 6 times per calendar year with minimum 7 days separation	2 years or following the issuance of a Certificate of Occupancy[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.	• Shall be located within 10 feet of building wall and within 10 feet of a customer entrance • May be located on sidewalk if with a minimum 3-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.
[4]Provided there is a separation of a minimum of 50 feet if there is more than one customer entrance per tenant space.

FIGURE 6.3: SIGN TYPE EXAMPLES



6.3.3 Building-mounted Temporary Signs

6.3.3.1 Wall Banners

Flexible signs attached to a building wall.

Max. Area	32 square feet
Max. Height	Wall-mounted only
Max. Number	2
Min. Setback	Wall-mounted only
Other	• Shall be attached to the building wall. Shall not be attached to a roof or existing sign. • Maximum 45 days in any consecutive 90 day period. • Shall not be located above a second floor level.

NA=Not Applicable



Banner

6.3.3.2 Window Signs (temporary)

Signs temporarily attached or temporarily painted to a window or door.

Max. Area	50 percent of total window area
Max. Height	NA (structure mounted)
Max. Number	NA
Min. Setback	NA (structure mounted)
Other	• Signs that exceed 50% of total window area shall be treated as wall signs. • Permanent window signs are treated as wall signs

NA=Not Applicable



Temporary Window Sign

NA=Not Applicable

6.4 Permanent Signs

All of the signs enumerated in this section require a Zoning Permit prior to construction or alteration of a sign.

6.4.2 Development Entrance Sign

Permanent sign at the entrance of neighborhoods or developments.



Development Entrance Sign

District	Sign Type Allowed	Max. Area (square feet)	Max. Height (feet)	Max. Number	Other
R-20	PL*	32 sf	8	2	• Maximum area may be split between 2 signs on either side of entrance
R-15	PL*	32 sf	8	2	
R-8	PL*	32 sf	8	2	
R-6	PL*	32 sf	8	2	
R-4	PL*	32 sf	8	2	
OI	PL*	32 sf	8	2	
C-1	No	NA	NA	NA	
C-T	No	NA	NA	NA	
C-2	PL*	32 sf	8	2	
C-3	PL*	64 sf	10	2	
M-1	PL*	64 sf	10	2	
PRD	PL*	32 sf	8	2	

P: Sign permitted
C: Sign permitted for Civic, Government and Institutional uses and Recreation uses only Sign permitted for Civic, Government and Institutional uses and Recreation uses only (see Section 3.3)
L: Illumination Allowed
*: External illumination only
NA=Not Applicable

6.4.3 Wall Sign

A permanent sign larger than one (1) square foot that is legible from off-site and is affixed to a building wall, window, canopy or awning.



Standard Wall Sign



Awning Sign



Canopy Sign



Projecting Sign

District	Sign Type Allowed	Max. Area (square feet per linear feet of building wall)	Max. Number (per wall)	Other
R-20	C	0.5 (up to 24 sf)	1	• Max. area may be split between number of signs allowed • Shall front on a public street or face a parking lot where a main building entrance is located. • Maximum projection is 12 inches from the wall face, except for projecting signs which may project up to four (4) feet. • Shall not extend above the parapet or eave of the building. • Signs hanging beneath a canopy shall not be greater than 4 square feet. • Canopy & awning signs shall not cover more than 35% of the canopy or awning area. Signs on mansard roofs shall be parallel to the sign surface.
R-15	C	0.5 (up to 24 sf)	1	
R-8	C	0.5 (up to 24 sf)	1	
R-6	C	0.5 (up to 24 sf)	1	
R-4	C	0.5 (up to 24 sf)	1	
OI	PL*	0.5 (up to 32 sf)	2	
C-1	PL	1 (up to 100 sf)	2	
C-T	PL	1 (up to 100 sf)	2	
C-2	PL	1 (up to 100 sf)	2	
C-3	PL	1 (up to 300 sf)	4	
M-1	PL	1 (up to 300 sf)	4	
PRD	PL	1 (up to 100 sf)	2	

P: Sign permitted
C: Sign permitted for Civic, Government and Institutional uses and Recreation uses only (see Section 3.3)
L: Illumination Allowed
*: External illumination only

6.4.3.1 Flexibility in Administration

Lots with more than one permitted sign wall shall be allowed to transfer unused permitted square footage from one wall to another with the following conditions:

(A) Transferred square footage shall not exceed 25% of the total permitted signage for the building, to be calculated by the Administrator

(B) Transferred square footage shall not exceed the unused square footage of the wall from which it is transferred.

(C) Transferred square footage is no longer usable on the wall from which it is transferred.

(D) The maximum area for any given wall on the building is not exceeded.

(E) The maximum number of signs for a given wall is not exceeded.

(F) The holder of the development agreement, and the landowner of the property involved, if the landowner is not the holder of the development approval, shall provide written consent to the sign plan.

6.4.4 Freestanding Sign (on-premises).

A permanent sign that identifies a building's tenant(s) located on-site that is mounted to the ground. A free-standing sign may be monument, arm, pole, or pylon style, unless otherwise specified. Up to 50 percent of the allowable area of a freestanding sign may be manually changeable copy.



Monument Sign



Multi-Tenant Monument Sign



Arm Sign



Multi-Tenant Pylon Sign

Freestanding Sign (continued)

District	Sign Type Allowed	Max. Area (square feet)	Max. Height (feet)	Max. Number	Other
R-20	PL*	16sf	6	1	Shall be monument or arm style
R-15	CL*	16sf	6	1	Shall be monument or arm style
R-8	CL*	16sf	6	1	Shall be monument or arm style
R-6	CL*	16sf	6	1	Shall be monument or arm style
R-4	CL*	16sf	6	1	Shall be monument or arm style
OI	PL*	16sf + 8sf per tenant (up to 32 sf)	6	1	• Lots with 2 or more tenants shall utilize a multi-tenant sign. • Shall be monument or arm style
C-1	No	NA	NA	NA	NA
C-T	No	NA	NA	NA	NA
C-2	PL	60 sf	15	1 per street front	• Lots with 2 or more tenants shall utilize a multi-tenant sign. • Shall be monument or arm style • Permitted for each street front provided that total area does not exceed 1.5 times max. area.
C-3	PL	72 sf + 12sf per tenant (up to 144 sf)	20	1 per street front	• Lots with 2 or more tenants shall utilize a multi-tenant sign. • Permitted for each street front provided that total area does not exceed 1.5 times max. area.
M-1	PL	72sf + 12sf per tenant (up to 144 sf)	20	1 per street front	• Lots with 2 or more tenants shall utilize a multi-tenant sign. • Permitted for each street front provided that total area does not exceed 1.5 times max. area.
PRD	PL	32 sf + 8sf per tenant (up to 64sf)	8	1 per street front	• Lots with 2 or more tenants shall utilize a multi-tenant sign. • Permitted for each street front provided that total area does not exceed 1.5 times max. area.

P: Sign permitted

C: Sign permitted for Civic, Government and Institutional uses and Recreation uses only (see Section 3.3)

L: Illumination Allowed (see section 6.4.3.1 for electronic changeable copy provisions)

*: External illumination only (excluding illuminated permitted by section 6.4.5)

NA=Not Applicable

6.4.5 Provisions for Changeable Copy on Freestanding Signs

(A) Up to 50 percent of the total area of a permitted freestanding sign may be changeable copy.

(B) In the OI, C-2, C-3, M-1, and PRD zoning districts, electronic changeable copy is permitted. Electronic changeable copy is prohibited in all other districts. Electronic changeable copies are permitted for Civic, Government and Institutional uses in residential districts, pursuant to sections 6.4.4 and 6.4.5.

(C) The maximum brightness level for electronic changeable copy signs shall not exceed 5,000 nits when measured at the sign's face at its maximum brightness, during daylight hours, and 500 nits when measured at the sign's face between dusk and dawn. An ambient light monitor shall be installed that automatically adjusts the brightness level of the sign to coordinate with the level of ambient light. Light from electronic signs shall not shine directly on surrounding properties or create a traffic hazard or distraction to operators of motor vehicles on the public streets. The Administrator shall have the authority to order a change in the illumination of any sign that becomes a hazard or a nuisance.

(D) No electronic changeable copy sign which is located within 300 feet of a residence or residentially zoned property shall be illuminated between the hours of 10:00 p.m. and 6:00a.m.

6.4.6 Billboards

Signs for entities that are not located on the same premises as the sign.



Billboard

District	Sign Type Allowed	Max. Area (square feet)	Max. Height (feet)	Max. Number (per lot)	Other
R-20	No	NA			• Shall only be located within 200 feet of US Highway 74 Bypass and 74A Bypass. • Shall not be located closer than 300 feet to any access/exit ramp on US Highway 74 Bypass. • Shall conform to the building setbacks for the zoning district in which it is located. • Shall not be closer than 500 feet to any other billboard on the same street. • Change of copy on billboard face does not require a sign permit.
R-15	No	NA			
R-8	No	NA			
R-6	No	NA			
R-4	No	NA			
OI	No	NA			
C-1	No	NA			
C-T	No	NA			
C-2	No	NA			
C-3	PL	300 sf	35	2	
M-1	PL	300 sf	35	2	
PRD	No	NA			

P: Sign permitted
C: Sign permitted for Civic, Government and Institutional uses and Recreation uses only (see Section 3.3)
L: Illumination Allowed
*: External illumination only
NA=Not Applicable

6.5 Prohibited Signs

The following signs are prohibited:

6.5.2 Signs that Obstruct Visibility

Signs that substantially interfere with the view necessary for motorists to proceed safely through intersections or to enter onto or exit from public streets or private roads or driveways or that obstruct the motorist's view of approaching, merging or intersecting traffic including, but not limited to, signs in excess of three (3) feet in sight triangles.

6.5.3 Signs Emitting Glare

Signs with light sources or reflectivity of such brightness that result in glare, blinding or any other such adverse effect on motorist vision or into or upon any residential building not related to the signs; or which interfere with the effectiveness of, or obscures an official traffic sign, device or signal.

6.5.4 Simulated Public Safety, Warning, or Traffic Signs

Signs by their location, color, illumination, size, shape, nature, message or appearance tend to obstruct the view of or be confused with official traffic, safety or warning signs or lights or other devices erected by governmental agencies. This prohibition includes signs having no bona fide safety necessity, involving the terms "CAUTION", "DANGER", "SLOW", "STOP" OR "YIELD", or which utilize geometric figures, symbols, lights, location or message not unlike official traffic, safety or warning signs, signals or lights. Provided, however, this provision is not intended to prevent the placement on private property of signs with "stop", "yield" or other such wording or design where such is necessary for traffic control or other such legitimate notice to the public.

6.5.5 Signs that Obstruct Ingress/Egress

Any sign located outdoors 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.

6.5.6 Snipe Signs

Signs placed upon or attached to any curb, utility pole, post, fence, hydrant, bridge, another sign or other surface, public bench, streetlight, or any tree, rock or other natural object located on, over or across any public street or public property. Provided, however, this provision shall not apply to the posting of signs placed by governmental units

6.5.7 Signs Below Minimum Clearance

Signs, marquees, canopies and awnings with vertical clearance of less than eight (8) feet above sidewalks and pedestrian areas and less than 1 feet above parking or vehicular passage areas.

6.5.8 Flashing Signs

Signs or devices with flashing, intermittent, animated or changing intensity of illumination, provided, however, traffic signals, railroad crossing signals, other official warning or regulatory signs that present messages of public services shall not be considered flashing signs. Electronic changeable copy signs that have a scrolling message or change the message more than once every 15 seconds are considered flashing signs and are prohibited.

6.5.9 Off-premises Signs

A sign or structure, pictorial or otherwise, regardless of size of shape that draws attention to or communicates information about a business, profession, service, commodity, product, accommodation, event, attraction or other enterprise or activity that exists or is conducted, manufactured, sold offered, maintained or provided at a location other than on the premises where the sign is located. This definition does not include traffic or regulatory signs or notices of the federal, state, county or town government or their public agencies. Off-premises signs may, however, are permitted in the C-3 and M-I Districts subject to the provisions of Section 6.4.4.

6.5.10 Signs in Rights-of-Way

Any sign erected in or over any public right-of-way except for major special event signs by special permit; and governmental signs.

6.5.11 Obscene Signs

Signs containing words or graphics that are obscene, as defined in North Carolina General Statute 14-190.1.

6.5.12 Pennants or Streamers

Pennants, streamers, or flags consecutively strung together to attract attention.

6.5.13 Signs Without Permission

Signs placed on property without permission of its owners or agent.

6.5.14 Unspecified Temporary Signs

Portable or temporary signs except as permitted by Section 6.3.

6.5.15 Motion Signs

Motion signs, rotating signs, other than on-premise rotating identification names which contain a logo and/or business name on it.



Motion Sign

6.5.16 Facsimile Signs

Three-dimensional objects or human figures which are located in such a manner as to attract attention.



Facsimile Sign

6.5.17 Roof Signs

Signs erected in whole or in part on, upon or over the roof or parapet of a building or structure and which is wholly or partially dependent upon the roof of the building or structure for support. Signs on mansard, parallel to the sign surface shall be considered canopy signs.



Roof Sign

6.5.18 Vehicle Signs

Signs placed upon, painted on, attached to or displayed on parked vehicles or trailers, where the vehicle or trailer is displayed in a manner to attract attention.



Vehicle Sign

6.5.19 Inflatable signs

Including inflated balloons having a diameter of greater than two (2) feet.



Inflatable Sign

6.5.20 Transportable Sign

Any sign whose sign face was initially constructed and designed to be placed and/or transported on wheels, regardless if said sign face is removed from its base and placed on or in the ground so as to otherwise classify said sign as a "freestanding" sign as herein defined.



Transportable Sign

6.5.21 Feather Flags

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.



Feather Flags

6.5.22 Other Signs

Other signs not expressly permitted in this Ordinance.

CHAPTER 7
ENVIRONMENTAL PROTECTION AND OPEN SPACE

7.1 Purpose 7-1
7.2 Environmental Assessment and Suitability of Land 7-1
7.3 Stream Buffers 7-2
7.4 Flood Damage Prevention 7-5
7.5 Open Space Requirements 7-28

7.1 Purpose

The purpose of this Chapter is:

(A) To protect existing environmental resources including streams, wetlands, floodplains, soils, forest stands, specimen trees and other significant vegetation and wildlife.

(B) To promote the reservation of open space in environmentally sensitive areas.

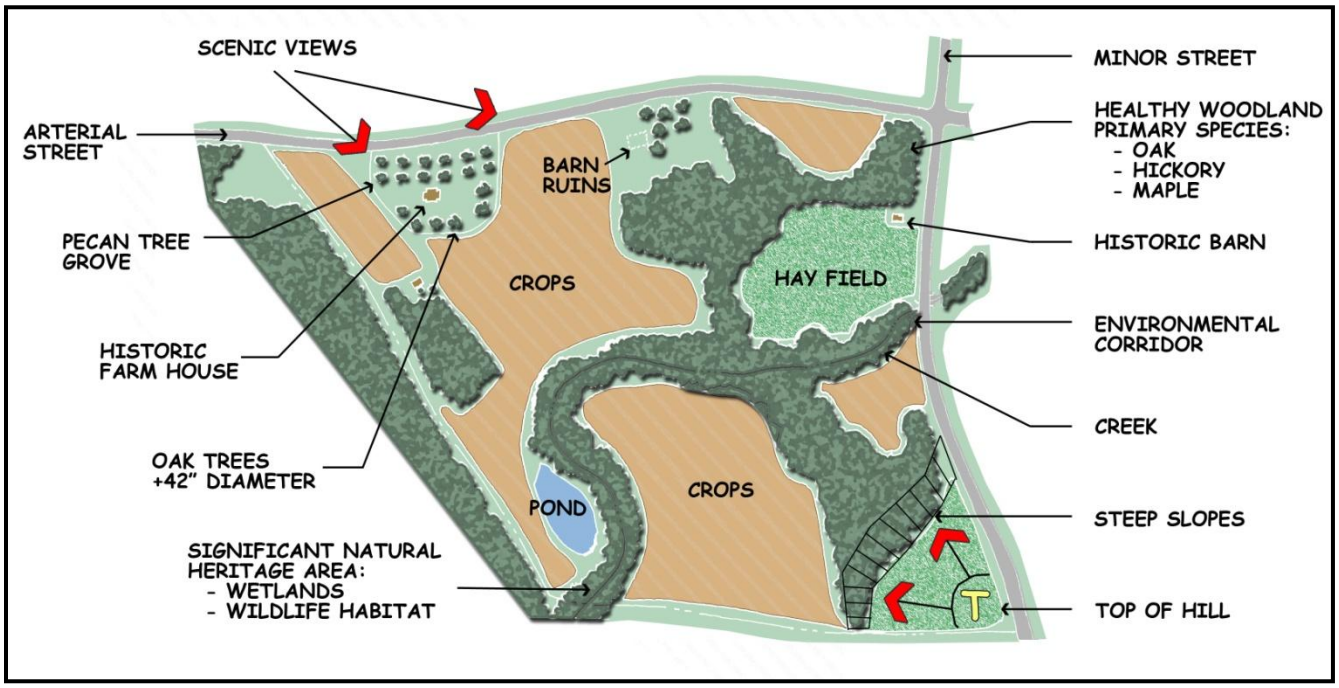
(C) To provide of recreational amenities for the residents of the Town.

7.2 Environmental Assessment and Suitability of Land

7.2.1 Existing Features Plan

Existing Features Plans are required for during the Sketch Plan step of all developments of greater than five (5) lots and with Zoning Permit applications for developments of greater than one (1) acre and shall be submitted in accordance with Section 12.2.

FIGURE 7.1: CONCEPTUAL EXISTING FEATURES PLAN



7.2.2 Preservation of Trees and Natural Features Encouraged

(A) Significant forest stands, natural vegetation, specimen trees, severe natural topography, drainage features and water courses are encouraged to be preserved to the extent that is reasonable and practical while otherwise not reasonably prohibiting development.

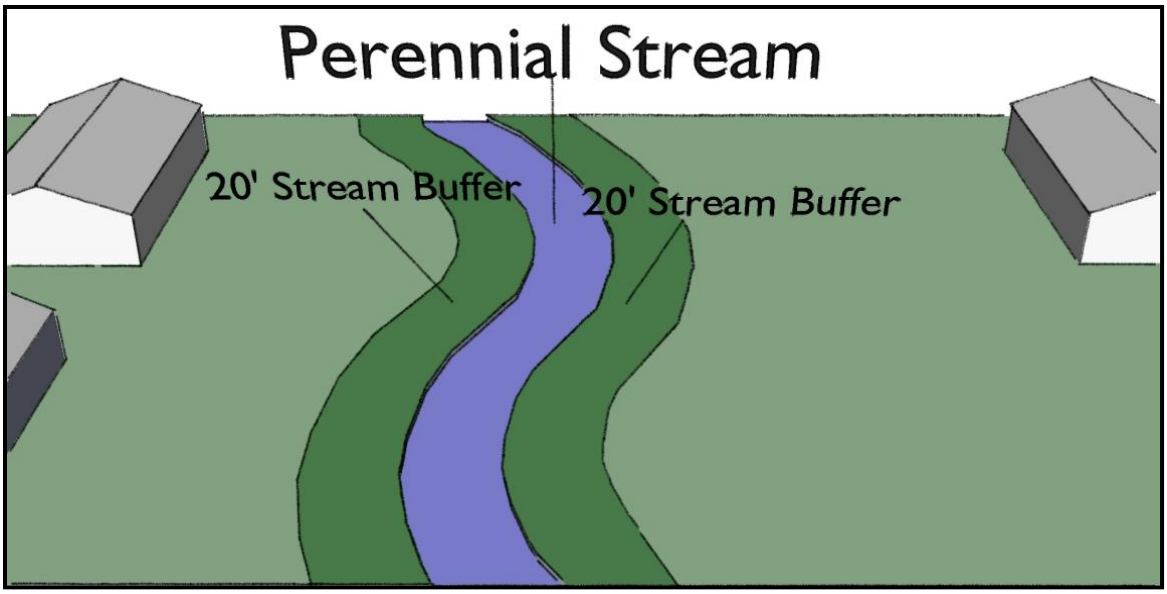
(B) Forested and vegetated areas whose physical site conditions render them unsuitable for development should be set aside as conservation areas or as open space. Wooded sites should be developed with careful consideration of the natural characteristics of the site. When portions of forested stands must be developed, careful consideration should be given to preserving wooded perimeters or the most desirable natural features in order to retain the aesthetic or visual character of the site. Isolated pockets of existing trees or specimen trees should be protected as a valuable asset of the property.

7.3 Stream Buffers

7.3.1 Minimum Buffer

Stream buffers shall be established on all perennial streams. The buffer shall be located a minimum of 20 feet from each side of the stream bed. Buffers shall remain undisturbed except that narrow walking paths may be utilized as part of the open space for a development.

FIGURE 7.2: STREAM BUFFER



7.3.2 Acceptable Stream Plantings

Below are lists of acceptable plants for stream restoration and preservation for the mountain region of North Carolina based on known commercial availability. This list is intended to be a basic guide. Not all plants are appropriate for all sites.

(A) Trees

(1) Aesculus octandra – yellow buckeye
(2) Betula lenta – cherry birch
(3) Betula nigra – river birch
(4) Carya cordiformis – bitternut hickory
(5) Carya ovata – shagbark hickory
(6) Diospyros virginiana – persimmon
(7) Fraxinus pennsylvanica – green ash
(8) Halesia caroliniana – silverbell
(9) Nyssa sylvatica – blackgum
(10) Platanus occidentalis – sycamore
(11) Salix nigra – black widow
(12) Tilia heterophylla – white basswood

(B) Small Trees and Shrubs

(1) Alnus serrulata – tag alder
(2) Amelanchier arborea – serviceberry
(3) Aronia arbutifolia – red chokeberry
(4) Asimina triloba – common pawpaw
(5) Calycanthus floridus – sweet-shrub
(6) Carpinus caroliniana – ironwood
(7) Cornus alternifolia – alternate leaf dogwood
(8) Cornus amomum – silky dogwood
(9) Corylus Americana – hazel-nut
(10) Hamamelis virginiana – witch hazel
(11) Ilex verticillata – winter berry
(12) Leucothoe axillaris – doghobble
(13) Lindera benzoin – spicebush
(14) Lyonia ligustrina – male-berry
(15) Magnolia tripetala – umbrella tree
(16) Physocarpus opulifolius – ninebark
(17) Rhodendron periclymenoides – wild azalea
(18) Rhodendron viscosum – swamp azalea
(19) Rosa palustris – swamp rose
(20) Salix sericea – silky willow
(21) Spirea latifolia – meadowsweet
(22) Symplocos tinctoria – sweet leaf
(23) Vibunum cassinoides – withe-rod
(24) Xanthorhiza simplicissima – yellow-root

(C) Herbaceous Plants

(1) Arisaema triphyllum – jack-in-the-pulpit
(2) Asclepias incarnata – swamp milkweed
(3) Carex crinata – fringed sedge
(4) Carex intumescens – bladder sedge
(5) Carex lupulina – hop sedge
(6) Carex lurida – lurid sedge
(7) Carex scoparia – broom sedge
(8) Carex stricta – tussock sedge
(9) Carex vulpinoidea – fox sedge
(10) Chelone glabra – turtlehead
(11) Cyperus strigosus – umbrella sedge
(12) Elymus hystrix – bottlebrush grass
(13) Eupatorium fistulosum – joe-pye-weed
(14) Eupatorium perfoliatum – boneset
(15) Impatiens capensis – jewel-weed
(16) Juncus effuses – soft rush
(17) Leersia oryzoides – rice cutgrass
(18) Lobelia cardinalis – cardinal flower
(19) Lobelia siphilitica – great blue lobelia
(20) Ludwigia – alternifolia – bushy seedbox
(21) Panicum virgatum – switchgrass
(22) Polygonum sagittatum – tearthumb
(23) Scirpus altrovirens – green bulrush
(24) Scirpus cyperinus – woolgrass
(25) Scirpus validus – soft stem bulrush
(26) Sparganium americanum – bur-reed
(27) Thelypteris palustris – marsh fern
(28) Uniola latifolia – river oats
(29) Vernonia noveboracensis - ironweed

(D) Prohibited Invasive Plants

(1) Ailanthus altissima – Tree-of-heaven
(2) Celastrus orbiculatus – Oriental Bittersweet
(3) Elaeagnus umbellata – Silverberry
(4) Hedera helix – English Ivy
(5) Ligustrum sinense – Chinese Privet
(6) Lonicera japonica – Japanese Honeysuckle
(7) Microstegium vimineum – Microstegium
(8) Polygonum cuspidatum – Japanese Knotweed
(9) Pueraria lobata – Kudzu
(10) Rosa multiflora – Multiflora Rose

Source: Hall, Karen. Recommended Native Plant Species for Stream Restoration in North Carolina. Raleigh, NC: North Carolina State University, NC Stream Restoration Institute, May 2003.

7.4 Flood Damage Prevention

The following regulations were adopted May 5, 2008 in accordance with the state model ordinance:

7.4.1 Statutory Authorization, Findings of Fact, Purpose and Objectives

(A) Statutory Authorization

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143 and 160D-923 of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety and general welfare.

Therefore, the Board of Commissioners of the Town of Forest City, North Carolina, does ordain as follows:

7.4.2 Findings of Fact

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

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

7.4.3 Statement of Purpose

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

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

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

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

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

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

7.4.4 Objectives

The objectives of this Section are to:

(A) Protect human life, safety and health;

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

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

(D) Minimize prolonged business losses and interruptions;

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

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

(G) Ensure that potential buyers are aware that property is in a special flood hazard area.

7.4.5 Definitions

See Appendix A for Flood Damage Prevention Definitions. Unless specifically defined in Appendix A, words or phrases used in this subsection shall be interpreted so as to give them the meaning they have in common usage and to give this Section its most reasonable application.

7.4.6 General Provisions

(A) Applicability

This Section shall apply to all Special Flood Hazard Areas within the jurisdiction of the Town of Forest City and within the jurisdiction of any other community whose governing body agrees, by resolution, to such applicability.

(B) Basis for Establish the Special Flood Hazard Areas

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) for Rutherford County dated July 2, 2008 and its accompanying Flood Insurance Rate Map (FIRM), which are adopted by reference and declared to be a part of this Section. The initial Flood Insurance Rate Maps are as follows for the jurisdictional areas at the initial date:

(1) Rutherford County Unincorporated Area, dated June 1, 1987.

(2) Town of Forest City, dated June 17, 1986.

(C) Establishment of Floodplain Development Permit

A Floodplain Development Permit shall be required in conformance with the provisions of this Section prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of Section 7.4.3, Subsection B.

(D) Compliance

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

(E) Abrogation and Greater Restrictions

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

(F) Interpretation

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

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the governing body; and

(3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(G) Warning and Disclaimer of Liability

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

(H) Penalties for Violation

Violation of the provisions of this Section or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this Section or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $50.00 or imprisoned for not more than 30 days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Forest City from taking such other lawful action as is necessary to prevent or remedy any violation.

7.4.7 Administration

(A) Designation of Floodplain Administrator

The Town Clerk or his/her designee, hereinafter referred to as the "Floodplain Administrator", is hereby appointed to administer and implement the provisions of this Section.

(B) Floodplain Development Application, Permit and Certification Requirements

(1) Application Requirements

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

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

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

ii. The boundary of the special flood hazard area as delineated on the firm or other flood map as determined in section 7.4.3, subsection b, or a statement that the entire lot is within the special flood hazard area;

iii. Flood zone(s) designation of the proposed development area as determined on the firm or other flood map as determined in section 7.4.3, subsection b;

iv. The boundary of the floodway(s) or non-encroachment area(s) as determined in section 7.4.3, subsection b;

v. The base flood elevation (bfe) where provided as set forth in section 7.4.3, subsection b; section 7.4.4, subsection c; or section 7.4.5, subsection d;

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

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

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

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

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

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

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

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

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

ii. Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Section 7.4.5, Subsection B(4)(c) when solid foundation perimeter walls are used in Zones A, AO, AE and A1-30.

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

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

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

(h) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Section 7.4.5, Subsection B, (6) and (7) are met.

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

(2) Permit Requirements

The Floodplain Development Permit shall include, but not be limited to:

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

(b) The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Section 7.4.3, Subsection B.

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

(d) The Regulatory Flood Protection Elevation required for the protection of all public utilities.

(e) All certification submittal requirements with timelines.

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

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

(h) Limitations of below BFE enclosure uses (if applicable). (I.e., parking, building access and limited storage only).

(3) Certification Requirements

(a) Elevation Certificates

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

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

(b) Floodproofing Certificate

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

shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

(c) If a manufactured home is placed within Zone A, AO, AE, or A1-30 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of Section 7.4.5, Subsection B(3)(b).

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

(e) Certification Exemptions

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

i. Recreational Vehicles meeting requirements of Section 7.4.5, Subsection B(6)(a);

ii. Temporary Structures meeting requirements of Section 7.4.5, Subsection B(7); and

iii. Accessory Structures less than 150 square feet meeting requirements of Section 7.4.5, Subsection B(8).

(C) Duties and Responsibilities of the Floodplain Administrator

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

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

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

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

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

(5) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Section 7.4.5, Subsection F are met.

(6) Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of Section 7.4.4, Subsection B(3).

(7) Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Section 7.4.4, Subsection B(3).

(8) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of Section 7.4.4, Subsection B(3).

(9) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Section 7.4.4, Subsection B(3) and Section 7.4.5, Subsection B(2).

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

(11) When Base Flood Elevation (BFE) data has not been provided in accordance with the provisions of Section 7.4.3, Subsection B, obtain, review and reasonably utilize any BFE data, along with floodway data or non-encroachment area data available from a Federal, State, or other source, including data developed pursuant to Section 7.4.5, Subsection D(2)(b), in order to administer the provisions of this Section.

(12) When Base Flood Elevation (BFE) data is provided but no floodway or non-encroachment area data has been provided in accordance with the provisions of Section 7.4.3, Subsection B, obtain, review and reasonably utilize any floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of this Section.

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

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

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

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

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

(18) Make periodic inspections throughout the Special Flood Hazard Areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

(19) Follow through with corrective procedures of Section 7.4.4, Subsection D.

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

(21) Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and other official flood maps and studies adopted in accordance with the provisions of Section 7.4.3, Subsection B, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.

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

(D) Corrective Procedures

(1) Violations to be Corrected

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

(2) Actions in Event of Failure to Take Corrective Action

If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:

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

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

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

(3) Order to Take Corrective Action

If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention regulations, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within 90 days of issuance. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.

(4) Appeal

Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within 10 days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

(5) Failure to Comply with Order

If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a misdemeanor and shall be punished at the discretion of the court.

(E) Variance Procedures

(1) The Board of Adjustment as established by the Town of Forest City, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this Section.

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

(3) Variances may be issued for:

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

(b) Functionally dependent facilities if determined to meet the definition as stated in appendix a, provided provisions of section 7.4.4, subsection e(9)(b), (c) and (e) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or

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

(4) In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other subsections, and:

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

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

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

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

(e) the necessity to the facility of a waterfront location as defined under Appendix A as a functionally dependent facility, where applicable;

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

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

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

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

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

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

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

(6) Upon consideration of the factors listed above and the purposes of this Section, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this Section.

(7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood insurance up to $25 per $100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

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

(9) Conditions for Variances:

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

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

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

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

(e) Variances shall only be issued upon:

i. A showing of good and sufficient cause;

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

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

7.4.8 Provisions for Flood Hazard Reduction

(A) General Standards

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

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

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

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

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

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

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

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

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

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

(10) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards and chemical storage facilities shall not be permitted. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the Regulatory Flood Protection Elevation and certified in accordance with the provisions of Section 7.4.4, Subsection B(3).

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

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

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

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

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

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

(B) Specific Standards

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Section 7.4.3, Subsection B, or Section 7.4.5, Subsection D, the following provisions, in addition to the provisions of Section 7.4.5, Subsection A, are required:

(1) Residential Construction

New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Appendix A.

(2) Non-Residential Construction

New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Appendix A. Structures located in A, AE, AO and A1-30 Zones may be floodproofed to the Regulatory Flood Protection Elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Regulatory Flood Protection Elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with Section 7.4.5, Subsection G(2). A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Section 7.4.4, Subsection B(3), along with the operational plan and the inspection and maintenance plan.

(3) Manufactured Homes

(a) New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the Regulatory Flood Protection Elevation, as defined in Appendix A.

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

(c) All enclosures or skirting below the lowest floor shall meet the requirements of Section 7.4.5, Subsection B(4).

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

(4) Elevated Buildings

Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:

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

(b) shall be constructed entirely of flood resistant materials.

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

i. A minimum of two (2) flood openings on different sides of each enclosed area subject to flooding;

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

iii. If a building has more than one (1) enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;

iv. The bottom of all required flood openings shall be no higher than one (1) foot above the adjacent grade;

v. Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and

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

(5) Additions/Improvements

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

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

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

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

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

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

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

(6) Recreational Vehicles

Recreational vehicles shall either:

(a) be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or

(b) meet all the requirements for new construction.

(7) Temporary Non-Residential Structures

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

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

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

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

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

(e) Designation, accompanied by documentation, of a location outside the special flood hazard area, to which the temporary structure will be moved.

(8) Accessory Structures

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

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

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

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

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

(e) Accessory structures shall be firmly anchored in accordance with the provisions of Section 7.4.5, Subsection A(1);

(f) All service facilities such as electrical shall be installed in accordance with the provisions of Section 7.4.5, Subsection A(4); and

(g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Regulatory Flood Protection Elevation in conformance with the provisions of Section 7.4.5, Subsection B(4)(c).

An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with Section 7.4.4, Subsection B(3).

(C) Reserved

(D) Standards for Floodplains without Established Base Flood Elevations

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Section 7.4.3, Subsection B, where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of Section 7.4.5, Subsection A, shall apply:

(1) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of 20 feet each side from top of bank or five (5) times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

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

(a) When Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this Section and shall be elevated or floodproofed in accordance with standards in Section 7.4.5, Subsections A and B.

(b) When floodway or non-encroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of Section 7.4.5, Subsections B and F.

(c) All subdivision, manufactured home park and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five (5) acres or has more than 50 lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference in accordance with Section 7.4.3, Subsection B and utilized in implementing this Section.

(d) When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Appendix A. All other applicable provisions of Section 7.4.5, Subsection B shall also apply.

(E) Standards for Riverine Floodplains with Base Flood Elevations but without Established Floodways or Non-encroachment Areas

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

(1) Standards of Section 7.4.5, Subsections A and B; and

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

(F) Floodways and Non-encroachment Areas

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Section 7.4.3, Subsection B. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Section 7.4.5, Subsections A and B, shall apply to all development within such areas:

(1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:

(a) It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit, or

(b) A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.

(2) If Section 7.4.5, Subsection F(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this Section.

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

(a) The anchoring and the elevation standards of Section 7.4.5, Subsection B(3); and

(b) The no encroachment standard of Section 7.4.5, Subsection F(1).

7.4.9 Legal Status Provisions

(A) Effect on Rights and Liabilities under the Existing Flood Damage Prevention Section

This Section in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance enacted May 4, 1987 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this Section shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of the Town of Forest City enacted on May 4, 1987, as amended, which are not reenacted herein are repealed.

The date of the initial Flood Damage Prevention Ordinance for Rutherford County is June 1, 1987.

(B) Effect upon Outstanding Floodplain Development Permits

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

outstanding permit, construction or use shall be in conformity with the provisions of this Section.

(C) Severability

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

(D) Effective Date

This Section shall become effective on June 2, 2009.

(E) Adoption Certification

A certified copy of these adopted Flood Damage Prevention Regulations shall be kept on file in the office of the Town Clerk.

7.5 Open Space Requirements

7.5.1 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.

7.5.2 General Provisions for Open Space

(A) 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.

(B) 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.

(C) Open space shall be contiguous wherever possible.

7.5.3 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	15%
4.0 DUA or more	20%
TND	30%

*Conservation Development minimum open space dedication shall meet the requirements of Section 4.2.3.

How to Calculate DUA (Dwelling Units Per Acre):

Total Number of Dwelling Units=DUA
Total Development Area in Acres

7.5.4 Types of Open Space

All required open space shall be classified in accordance with this Section. Dedicated open space shall fit into 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 for the Town and the developer to determine the most appropriate open space type and location. Also Town and County plans, particularly park and open space plans, shall be considered when evaluating the most appropriate open space type.

(A) 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 may stand alone.

Minimum Size: 10,000 square feet
Maximum Size: 20,000 square feet

EXAMPLES OF PLAYGROUNDS





(B) Square

Squares are areas for passive recreational use. Squares shall be bounded by streets on a minimum of 50 percent of their perimeter. Squares are encouraged to be entirely bounded by streets and/or lanes. Squares shall be planted parallel to all streets and shall contain canopy trees along street frontages.

Minimum size: 2,000 square feet
Maximum size: 1 acre

EXAMPLES OF SQUARES





(C) 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.

Minimum size: 1 acre

EXAMPLES OF PARKS





(D) Green

The green is an open space which is more natural. Like the square, it is small and surrounded by buildings. Unlike the square, it is informally planted and may have irregular topography. Greens are usually landscaped with trees at the edges and open lawns at the center. Greens should contain no structures other than benches, pavilions and memorials; paths are optional.

Minimum size: 20,000 square feet

EXAMPLES OF GREENS

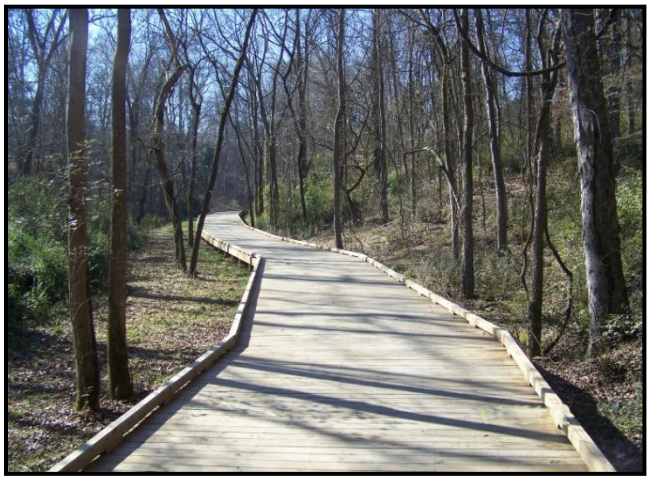




(E) Greenway

Greenways are large, irregular open spaces designed to incorporate natural settings such as creeks and significant stands of trees within and between neighborhoods. Greenways are typically more natural and may contain irregular topography. Greenways shall be used for certain active recreational uses including, at a minimum, trails for walking, jogging and biking. Greenways shall connect points of interest in the community such as schools, parks and other civic uses.

EXAMPLES OF GREENWAYS





(F) 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 towns. 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





(G) 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.

Minimum size: 5 acres

EXAMPLES OF AGRICULTURAL PRESERVES





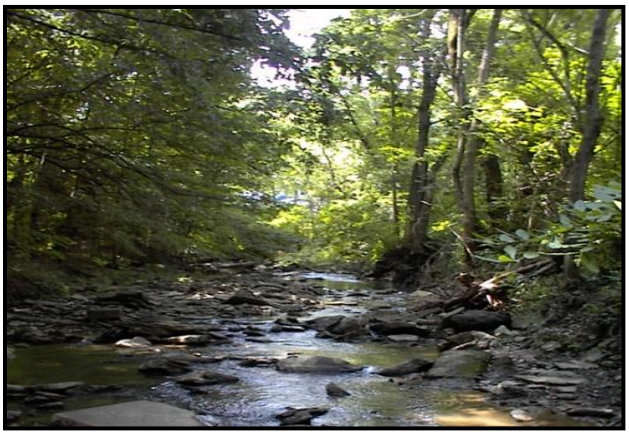
(H) Nature Preserve

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 (mulch or other natural material only). Nature Preserve areas are encouraged to protect large stands of trees, wildlife and natural water features. Nature Preserves are the preferred form of open space for steep slopes in excess of 25 percent grade.

Minimum size: 3 acres

EXAMPLES OF NATURE PRESERVES





7.5.5 Open Space Ownership and Maintenance

(A) Open space may be owned or administered by one (1) or a combination of the following methods:

(1) Fee simple ownership by a unit of government or private non-profit land conservancy;

(2) Common ownership by Homeowners Association;

(3) Split deeded ownership by individual property owners within the development;

(4) 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 Chapter. (i.e. farming, equestrian facility).

(5) Deed restricted open space easements on individual private properties.

(B) The Town Board of Commissioners shall have the authority to accept or reject land dedications made as a requirement of this Section.

(C) The owner of dedicated open space shall be responsible for the continuing upkeep and proper maintenance of the same.

(D) 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.

(E) The developer shall place in a conspicuous manner upon the Final Plat of the subdivision a notation concerning control of open space.

(F) 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.

(G) 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:

(1) 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.

(2) The association or similar legal entity has clear legal authority to maintain and exercise control over such common open space areas.

(3) 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.

(4) The open space restrictions must be permanent, not just for a period of years.

(5) The association or similar legal entity must be responsible for liability insurance, applicable taxes and the maintenance open space and other facilities under their control.

(6) The association or similar legal entity must be able to adjust the assessment to meet changing needs.

(7) 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.

7.5.6 Payment-in-Lieu of Dedication

(A) If open space within a development is physically impractical due to unusual conditions then the Town may accept a fee paid in lieu of dedication.

(B) Fees collected in lieu of dedications and any proceeds from such transactions or sales shall be accounted for by the Town, and the funds shall be used by the Town for the purposes of acquiring and developing recreation, greenway and open space areas as shown on the land development plan or in the parks and recreation and greenway/bikeway master plans and for no other purposes. The depository for such funds may be the same as permitted other funds of the Town, pending their expenditure in accordance with the terms of this code; such funds may be invested as other funds of the Town. The Town may, at its discretion, add additional monies to the fund for the purposes of purchasing open space and recreational land to be used for recreational purposes.

(C) Refunds shall not be granted to the developer should the project not be constructed after recording of Final Plat or if a reduction in density occurs.

(D) Such payment in lieu of dedication shall be the product of the current assessed market value of the land to be subdivided (as established in Subsection E below) multiplied by the number of acres to be dedicated.

(E) The current assessed market value of the gross land area of the development or subdivision at the time of submission of the required plan and/or plat shall be used to determine the land value. The current assessed market value shall be the appropriate value as determined by and maintained on file in the Rutherford County Tax Office. The average value per gross acres shall be calculated from this total tax value and applied to the required recreational land area in order to determine the land value.

$$\frac{\text{TOTAL MARKET VALUE OF UNDEVELOPED PROPERTY}}{\text{TOTAL ACRES OF UNDEVELOPED PROPERTY}} \times \text{ACRES OF REQUIRED OPEN SPACE} = \text{PAYMENT}$$

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CHAPTER 8
LANDSCAPING

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8.1 Purpose and Applicability

8.1.1 Purpose

The purpose of this Chapter is to regulate the protection, installation and long-term management of trees and shrubs and to minimize potential nuisances, such as visual impacts, noise, dust, odor, litter and glare of lights, from adjacent properties. The appropriate use of existing and supplemental landscaping enhances the appearance of built environment and blends new development with the natural landscape. Existing vegetation should be retained where possible to ensure a natural established landscape.

8.1.2 Applicability

(A) All new developments (except for infill single-family or two-family detached residential uses on existing lots) shall be designed in accordance with the requirements of this Chapter. Any expansion of greater than 20 percent of an existing building or parking area requires compliance with the requirements of this Chapter, to the greatest extent possible as determined by the Administrator.

(B) Generally, the responsibility for screening is that of the more intense land use. However, new developments with a less intense use being constructed next to an existing more intense use shall provide the required landscaping on the new development's property.

(C) In cases where an existing, landscaped or vegetated area is located on the same property as the proposed development, further plantings and or improvements shall not be required so long as said screened area is of sufficient width and contains adequate and sufficient materials to meet the requirements of this Ordinance. If the landscaped or vegetated area is deficient, the developer shall make needed improvements and/or additions to satisfy the landscaping requirements and intent of this Ordinance.

8.1.3 Relief from Landscaping Requirements

(A) In the event that the unusual topography, location of existing buildings, or location or size of the parcel to be developed would make strict adherence to the requirements of this Section serve no meaningful purpose or would make it physically impossible to install and maintain the required landscaping, the Administrator may alter the requirements of this Section provided the spirit and intent of the Section are maintained. Such an alteration may occur only at the request of the developer, who shall submit a plan to the Administrator showing existing site features that would screen the proposed use and any additional screen materials the developer may propose to have installed.

(B) The vacancy or non-use of an adjoining parcel shall not constitute grounds for providing relief to the landscaping requirements contained in this Ordinance. Neither shall the desire of an owner to make a more intensive use or greater economic use of the property be grounds for reducing the landscaping requirements.

8.2 General Provisions

8.2.1 To the extent that existing natural vegetation located on the same parcel of land as the proposed development can meet the required landscaping levels of this Section, the use of such materials is encouraged. In such case, these areas shall be designated on the development plan as undisturbed vegetation areas.

8.2.2 No structure other than a wall, fence, sidewalk, mailbox, sign or driveway shall be permitted within a required landscaping area. No off-street parking may take place in any required landscaping area. Where plant materials are required, the required amount of plant materials shall be installed on the side of any wall or fence opposite the new development.

8.3 Landscaping Types and Requirements

The provisions of this Section are designed to specifically address the application of landscape resources to varying styles of development and the impact of such applications on the appearance, health and financial well-being of the community. The provisions are broken into four (4) landscaping categories:

- Buffer Yards
- Street Yards
- Parking Lot Yards
- Building Yards
- Residential Yards

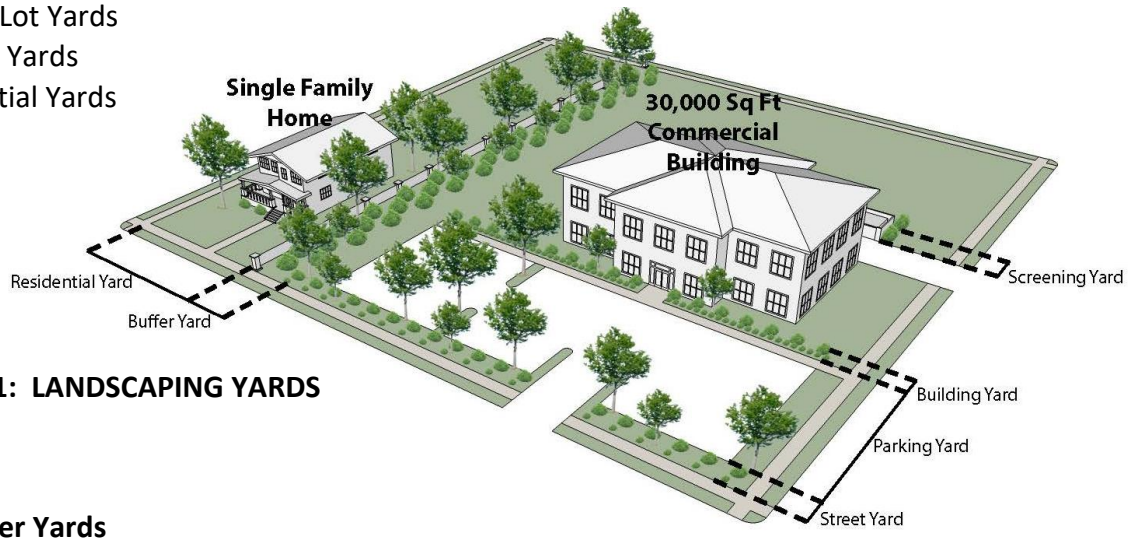


FIGURE 8.1: LANDSCAPING YARDS

8.3.1 Buffer Yards

(A) Buffer yards area intended to screen non-residential development from residentially used or zoned property. Buffers shall be measured from the subject property line into to the site to be developed. Buffer yard width shall not affect the required building setback for each zoning district as set forth in Section 3.4. The following table establishes the minimum buffer width for a new or expanding non-residential development adjacent to residentially-zoned property (R-20, R-15, R-8, or R-6) or property with an existing residential use:

Zoning District of New or Expanding Non-Residential Development	Minimum Buffer Yard Width
R-20	0 feet
R-15	5 feet
R-8	5 feet
R-6	5 feet
R-4	5 feet
O-I	8 feet
C-1	0 feet
C-T	10 feet
C-2	10 feet
C-3	15 feet
M-1	30 feet

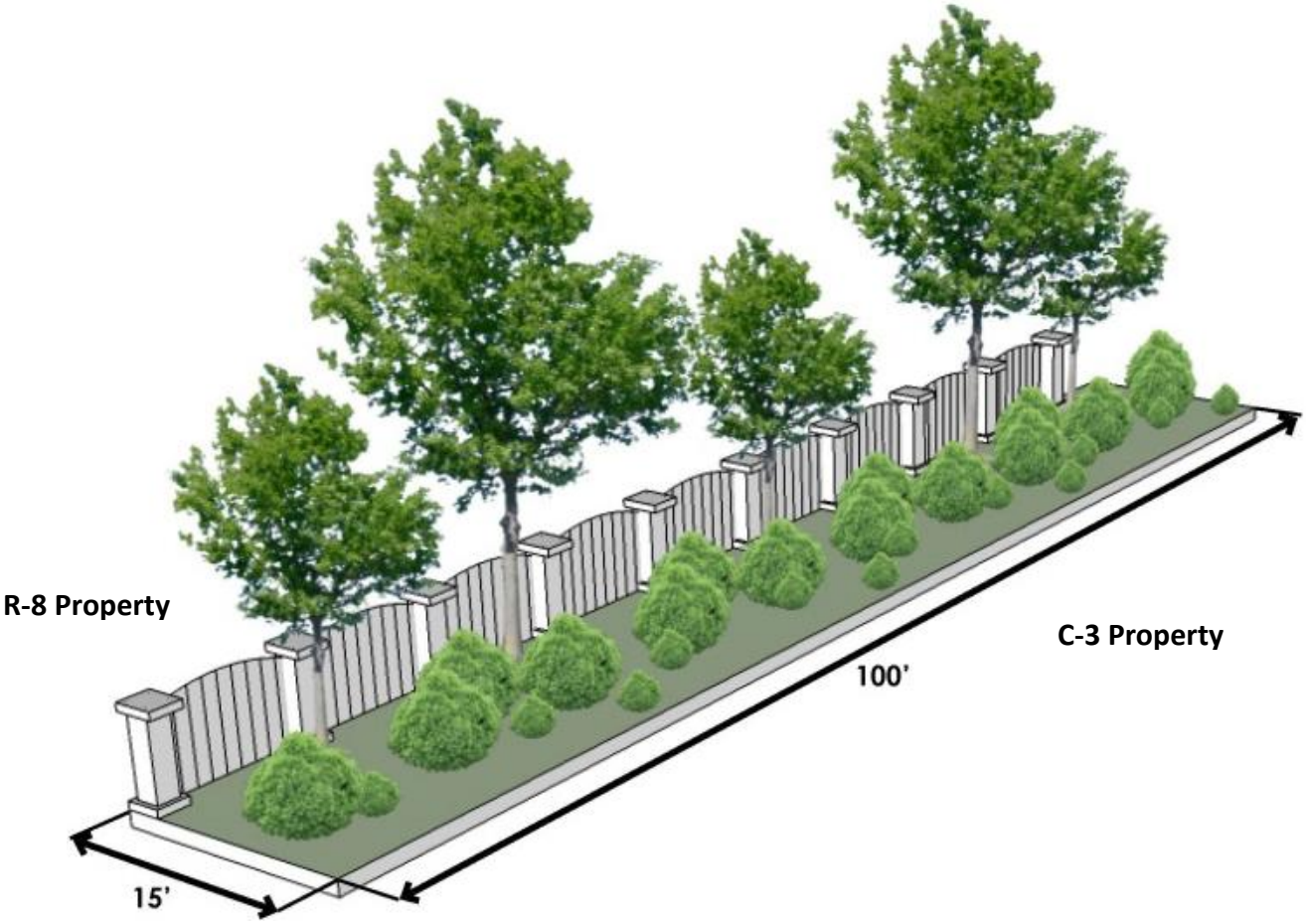
(B) Buffer yards shall function as opaque visual screens with a minimum height of six (6) feet. Composition of a required buffer yard may include a wall, solid fence, landscaped berm, planted vegetation, existing vegetation, or any appropriate combination of these elements to achieve adequate screening. At a minimum buffer yards that do not include a fence shall include the following vegetation:

Vegetation Type	Number Required
Large Trees*	1 per 100 linear feet of property line
Medium or Small Trees	2 per 100 linear feet of property line
Large Shrubs	1 per 5 linear feet of property line

* Under overhead utility lines, two (2) small trees shall be used in lieu of each large tree required.

(C) Vegetation shall be selected from the approved plant list in Section 8.4.1. At least 25 percent of the required trees, and at least 75 percent of the required shrubs, shall be evergreen species locally adapted to the area. The use of existing vegetation to satisfy this requirement is encouraged. Supplemental planting may be required in addition to native materials.

FIGURE 8.2: EXAMPLE 15-FOOT BUFFER YARD



8.3.2 Street Yard

(A) A street yard is required parallel to the public roadway designed to provide continuity of vegetation along the right-of-way and pleasing view from the road. The landscaped area shall be penetrated only by driveways and crosswalks.

(B) Street yards shall not be required in the C-1 or C-T zoning districts or in any zoning district where the building is within 10 feet of the street right-of-way.

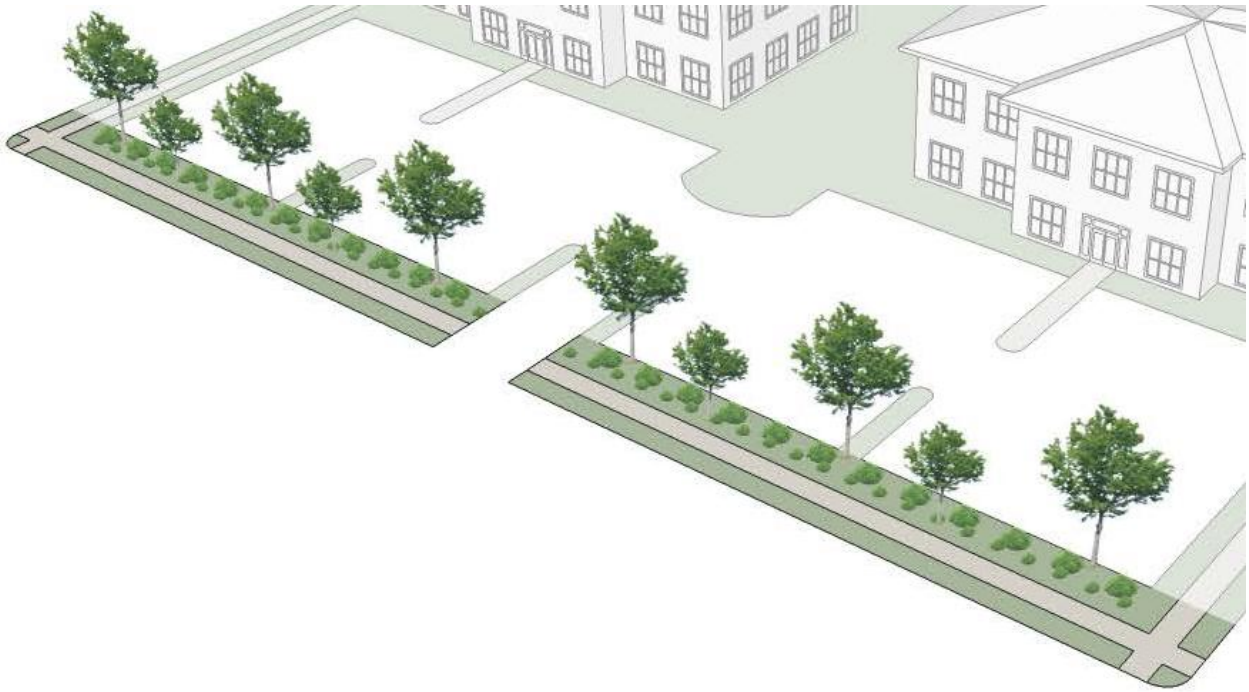
(C) The minimum width of a street yard shall be ten (10) feet and shall be located within the twenty (20) foot section of the lot closest to the public right-of-way.

(D) The street yard shall be landscaped and maintained with a ground cover that prevents the growth of weeds. The street yard shall be planted at the following rate, not counting driveway and crosswalk area.

Vegetation Type	Number Required
Large Trees*	1 per 100 linear feet of street frontage
Medium or Small Trees	2 per 100 linear feet of street frontage
Medium or Small Shrubs	1 per 5 linear feet of street frontage

* Under overhead utility lines, two (2) small trees shall be used in lieu of each large tree required.

FIGURE 8.3: EXAMPLE STREET YARD

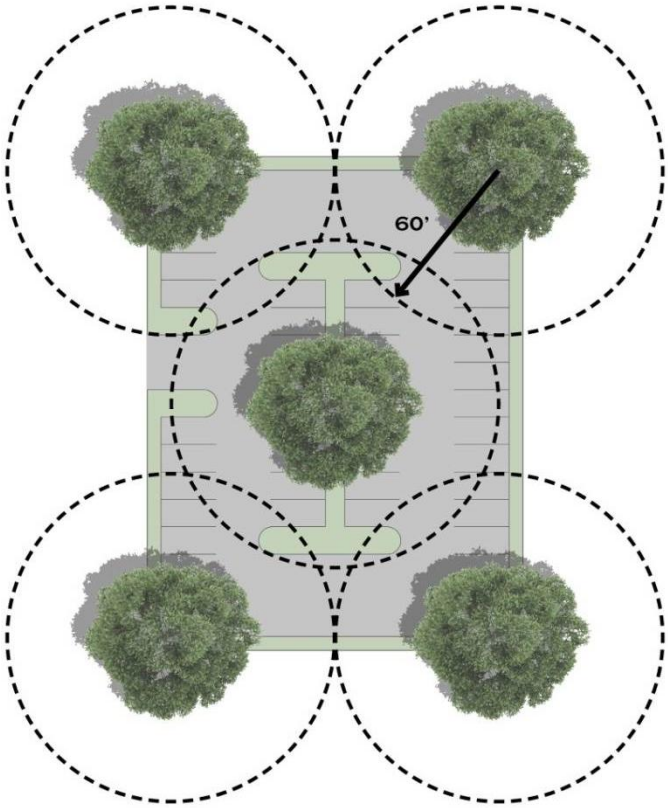


8.3.3 Parking Lot Yard

(A) Parking lot landscaping is required within all parking lots of greater than 10 spaces except motor vehicle or boat sales display areas. Instead, perimeter landscaping around motor vehicle or boat sales display areas shall be utilized at the same rate as required in Subsection B below.

(B) A minimum of one (1) large tree shall be located within 60 feet of every parking space. The measurement shall be taken from the base of the tree. Additionally, no more than four (4) parking rows shall be located back-to-back without the separation of a landscaping area and walkway a minimum of 10 feet wide.

FIGURE 8.4: PARKING LOT TREES





Planted Median with Pedestrian Walkway



No Parking Aisle Separation

(C) Large trees shall be planted in a manner that provides shade for parking area at maturity. Two (2) small trees shall be used in lieu of large trees under overhead utility lines. Each planting area shall be a minimum of 49 square feet, with a minimum dimension of seven (7) feet. Planting areas shall be protected with concrete curbing.

8.3.4 Building Yards

(A) The intent of Building Yards is to create a buffer between buildings and parking areas for pedestrians entering and exiting buildings and to improve the appearance of building entrances. Building yard width shall be based on the total area of the building. Widths shall be measured from the applicable building wall. Building yards shall be required on any side of the building where parking area is adjacent to a building façade with a general access entrance to the building. This shall not apply to the CB district or to single-family dwellings. The table below establishes the minimum building yard width and required composition of the building yard:

Total Building Area	Minimum Building Yard Width	Minimum Small Trees Required	Minimum Shrubs Required
Less than 2,500 square feet	3 feet	N/A	1 per 5 linear feet of building yard
2,500-5,000 square feet	5 feet	1 per 50 linear feet of building yard	1 per 5 linear feet of building yard
5,000-30,000 square feet	8 feet	1 per 50 linear feet of building yard	1 per 5 linear feet of building yard
30,000-60,000 square feet	10 feet	1 per 30 linear feet of building yard	1 per 2 linear feet of building yard
Greater than 60,000 square feet	12 feet	1 per 30 linear feet of building yard	1 per 2 linear feet of building yard

(B) Building yards may be crossed by entrance walkways of no greater than 10 feet in width. Vegetation shall be selected from the approved plant list in Section 8.4.1. At least 25 percent of the required trees, and at least 75 percent of the required shrubs, shall be evergreen species locally adapted to the area.

FIGURE 8.5: EXAMPLE BUILDING YARD



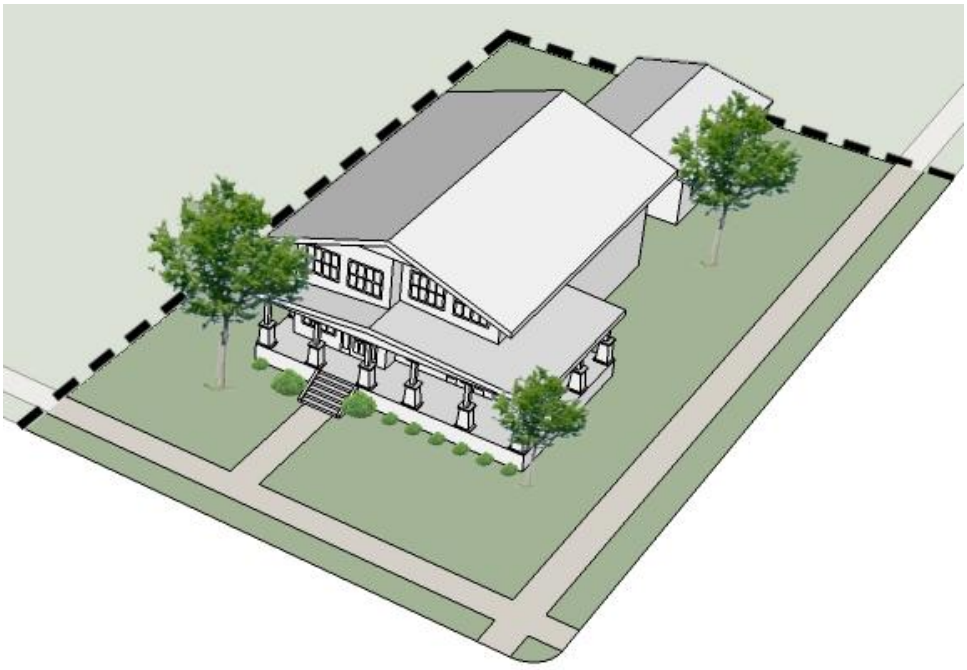
8.3.5 Residential Yards (single-family residential lots)

(A) Residential Yard trees are required for every residential development of five (5) or more lots. The intent is to replace some of the trees removed during the grading process and establish a residential tree canopy. Residential Yard trees may be placed anywhere on the property except that at least one (1) tree is placed in the front yard. Each lot shall provide canopy trees in accordance with the following schedule:

Lot Size	Yard Trees
Less than 10,000 square feet	1
10,000-20,000 square feet	2
More than 20,000 square feet	3

(B) Trees shall be planted outside of the public right-of-way. Maintenance of the trees shall be the responsibility of the individual property owner. Vegetation shall be selected from the large tree portion of the approved plant list in Section 8.4.1. The use of existing vegetation to satisfy this requirement is encouraged.

FIGURE 8.6: EXAMPLE RESIDENTIAL YARD



8.4 Landscaping Installation and Maintenance

8.4.1 Approved Plant List

LARGE TREES: Mature height greater than 50 feet tall						
Common Name	**Scientific Name**	**Growth Rate**	**Fall Leaf**	**Flower**	**Environmental Tolerance**	**Problems**
Hardy rubber tree	Eucommia ulmoides	Slow			Drought	
Overcup oak	Quercus lyrata	Medium			Wet soils	
Green Ash	Fraxinus pennsylvanica	Medium	Pink		high pH / Salt / Drought / Compaction	Numerous seeds can be problematic on females
Thornless honeylocust	Gleditsia triacanthos var. inermis	Medium	Yellow		Wet soils / Drought / Salt / High pH / Compaction	Plant bugs, mites, webworm
Kentucky coffeetree	Glymnocladus dioicus	Medium			Drought / Salt / High pH	Pods may be problematic; Needs adequate growing space
London planetree	Platanus x acerifolia	Fast			Compaction / Drought / Salt	Adequate space; Anthracnose can be a problem
Dawn redwood	Metasequoia glyptostroboides	Medium			Wet soils / High pH	
Shingle oak	Quercus imbricaria	Medium			Dry soils	
Sweetgum	Liquidambar styraciflua	Medium	Yellow		Wet soils	Needs adequate growing space; Fruit litter may be a problem, 'Rotundiloba' may be alternative
Black gum	Nyssa sylvatica	Medium	Red & Yellow		Acid soils	
Swamp white oak	Quercus bicolor	Slow			Wet soils / Drought / Salt / Compaction	Acorn litter. Requires ample space and acid soil
Pin oak	Quercus palustris	Medium	Red		Wide range of soils	Adequate space
Willow oak	Quercus phellos	Fast			Wet or Dry sites / Compaction	
Northern red oak	Quercus rubra	Fast	Red		Drought / Compaction / Salt	Acorn litter
Shumard oak	Quercua shumardii	Medium	Red		Drought / Compaction / Salt	Acorn litter
Live Oak	Quercus virginiana	Slow			Wet soils / Compaction / Salt	

LARGE TREES: Mature height greater than 50 feet tall (continued)						
Common Name	**Scientific Name**	**Growth Rate**	**Fall Leaf**	**Flower**	**Environmental Tolerance**	**Problems**
Japanese pagodatree	Sophora japonica	Medium			Drought / Compaction / Salt	Litter problems; Canker can be a problem
Baldcypress	Taxodium distichum	Medium			Wet soils / Compaction	
Silver linden	Tilia tomentosa	Medium			Drought / Salt / pH adaptable / Compaction	Aphids
Lacebark elm	Ulmus parvifolia	Medium	Pink		Drought / Salt / pH adaptable / Compaction	
Japanese zelkova	Zelkova serrata	Medium	Red		Drought / pH adaptable / Compaction	Narrow crotch angle susceptible to splitting

MEDIUM TREES: Mature height between 35 feet and 50 feet tall						
Common Name	**Scientific Name**	**Growth Rate**	**Fall Leaf**	**Flower**	**Environmental Tolerance**	**Problems**
Red maple	Acer rubrum	Medium	Red		Wet soils / Compaction	Tends to have cankers under heavy stress; Over pinated
Horsechestnut	Aesculus hippocastanum	Slow	Yellow	White	pH adaptable / Salt / Tolerant / Compaction	Susceptible to leaf blotch and scorch
Red horsechestnut	Aesculus x carnea	Slow		Red	Compaction / Acidix soil	
European hornbeam	Carpinus betulus	Medium	Yellow		Dry soils / pH adaptable	
American hornbeam	Carpinus caroliniana	Slow	Yellow		Acidic soils	Sensitvie to drought and compacted soils
Sugar hackberry	Celtis laevigata	Medium	Yellow		Wet soils / Compaction / Salt	Intolerant of high pH
Turkish filbert	Corylus corlurna	Medium	Yellow		Drought / pH adaptable	
Easter redcedar	Juniperus virginiana	Medium			Drought / High pH / Compaction / Salt	
Goldenraintree	Koelreuteria paniculata	Medium		Yellow	Drought / Salt / High pH	
Amur corktree	Phellodendron amuresis	Medium	Yellow		Drought / Wet soils / pH adaptable	Fruit may be a problem on females
Prunus sargentii	Sargent cherry	Slow	Red	Pink	Drought / Salt / Acid soils	Avoids poorly drained sites Japanese beetles

SMALL TREES: Mature height suitable for planting under utility wires						
Common Name	**Scientific Name**	**Growth Rate**	**Fall Leaf**	**Flower**	**Environmental Tolerance**	**Problems**
Hedge maple	Acer campestre	Slow	Yellow		High pH / Drought / Compaction	
Serviceberry	Amelanchier arborea	Medium	Red and Yellow	White		Specify tree form. Good alternative to crepe myrtle.
Eastern redbud	Cercis Canadensis	Fast	Yellow	Pink	pH adaptable	
Chinese fringetree	Chionanthus retusus	Slow		White		
Kousa dogwood	Cornus kousa	Slow	Red	White	Acidic soils	
Green hawthorn	Crataegus viridis	Medium	Red and Yellow	White	pH adaptable / Drought / wet soils	
Carolina silverbell	Halesia tetraptera	Medium	Yellow	White	Acid soils	Specify tree form. Good alternative to crepe myrtle
Crepe myrtle	Lagerstromia spp.	Slow	Red and Yellow	Red, White and Pink	Wet soils	Over planted and often unnecessarily topped
Amur maackia	Maackia amurensis	Slow		White	Drought / pH adaptable	
Flowering crabapple	Malus spp.	Medium	Red and Yellow	Red, White and Pink	Wide range of soils / Salt / Compaction	Specify tree form; fruit litter problem; scab is a problem for many species
Chinese pistache	Pistacia chinensis	Medium	Red		High pH	
Carolina cherry laurel	Prunus caroliniana	Fast		White	Drought / pH adaptable	Avoid poorly drained sites
Chokecherry	Prunus virginiana	Fast	Pink	White	Drought / Salt	Avoid poorly drained sites
Japanese tree lilac	Syringa reticulata	Medium		White	Drought / pH adaptable	

Source: North Carolina Division of Forest Resources

SHRUBS: Mature Height 1 to 4 Feet						
Common Name	**Scientific Name**	**Growth Rate**	**Exposure**	**Height**	**Spread**	**Remarks**
Abelia, Prostrate & Sherwood	Abelia x grandiflora cvs.	Slow	Sun to partial shade	3 to 4'	3 to 5'	Dwarf forms of Abelia x grandiflora
Aucuba, Dwarf	Aucuba japonica 'Nana'	Slow	Shade	2 to 3'	3 to 4'	Excellent, shade-loving dwarf plant
Azalea, Dwarf Indica (Gumpo)	Rhododendron eriocarpum	Slow to moderate	Partial shade	1 to 2'	1 to 2'	Late flowering; can be used as ground cover
Azalea, Kurume	Rhododendron, obtusum	Moderate	Partial shade	2 to 4'	2 to 5'	Early blooming; dependable
Azalea, Satsuki	Rhododendron hybrida	Moderate	Partial shade	2 to 4'	2 to 4'	Late blooming; large flowers; can be used as a ground cover
Barberry, Red Japanese	berberis thumbergii var. 'atropurpurea'	Moderate	Sun	3 to 6'	4 to 6'	Crimson Pygmy'; dependable
Barberry, Warty	Berberis verruculosa	Slow	Sun to partial shade	3 to 4'	3 to 4'	Spreading branches; bronze winter color
Beautyberry	Callicarpa dichotoma	Rapid	Sun to partial shade	3 to 4'	4 to 6'	Violet-pink berries; C. albifructus has white berries
Boxwood, English	Buxus sempervirens 'Suffruticosa'	Very slow	Partial shade	2 to 4'	2 to 4'	True dwarf English boxwood; requires excellent drainage
Boxwood, Korean	Buxus microphylla var. 'koreana'	Slow	Sun to shade	3 to 4'	4 to 6'	Most hardy of boxwoods; bronze colored foliage in winter
Boxwood, Littleleaf	Buxus microphylla	Slow	Partial shade	3 to 4'	3 to 4'	Compacta' useful for low hedge
Cotoneaster, Bearberry	Cotoneaster dammeri	Moderate	Sun	1 to 2'	3 to 5'	White flowers; red fruit; good for groundcover
Cotoneaster, Rockspray	Cotoneaster horizontalis	Slow	Sun	2 to 3'	4 to 8'	Good rock garden plant
Daphne, Winter	Daphne odora	Slow to moderate	Sun to shade	3 to 4'	2 to 3'	Flowers in late winter; very aromatic; needs good drainage
Deutzia, Slender	Deutzia gracilis	Slow	Sun to partial shade	3 to 4'	3 to 4'	Very adaptable to adverse conditions
English laurel, Dwarf	Prunus laurocerasus cvs	Moderate	Sun to shade	3 to 4'	5 to 6'	Otto Luyken' and 'Zabeliana' are dwarf forms of English laurel

SHRUBS: Mature Height 1 to 4 Feet (continued)						
Common Name	**Scientific Name**	**Growth Rate**	**Exposure**	**Height**	**Spread**	**Remarks**
Euonymus, Dwarf Japanese	Euonymus japonicus 'Microphyllus'	Moderate	Sun to shade	2 to 3'	1 to 3'	Used for edging, border; very susceptible to scale insects
Fothergilla, Dwarf	Fothergilla gardenii	Slow	Sun to partial shade	2 to 3'	3 to 4'	Requires good drainage; white, spring flowers; excellent fall color
Gardenia, Creeping	Gardenia jasminoides 'Radicans'	Slow	Partial shade	1 to 2'	2 to 3'	White, frangrant flowers; can be used as a ground cover
Hawthorn, Indian	Rhaphiplepsis x Delacourii	Slow	Sun to shade	3 to 4'	3 to 5'	Excellent coastal landscape plant; several cultivars available; white pink spring flowers
Holly, Carissa	Ilex cornuta 'Carissa'	Slow	Sun to partial shade	3 to 4'	4 to 6'	Excellent formal shrub for grouping accent
Holly, Dwarf Chinese	Ilex cornuta 'Rotunda'	Slow	Sun to partial shade	3 to 4'	3 to 4'	Requires little care; very spiney foliage
Holly, Dwarf yaupon	Ilex vomitora 'Nana'	Slow to moderate	Sun to shade	3 to 4'	3 to 5'	Excellent for eastern N.C.
Holly, Japanese cultivars	Ilex crenata cvs	Slow	Sun to shade	3 to 4'	3 to 4'	Cultivars: Stokes, Helleri, Tiny Tim, Repandens, Carefree
Hydrangea, Annabelle	Hydrangea arborescens 'Annabelle'	Slow	Sun to partial shade	3 to 6'	3 to 5'	Large, white summer flowers; very hardy
Hydrangea, Pia	Hydrangea macrophylla 'Pia'	Moderate	Partial shade to shade	2 to 3'		Deep pink 4 to 5" flowers most of the summer; dried bloom heads are attractive; a JC Raulston Arboretum Selection
Jasmine, Showy	Jasminum floridum	Slow to moderate	Sun	3 to 4'	3 to 4'	Yellow flowers in winter
Jasmine, Winter	Jasminum nudiflorum	Moderate	Sun to shade	2 to 4'	3 to 5'	Yellow flowers in winter

SHRUBS: Mature Height 1 to 4 Feet (continued)						
Common Name	**Scientific Name**	**Growth Rate**	**Exposure**	**Height**	**Spread**	**Remarks**
Juniper, Creeping	Juniperus horizontalis cvs	Moderate to rapid	Sun	1 to 2'	3 to 4'	Cultivars: Plumosa, Compacta, P.C. Youngstown
Juniper, Parsons	Juniperus davurica 'Expansa'	Moderate	Sun to partial shade	2 to 3'	4 to 7'	Long slender branches; good for coastal areas
Juniper, Prostrate	Juniperus communis 'Depressa'	Moderate to rapid	Sun to partial shade	2 to 4'	3 to 5'	Withstands drought and poor soil
Juniper, Shore	Juniperus conferta	Moderate	Sun	1 to 2'	4 to 5'	Emerald Sea, Blue Pacific are improved cultivars
Laurel, Alexandrian	Danae racemosa	Slow to moderate	Shade	3'	2 to 3'	Elegant evergreen shrub with showy, orange-red berries
Leucothoe, Coastal	Leucothoe axillaris	Slow	Shade	3 to 4'	4 to 5'	Needs high moisture
Leucothoe, Drooping	Leucothoe fontanesiana	Slow	Shade	3 to 4'	4 to 6'	Cultivars: Nana, dwarf form; Girard's Rainbow, new growth is pink and white
Ligustrum, Curlyleaf	Ligustrum japonicum 'Rotundifolium'	Slow	Sun to partial shade	3 to 4'	3'	Lustrous dark green foliage
Mahonia, Oregon holly-grape	Mahonia aquifolium	Slow	Partial shade to shade	3 to 4'	3 to 5'	Upright stems; broadly clumped; yellow flowers in early spring
Mugo pine, Dwarf	Pinus mugo 'Compacta'	Slow	Sun	3 to 4'	2 to 4'	Use grafted plants for true dwarf form
Nandina, Dwarf	Nandina domestica cvs	Slow to moderate	Sun to partial shade	1 to 2'	1 to 2'	Cultivars: Atropurpea, Nana, Harbour Dwarf, Harbor Dward Fire Power
Skimmia, Japanese	Skimmis japonica	Slow	Partial shade to shade	4'	3'	Excellent foliage; showy red fruit on female plants
Spirea, Snowmound	Spiraea nipponica 'Snowmound'	Rapid	Sun to partial shade	3 to 5'	4 to 5'	White flowers in early spring; buish-green foliage
Spirea, Thunberg	Spirea thunbergii	Moderate	Sun to partial shade	3 to 4'	3 to 5'	Very early blooming spirea; requires pruning to maintain neat appearance

SHRUBS: Mature Height 1 to 4 Feet (continued)						
Common Name	**Scientific Name**	**Growth Rate**	**Exposure**	**Height**	**Spread**	**Remarks**
Quince, Japanese Flowering	Chaenomeles japonica	Rapid	Sun to partial shade	3 to 4'	3 to 4'	Flowers in early spring
Viburnum, David	Viburnum davidii	Moderate	Sun to partial shade	3 to 5'	3 to 5'	Good dwarf vibernum; blue fruit on female plants.

Source: NC State University Horticultural Department

8.4.2 Plant Installation Standards

The following standards shall apply to all new plant material installed as part of a screen required under these regulations:

(A) Trees to be planted shall be selected from the approved species listed in this Chapter. The Administrator may approve alternative large or small maturing trees excluding Bradford pears, sweet gum, catalpa, wild cherry, wild elm, princess, hackberry and tree-of-heaven.

(B) Minimum tree caliper at installation measured six (6) inches above ground on all large maturing trees shall be two (2) inches and the minimum height shall be eight (8) feet.

(C) No trees identified as large trees shall be planted under overhead utility lines or within five (5) feet of a utility easement. This does not include low-voltage insulated or covered lines of 240 volts or less or telephone or cablevision lines.

(D) All plant material installed shall be free from disease.

(E) Plant materials shall be planted in accordance with generally accepted and recommended planting and growing practices.

(F) All plant material shall be installed in a fashion that ensures the availability of sufficient soil and water to sustain healthy growth.

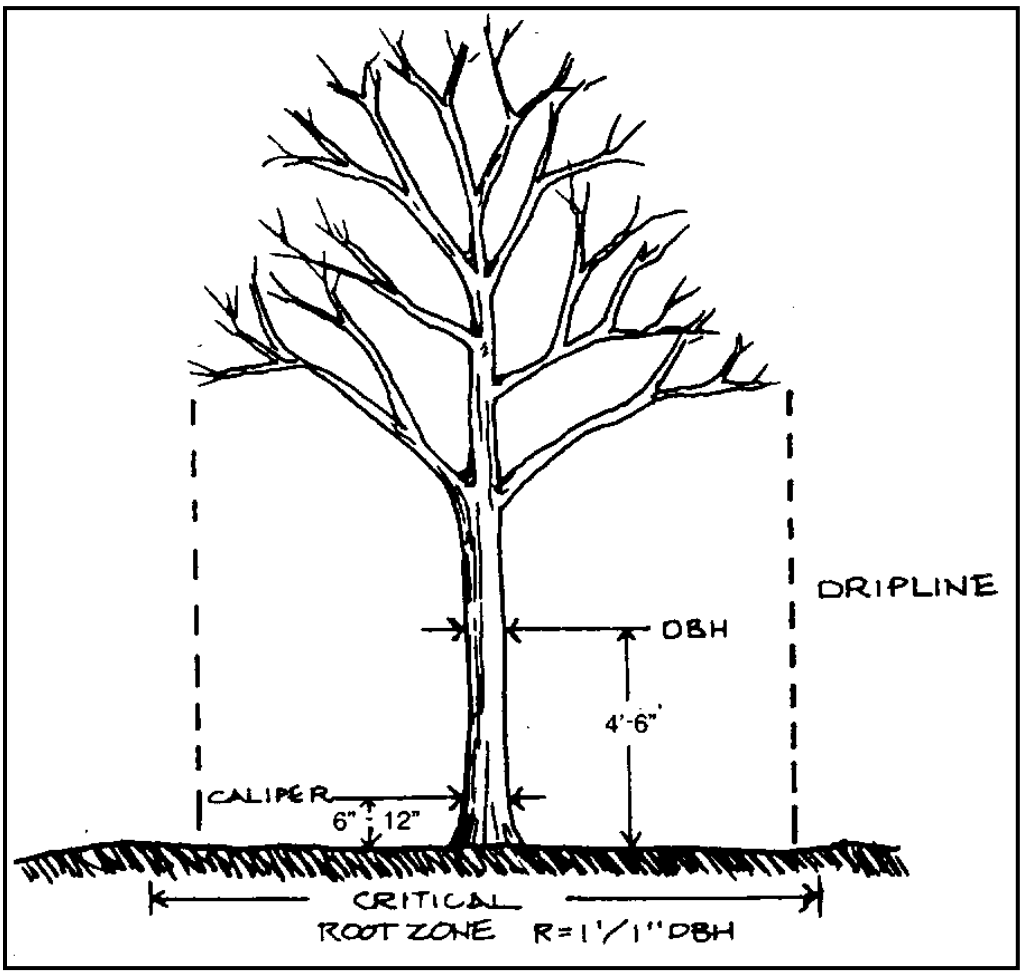
(G) All plant material shall be planted in a manner which is not intrusive to utilities or pavement.

8.4.3 Landscaping Maintenance

Plantings, fences, walls, or berms that are required landscaping shall be properly maintained. The owner of the property where landscaping is required shall responsible for the maintenance of all landscaping materials. Such maintenance shall include all actions necessary to keep the landscaped area free of litter and debris; to keep plantings healthy; to keep plant growth from interfering with safe vehicular and pedestrian travel, or use of parking areas, or from creating nuisances to adjoining properties; and to keep walls, fences and berms in good repair and neat appearance. Any vegetation that is part

of a required landscaping area shall be replaced within 60 days in the event that it dies. All landscaping materials shall be protected from damage by erosion, motor vehicles, or pedestrians which could reduce the effectiveness of the required landscaping.

FIGURE 8.5: TREE MEASUREMENT TERMS



8.4.4 Visibility at Intersections

Except as herein provided, on a corner lot in any district, no hedge, shrubbery, tree, natural growth, sign, fence, wall, or other obstruction shall be placed or maintained within a sight triangle as defined by this ordinance.

8.5 Fences and Walls

(A) Unless otherwise specified within this Ordinance, fences and walls shall be exempt from setback and yard requirements. Fences may be located up to the property line, but shall not be located in any right-of-way or sight-triangle. For streets without a right-of-way, fences shall be located a minimum of 10 feet from the edge of pavement. Fences may be located closer than 10 feet to the edge of pavement if there is an existing retaining structure, as long as the fence is no closer to the pavement than the existing retaining structure.

(B) Fences may be installed in the required setback of any residential lot, except that in the required front setback of the lot, the height of such fencing or screening shall be limited to a maximum height of three (3) feet if a solid fence and five (5) feet if the fence is 50 percent or less opaque.

(C) Fencing in all other setbacks of residential property shall be limited to a maximum height of eight (8) feet except as otherwise specifically stipulated herein. Fences in non-residential districts are limited to eight (8) feet in height.

(D) The finished side of the fence shall be installed facing the street right-of-way and adjacent properties.

(E) Barbed wire shall only be permitted for agricultural uses in the R-20 and R-15 districts. In commercial districts (O-I, C-1, C-T, C-2, C-3 and M-1), barbed wire or razor wire shall only be permitted for security purposes in the side or rear yard on fences of eight (8) feet in height.

8.6 Screening Requirements

The screening requirements of this Section shall apply to the garbage containers, mechanical equipment and outdoor storage for all new and expanding non-residential and multi-family development:

(A) Any permitted outdoor storage or utility structures shall be screened in the form of a berm, wall or fence and natural plantings as to provide an opaque screen for outdoor storage, waste containers and utility structures. The screen shall exceed the height of the storage or equipment by a minimum of one (1) foot and shall not exceed the height limitations set forth in Section 8.5 for fences and walls and shall not interfere with the operation of utility equipment.

(B) Dumpsters and other waste collection containers shall not be located in the front yard of any structure.

(C) Ground-mounted mechanical equipment shall be located in the rear or side yard and screened from view of the street. Roof-mounted mechanical equipment shall be screened from view by a parapet wall or screen wall matching the primary building materials.

(D) Any fencing used to fulfill the requirements of this Section shall be supplemented with landscaping. Chain link fence with slats shall not be used to meet the requirement of this Section.

(E) All screens shall utilize building materials and design which are compatible with those used for the exterior of the principal building.









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CHAPTER 9
PARKING AND DRIVEWAYS

9.1 Purpose and Applicability 9-1
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9.4 Shared Parking and Connectivity 9-10
9.5 Loading Area Requirements 9-11
9.6 Parking of Commercial and Recreational Vehicles 9-13
9.7 Driveways 9-13

CHAPTER 9 – PARKING AND DRIVEWAYS

9.1 Purpose and Applicability

(A) The purpose of this Chapter is to ensure that adequate and well-designed parking is provided for developments in the Town of Forest City.

(B) Unless otherwise specified, the requirements of this Chapter apply to all developments except single-family detached residential and two-family attached residential (duplexes). The expansion of existing development shall follow these requirements to the greatest extent possible.

9.2 Off-Street Parking Requirements

9.2.1 General Provisions

(A) All off-street parking areas shall be landscaped in accordance with the regulations in Chapter 8.

(B) No off-street parking area shall be located over a septic tank field.

(C) Off-street parking areas shall be properly maintained in all respects. In particular, off-street parking area surfaces shall be kept in good condition (free from potholes, etc.) and parking space lines or markings shall be kept clearly visible and distinct.

(D) All parking, including for single-family and two-family residential, shall be in designated areas with a durable wearing surface and shall not take place on lawn or landscaped areas.

9.2.2 Parking Lot Design

(A) Parking lots shall not be located closer than 10 feet from a public right-of-way.

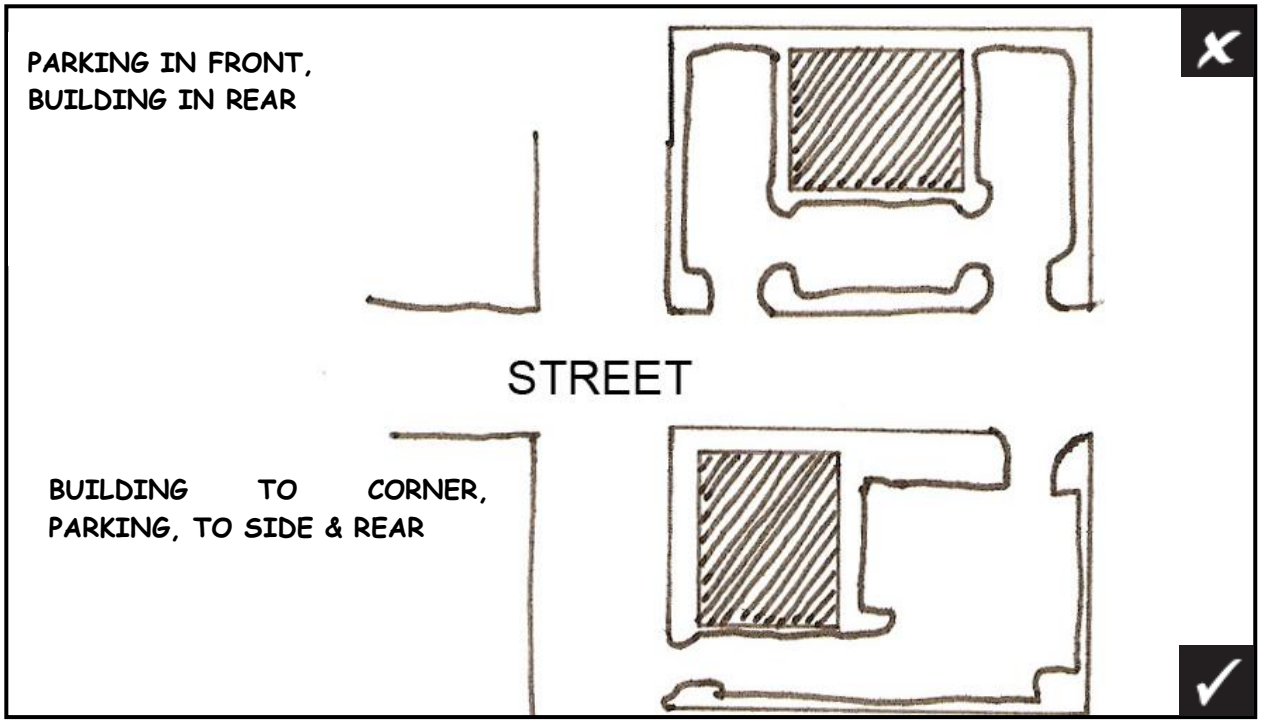
(B) Off-street parking areas shall be designed so that parked vehicles do not encroach upon, extend onto, or cause vehicles to back into public rights-of-way, sidewalks or strike against or damage any wall, vegetation, utility, or other structure. Curbs or bumpers are required and shall be a minimum of six (6) inches high.

(C) Off-street parking areas shall be designed to facilitate adequate movement and access by sanitation, emergency and other public service vehicles.

(D) No surface parking or circulation driveway is permitted within any required or established buffer area, except that driveways providing access to the parking area may be installed across these areas.

(E) No new off-street parking area in the C-1 or C-2 districts shall extend toward a public street right-of-way beyond the front wall of the closest adjacent building. See Figure 9.1.

FIGURE 9.1: PARKING LOCATION IN RELATION TO BUILDINGS IN THE C-1 AND C-2 DISTRICTS

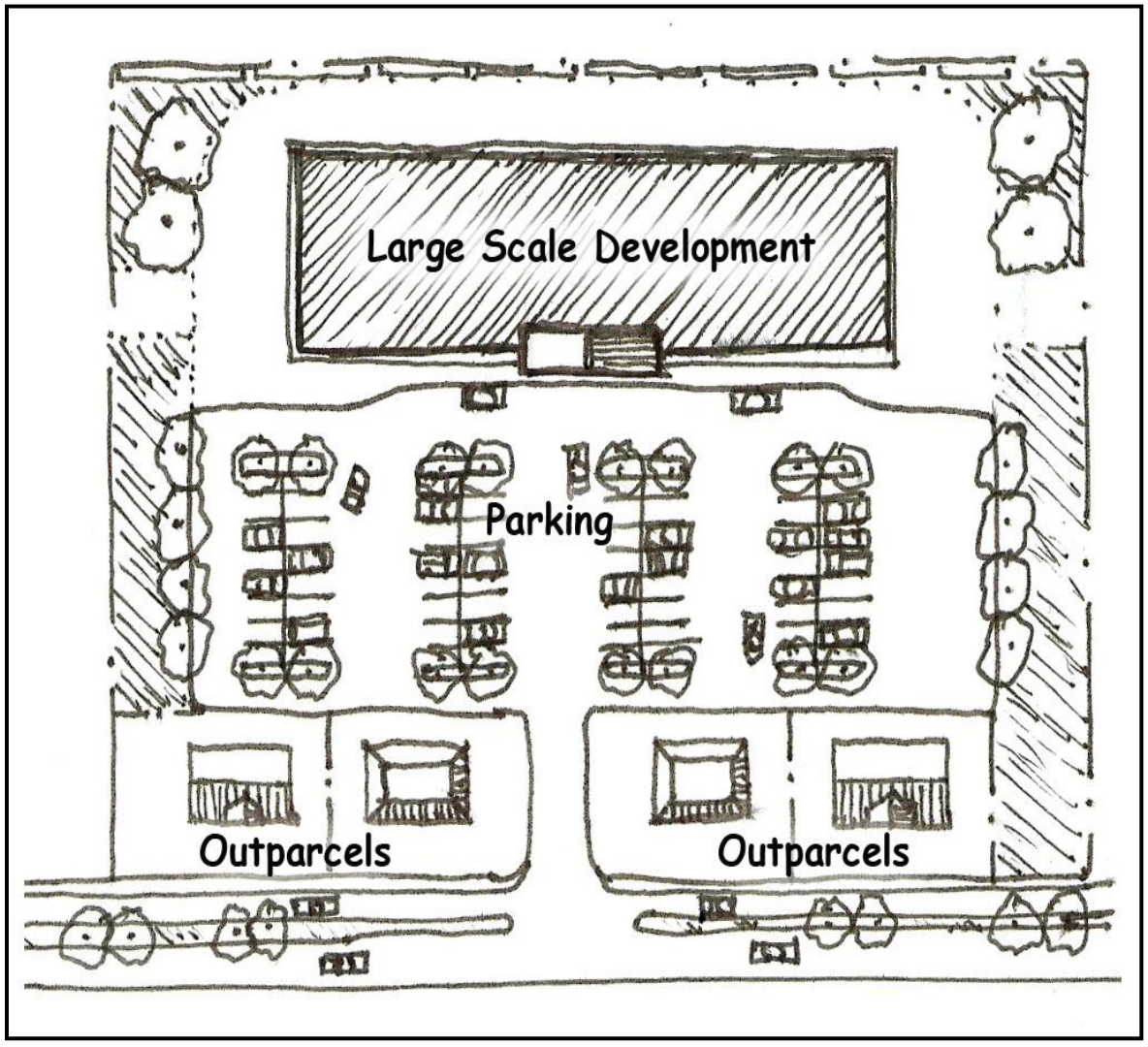


(F) All new or expanding off-street parking areas in the C-1 and C-2 districts that abut a public street right-of-way shall be screened with a hedgerow or masonry wall of at least three (3) feet in height.



(G) For non-residential uses (except for civic uses and developments in the Industrial zoning district), a maximum of two (2) rows of parking spaces may be located in the front yard of the principal building. All other parking shall be located in either the rear or side yards of the principal building. 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 9.2: EXAMPLE OF PARKING AREA FOR LARGE SCALE DEVELOPMENT



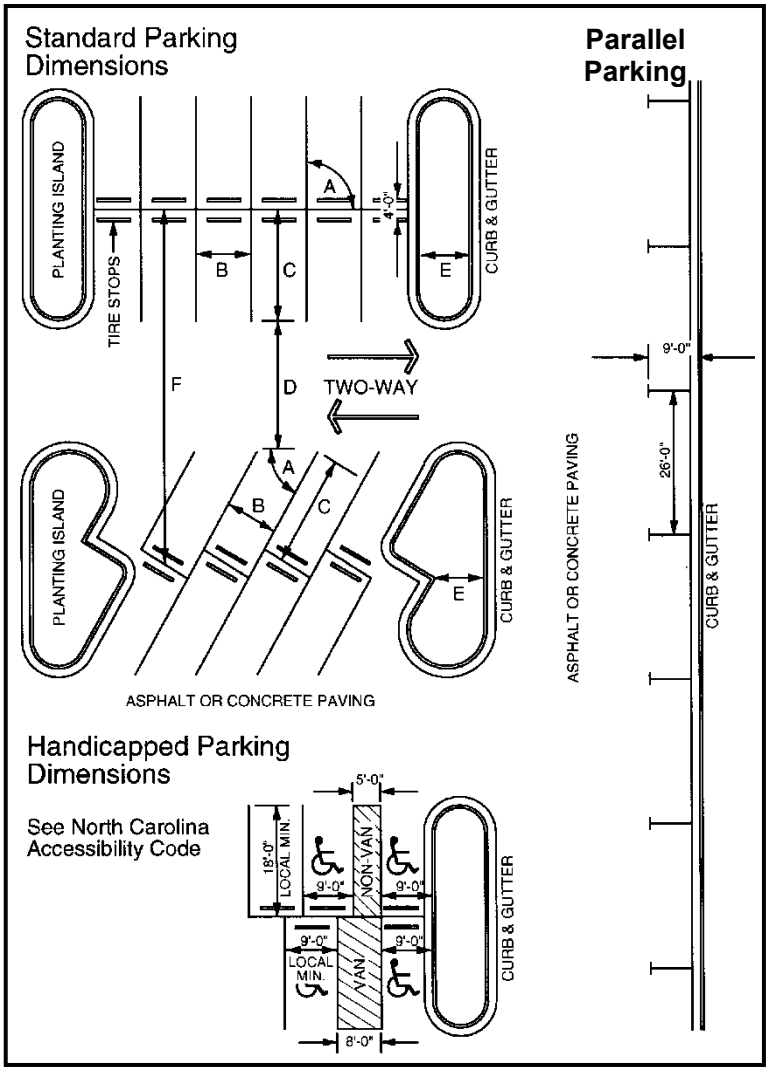
9.2.3 Parking Dimensions

Parking shall meet the following dimensional requirements:

Angle (A)	Stall Width (B)	Stall Depth (C)	Aisle Width (D)		Planting Island Width (E)	Parking Bay Width (F)		Bumper Overhang (front/rear) (G)
			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.	N/A
45°	9.0 ft.	18.0 ft.	12.0 ft.	24.0 ft.	7 ft.	44 ft.	56 ft.	2.0’ / 4.0’
60°	9.0 ft.	18.0 ft.	18.0 ft.	24.0 ft.	7 ft.	46 ft.	58 ft.	2.0’ / 4.0’
90°	9.0 ft.	18.0 ft.	N/A	24.0 ft.	7 ft.	N/A	60.0 ft.	2.0’ / 4.0’

N/A=Not applicable

FIGURE 9.3: PARKING DIMENSIONS



9.2.4 Parking Surface

(A) All parking areas (except for single-family and two-family residential uses) shall be paved with asphalt, concrete, pavers or similar paving material and shall be landscaped in accordance with the requirements of Section 8.3.2.

(B) All paved parking areas a minimum of four (4) inches of concrete or two (2) inches of asphalt shall be used. Spaces in paved parking areas shall be appropriately demarcated with painted lines or other markings. Paved parking areas for greater than 10 parking spaces shall have curb and gutter.

9.3 Number of Parking Spaces Required

(A) All developments shall provide a sufficient number of on-site parking spaces to accommodate the number of vehicles that ordinarily are likely to be attracted to the development in question. Non-residential uses within the C-1 and C-T zoning districts are exempt from this requirement. Residential uses within the C-1 zoning district shall demonstrate to the Administrator that sufficient parking is available within 400 feet. Multi-Family residential uses within the C-T zoning district shall provide a parking study to determine the sufficient number of parking spaces. No on-street parking on Main Street shall be utilized for residential uses within the C-1 district.

(B) When determination of the number of parking spaces required by the Parking Requirements Table results in a requirement of a fractional space, any fraction of ½ or less may be disregarded, while a fraction in excess of ½ shall be counted as one (1) parking space.

(C) The Town recognizes that the Parking Requirements Table set forth in this Section cannot and does not cover every possible situation that may arise. Therefore, in cases not specifically covered, the permit-issuing authority is authorized to determine the parking requirements using the Table as a guide.

(D) See the Parking Requirements Table below for minimum parking space requirements. The Administrator may reduce the minimum number of parking spaces required by up to 10 percent if the applicant can demonstrate that the number of required parking spaces is excessive or inadequate due to use or property constraints.

SECTION 9.3 NUMBER OF PARKING SPACES REQUIRED

Residential	Minimum Number of Spaces
Accessory dwellings	1 per dwelling
Family care homes	2 per unit
Home occupations	1 space in addition to residential use requirement
Manufactured homes on individual lots	2 per unit
Multi-family dwellings	1 bedroom-1 space per unit 2 or more bedrooms-2 spaces per unit
Single-family dwellings, detached	2 per unit
Two-family dwellings (duplexes)	2 per unit
Upper-story residential unit	1 per unit
Civic, Government, & Institutional	**Minimum Number of Spaces**
Cemeteries	N/A
Colleges, Universities, & associated facilities	1 per 4 students
Correctional facility	1 per 2 employees on peak shift
Daycare Center	1 per 375 square feet of gross floor area
Emergency Services (fire, police, rescue squad, ambulance, EMT, & similar uses)	1 per employee + 1 per 3 volunteer personnel on peak shift + 1 per 200 square feet of office space
Government office buildings	1 per 300 square feet of gross floor area
Hospitals, public and private	1 per 400 square feet of gross floor area
Instructional Schools (karate, dance gymnastics, music, art, & similar instruction)	1 per 375 square feet of gross floor area
Libraries, museums, art galleries, art centers, & similar uses	1 per 300 square feet of gross floor area
Post Office	1 per 300 square feet of gross floor area
Religious institutions & related uses (excluding elementary or secondary schools)	1 per 4 seats
Research Facilities	1 per 2 employees on peak shift
Residential care facilities	1 space per 2 beds
Schools, elementary	1.5 per classroom
Schools, high	10 per classroom
Schools, instructional	1 per 300 square feet of gross floor area
Schools (trade & vocational)	1 per 4 students
Social, fraternal clubs & lodges, union halls, & similar uses operated on a non-profit basis	1 per 250 square feet of gross floor area

Office & Service	Minimum Number of Spaces
Animal services (no outdoor kennels)	1 per 300 square feet of gross floor area
Animal services (with outdoor kennels)	1 per 300 square feet of gross floor area
Banks, financial services	1 per 300 square feet of gross floor area
Bed and breakfast inns	1 per guest room + 2 for owner
Body piercing & tattoo studios	1 per 300 square feet of gross floor area
Dry cleaning and laundry establishments	1 per 300 square feet of gross floor area
Fortune tellers, astrologers	1 per 300 square feet of gross floor area
Funeral homes and mortuaries	1 per 4 seats
Hotels & motels	1 per room + 2 spaces per 3 employees at peak shift
Motor vehicle or boat services	4 spaces per service bay + 1 per employee at peak shift
Medical, dental, chiropractic, optical, psychiatric clinics or related offices and/or laboratories	7 spaces per doctor or practitioner
Motion picture production	1 per employee + spaces required to satisfy projected peak parking demands
Personal service uses	3 per service provider
Professional Offices	1 per 300 square feet of gross floor area
Research, development or testing services	1 per employee + spaces required to satisfy projected peak parking demands
Services, other (inside fully enclosed building)	1 per 300 square feet of gross floor area
Retail & Wholesale	**Minimum Number of Spaces**
ABC sales for on premises consumption	1 per 300 square feet of gross floor area or 1 per every 3 seats (whichever is applicable)
Auction houses	1 per 300 square feet of gross floor area
Farmer's markets	1 per every 4 persons of max. capacity
Microbrewery	1 per 300 square feet of gross floor area or 1 per every 3 seats (whichever is applicable)
Motor vehicle or boat sales or rental	3 spaces + 1 space per every 400 square feet of building gross floor area
Pawn Shops	1 per 300 square feet of gross floor area
Restaurants	5 spaces plus 1 per every 3 seats
Retail uses	1 per 300 square feet of gross floor area
Wholesale	1 per 400 square feet of gross office & sales floor area + 2 per each 3 employees at peak shift
Recreation & Entertainment	**Minimum Number of Spaces**
Adult oriented businesses	1 per 150 square feet of gross floor area
Auditorium, assembly hall	1 per 150 square feet of gross floor area
Banquet, events facility	1 per 150 square feet of gross floor area

Campgrounds	1.25 per campsite at campground (1 at each campsite)
Golf, tennis, swimming clubs & related uses	1 per every 4 persons of max. capacity
Parks (public)	1 per every 4 persons of max. capacity
Recreation facility	1 per every 4 persons of max. capacity
Shooting ranges	1 per every 4 persons of max. capacity
Theater (drive-in)	1 per hook-up plus 1 per employee at peak shift
Theater (indoor)	1 per 6 seats
Theater (open air)	1 per every 4 persons of max. capacity
Industrial, Warehousing, Transportation, & Utility	**Minimum Number of Spaces**
Airports & heliports	1 per employee + spaces required to satisfy projected peak parking demands
Asphalt plants	1 per employee + spaces required to satisfy projected peak parking demands
Broadcast towers (excluding wireless telecommunications towers)	1 per employee
Bus & train stations	1 per employee + spaces required to satisfy projected peak parking demands
Data Centers	1 per employee + spaces required to satisfy projected peak parking demands
Distribution centers	1 per employee at peak shift + 1 per each company vehicle at peak shift
Electric transmission lines & related appurtenances	N/A
Junk yards, salvage yards, recycling operations and similar uses	1 per 2 employees on peak shift + 1 per 5,000 square feet devoted to material storage + 1 per company vehicle
Manufacturing, processing, & assembly	2 per 3 employees at peak shift + 1 per each company vehicle at peak shift
Manufacturing, Small Scale	2 per 3 employees at peak shift + 1 per each company vehicle at peak shift
Mining & quarrying operations	1 per employee at peak shift + 1 per each company vehicle at peak shift
Natural gas distribution lines & related appurtenances	N/A
Power generation/production facilities	1 per employee at peak shift + 1 per each company vehicle at peak shift
Taxicab stand or office	1 per employee at peak shift + 1 per each company vehicle at peak shift
Telecommunications lines & related appurtenances	N/A
Transit stops	Adequate spaces required to satisfy projected peak parking demands
Truck stops	1 per employee at peak shift + 1 per each company vehicle at peak shift
Warehouse, mini	1 per 4,000 square feet of gross floor area
Warehouse uses	1 per employee at peak shift + 1 per each company vehicle at peak shift
Water distribution lines, pumps, storage, tanks and appurtenances	N/A
Water treatment plants (non-government, public)	1 per employee at peak shift + 1 per each company vehicle at peak shift
Wireless telecommunications towers	1 space
Agricultural	**Minimum Number of Spaces**
Bona fide farms	N/A
Equestrian uses (horseback riding, stables)	1 per horse stall
Greenhouse or horticultural nursery (no on-premises sales)	1 per employee at peak shift + 1 per each company vehicle at peak shift

Greenhouse or horticultural nursery (with on-premises sales)	1 per 800 square feet of gross sales floor area
Produce stand (permanent)	1 per 300 square feet of gross floor area
Other	**Minimum Number of Spaces**
Accessory structures (associated with permitted non-residential uses)	N/A
Drive-throughs (associated with permitted use)	Stacking for 4 vehicles at each bay
Outdoor storage (associated with permitted use, excluding outdoor sales display)	N/A
Temporary Uses	Adequate for use

9.4 Parking Location, Shared Parking and Connectivity

9.4.1 Parking Location

(A) On all off-street parking lots, the required space shall be provided on the same plot with the use or on a lot separated therefrom by not more than 400 feet, except for single-family and two-family residential uses, which must be provided on the same parcel.

(B) Where provision of required off-street parking for a building or other uses established subsequent to the adoption of this Section involves one (1) or more parcels or tracts of land that is not a part of the plot on which the principal use is situated, the applicant for a permit for the principal use shall submit with his application for a Zoning Permit an instrument duly executed and acknowledged, which subjects the parcels or tracts of land to parking uses in connection with the principal use for which it is made available. The applicant shall cause said instrument to be registered in the office of the Register of Deeds upon the issuance of a Zoning Permit.

(C) Unless otherwise listed below, parking for uses shall only be allowed in districts in which the use is allowed. Parking for the following uses shall be allowed in the O-I, C-2, C-3, M-1 and PRD districts:

(1) Residential uses

(2) Civic, government and institutional uses

(3) Office and service

(4) Retail and wholesale uses

(5) Recreation and entertainment uses

(D) No on-street parking on Main Street shall be utilized for residential uses within the C-1 or C-T zoning districts.

9.4.2 Shared Parking

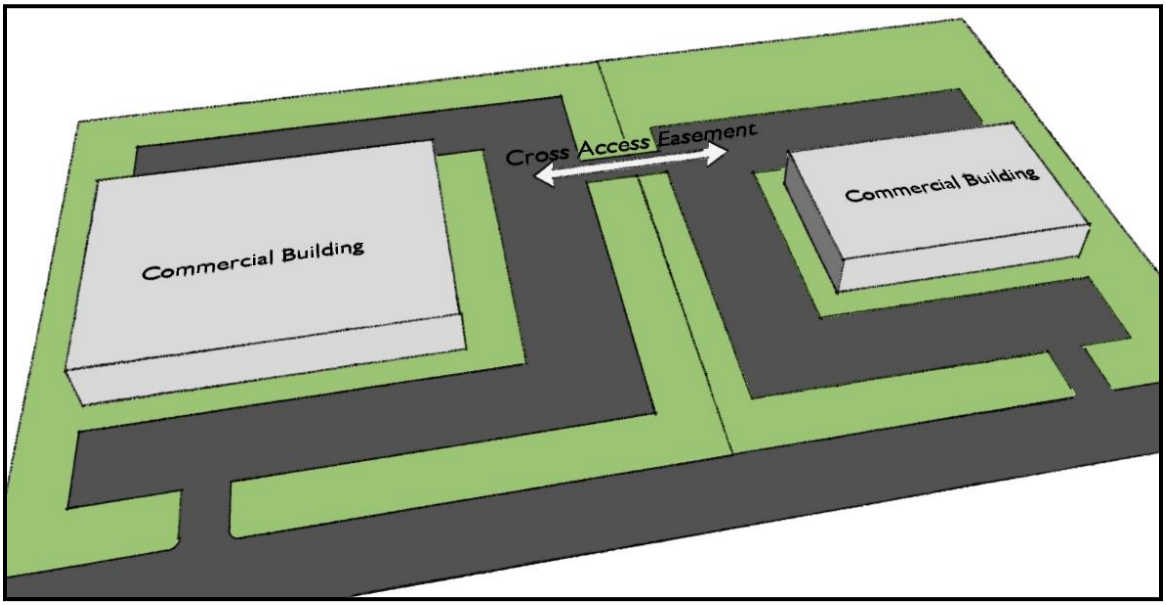
The joint use of shared off-street parking between two (2) uses may be made by contract by two (2) or more adjacent property owners. Developments that operate at different times may jointly use or share the same parking spaces with a maximum of one-half (1/2) of the parking spaces credited to both uses.

9.4.3 Parking Connectivity

(A) Adjacent parking lots shall be interconnected between the sites unless natural features prevent connection.

(B) Driveway stubs shall be provided to adjacent properties on major thoroughfares in the same zoning district as the property that is being developed.

FIGURE 9.4: PARKING CONNECTIVITY



9.5 Loading Area Requirements

(A) Subject to Subsection (E), whenever the normal operation of any development requires that goods, merchandise, or equipment be routinely delivered to or shipped from that development, a sufficient off-street loading and unloading area must be provided in accordance with this Section to accommodate the delivery or shipment operations in a safe and convenient manner.

(B) The loading and unloading area must be of sufficient size to accommodate the numbers and types of vehicles that are likely to use this area, given the nature of the development in question. The following Table indicates the number and size of spaces that, presumptively, satisfy the standard set forth in this Section. However, the permit issuing authority may require more or less loading and unloading area if reasonably necessary to satisfy the foregoing standard.

Gross Floor Area of Building	Number of Spaces[1]
1,000 – 19,999	1
20,000 – 79,999	2
80,000 – 127,999	3
128,000 – 191,999	4
192,000 – 255,999	5
256,000 – 319,999	6
320,000 – 391,999	7
Plus 1 space for each additional 72,000 square feet or fraction thereof.	

[1]Minimum dimensions of 12 feet X 55 feet and overhead clearance of 14 feet from street grade required.

(C) Loading and unloading areas shall be so located and designed so that the vehicles intended to use them can:

(1) maneuver safely and conveniently to and from a public right-of-way; and

(2) complete the loading and unloading operations without obstructing or interfering with any public right-of-way or any parking space or parking lot aisle.

(D) No area allocated to loading and unloading facilities may be used to satisfy the area requirements for off-street parking, nor shall any portion of any off-street parking area be used to satisfy the area requirements for loading and unloading facilities.

(E) Compliance with the provisions of this section is required only to the extent reasonably possible whenever the following conditions exist:

(1) a lot contains one (1) or more structures constructed before the effective date of this Ordinance;

(2) a change in use that does not involve any enlargement of a structure is proposed for such lot; and

(3) the loading area requirements of this Section cannot be satisfied because there is not sufficient area available on the lot that can practicably be used for loading and unloading.

9.6 Parking of Commercial and Recreational Vehicles

(A) On any residentially zoned lot of less than one (1) acre in size, commercial vehicles which may be parked on an overnight basis shall be limited to vans and trucks of no greater than three (3) axles. This requirement shall not be interpreted to prohibit vehicles from loading and unloading household goods in any residential district for a period of up to 24 hours.

(B) No residentially-developed lot may be used as the base of operation for any freight hauling truck.

(C) For purposes of this Ordinance, a recreational vehicle shall not be deemed a dwelling unit and the usage of a recreational vehicle for living, sleeping or housekeeping purposes and the connection of such vehicle to utility services (other than for periodic maintenance and/or repair purposes) shall be prohibited in exception to:

(1) The vehicle is located in a camping and recreational vehicle park so designed to accommodate recreation vehicles.

(2) See section 3.3 Permitted Uses and 4.2.13 Recreational Vehicles.

9.7 Driveways

(A) Driveways shall be not less than 10 feet in width for one-way traffic and 18 feet in width for two-way traffic.

(B) Ten (10)-foot wide driveways are permissible for two-way traffic when:

(1) The driveway is not longer than 50 feet; and

(2) The driveway provides access to not more than five (5) parking spaces; and

(3) Sufficient turning space and stacking area is provided so that vehicles need not back into a public street.

(C) In no case shall a driveway width exceed 24 feet, except as required by NCDOT.





(D) Only one (1) combined entrance and exit connection will be permitted where the frontage is less than 300 feet. Any lot of record in existence on the effective date of this section shall be allowed one (1) access point to the roadway notwithstanding the provisions of this Section that may prohibit such access; provided, however, that two (2) or more lots under common ownership shall be considered one (1) lot and shall comply with the requirements of this section. The maximum number of access points shall be as follows:

Street Frontage	Access Points to Roadway
0-299	1
300-999	2
1000 or more	3

(E) Driveways shall be as nearly perpendicular to the street right-of-way as possible and shall not exceed 10 percent grade.

(F) Driveways shall line up with other driveways across the street and be shared between adjacent uses wherever possible.

(G) Driveways connected to state-maintained streets shall comply with NCDOT standards.

(H) The arrangement of driveways for multi-family residential and non-residential uses should be related to adjacent driveways and nearby street intersections and meet the following criteria:

(1) Driveways serving streets with traffic volumes in excess of 300 ADT or accessing thoroughfares shall be located a minimum of 250 feet from the point of tangency of the radius of curvature of the intersecting street.

(2) The minimum distance between the centerlines of driveways into shopping centers or facilities generating in excess of 300 ADT shall be a minimum of 400 feet.

(3) Full access driveways open to signalization should be 1,000 feet apart. Driveways which access thoroughfares and serve more than 1,500 ADT shall provide

deceleration lanes in approach to the driveway.

CHAPTER 10
INFRASTRUCTURE

10.1 Street Standards 10-1
10.2 Utility Standards 10-13
10.3 Stormwater Management 10-19
10.4 Fire Protection Standards 10-22
10.5 Garbage and Refuse Collection 10-23
10.6 Installation of Markers and Monuments 10-23

10.1 Street Standards

10.1.1 Conformance with Comprehensive Transportation Plan (CTP)

The location and design of streets shall be in conformance with Rural Planning Organization's Comprehensive Transportation Plan. In any case where any part of a development lies within the corridor of a thoroughfare shown on a roadway corridor official map adopted pursuant to NCGS Chapter 136, Article 2E, no development approval shall be granted with respect to the property in the roadway corridor. Provided, however, no development plat approval shall be delayed by the provision of the roadway corridor official map procedure for more than three (3) years from the date of its original submittal.

10.1.2 General Provisions

(A) The Town has adopted North Carolina Department of Transportation (NCDOT) construction standards. Unless otherwise specified in this Ordinance, street design criteria shall meet the standards in the latest published edition of NCDOT's *Subdivision Roads Minimum Construction Standards*.

(B) For Traditional Neighborhood Developments (TND), the latest published edition of the NCDOT Division of Highways *Traditional Neighborhood Development Guidelines* shall be followed. In the absence of TND specific design guidelines, the criteria of the *Subdivision Roads Minimum Construction Standards* shall be followed.

(C) All proposed streets shall be graded to the full width of the right-of-way and improved with a pavement width and standard curb and gutter and storm drainage section as required for the particular classification of street. All grading, pavement and curb and gutter shall be designed and installed in accordance with Town standards and the approved construction documents. Where bridges are required, such shall be installed to fit the cross-section of the street classification. In addition, street paving and curb and gutter and storm drainage, in accordance with the above conditions, shall be installed in the following situations:

(1) Any existing street segment that has not been accepted for maintenance by either the Town or the NCDOT, and that is to serve as the required frontage for one (1) or more lots created pursuant to these regulations, shall be improved and dedicated to the public, as provided for above, in such a way that the street segment meets the standards of these regulations for the particular classification of street, including right-of-way width. Such street segment shall be directly connected to the existing public street system by way of at least one (1) public street accepted for maintenance by either the Town or the NCDOT. No development shall be permitted on any street that is an island not connected directly to the public street system.

(2) Where a development fronts on any existing street segment maintained by either the Town or the NCDOT and the street does not meet the minimum standards of these regulations for the classification of street, the developer shall improve the portion of street adjoining the development to meet the minimum standards including construction and width. When the development adjoins only one (1) side of an existing street, one-half (1/2) of the minimum right-of-way shall be provided, measured from the centerline of the street.

(3) The Town Board of Commissioners may require pavement and widening or pavement and widening and curb and gutter and storm drainage for turning lanes along any street that forms a significant entrance to a proposed development where in the opinion of the Town Board of Commissioners such improvements are necessary in order to provide for safe vehicular movement into and out of the proposed development.

(4) Where a street is stubbed into adjoining property for future extension and such street serves as the frontage for one (1) or more lots, which are not corner lots, the Town Board of Commissioners may require the pavement of a temporary turn-around in a form similar to a cul-de-sac on such street where in the Town Board of Commissioners opinion such turnaround is necessary for the public convenience, safety and service.

(5) Private streets where permitted shall be constructed to NCDOT standards for paved residential streets in a 50 foot right-of-way. Curb and gutter is not required. Private streets where provided shall be subject to an owners association agreement that provides for assessment for maintenance.

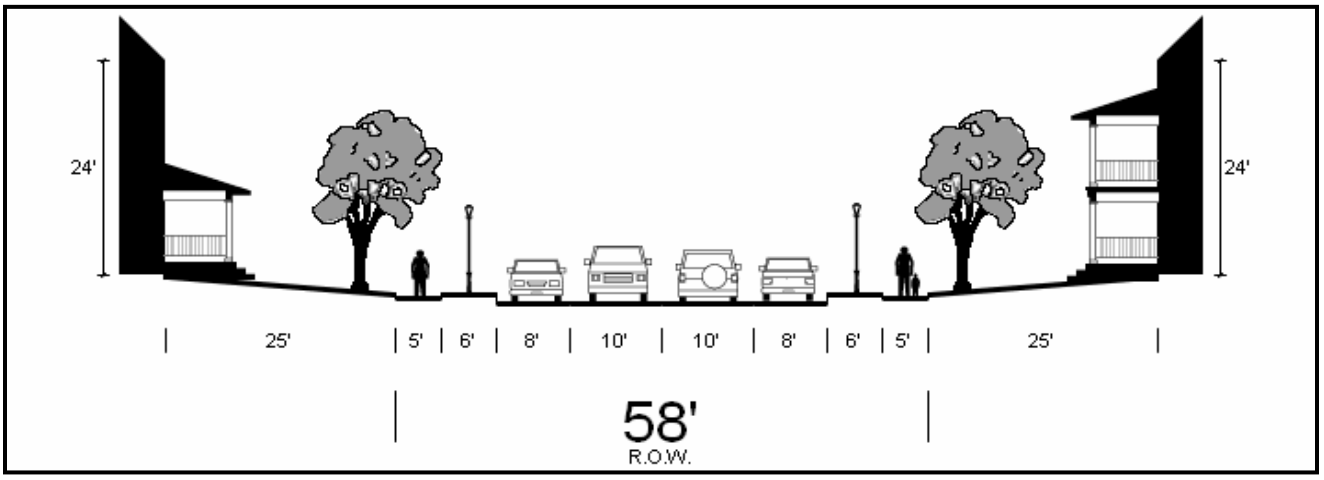
10.1.3 Street Design

(A) Street Design Criteria by Street Type

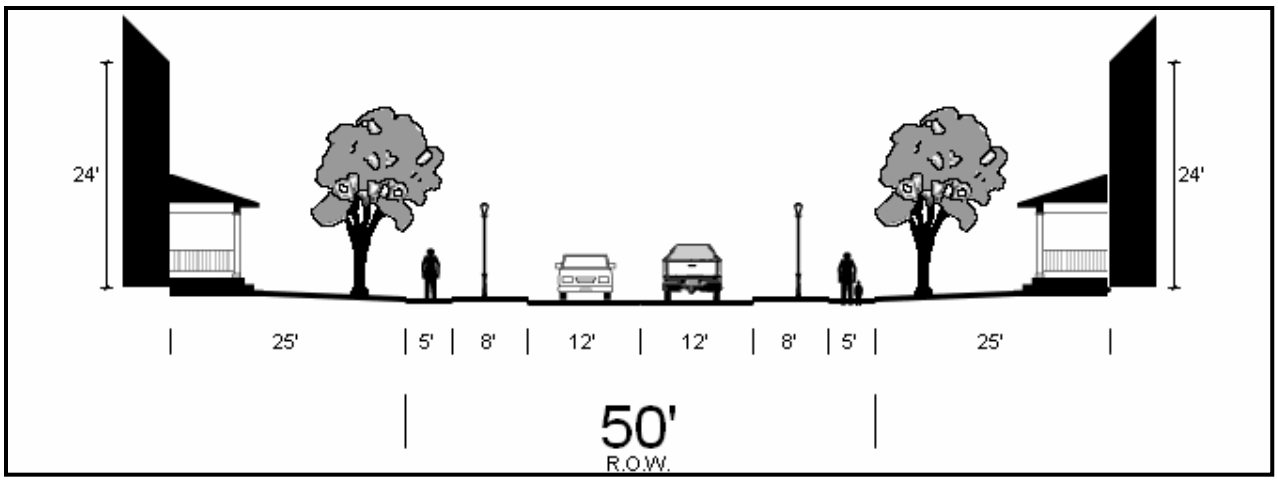
Element	Major Arterial	Minor Arterial	Collector	Local		Cul-de-sac	
				Residential	Non-Resid.	Residential	Non-Resid.
Avg. Daily Traffic	8,000+	5,000-8,000	3,000-5,000	500-1,000	1,000-3,000	0-300	0-500
Right-of-Way Width (face-to-face curb)	90-100ft	68-80ft	60ft	50ft	60ft	40ft	60ft
Pavement Width*	64-68ft	50ft	24ft	20ft	24ft	20ft	24ft
Stopping Sight Distance	650ft	550ft	200ft	200ft	325ft	300ft	325ft
Centerline Radius	1,530ft	765ft	365ft	300ft	575ft	300ft	575ft
Turn Radius	n/a	n/a	n/a	n/a	n/a	n/a	100ft-ROW 60ft-Pavement

*Add a minimum of eight (8) feet of pavement width for any street with on-street parking.

FIGURE 10.1: RECOMMENDED LOCAL STREET SECTION (with on-street parking)



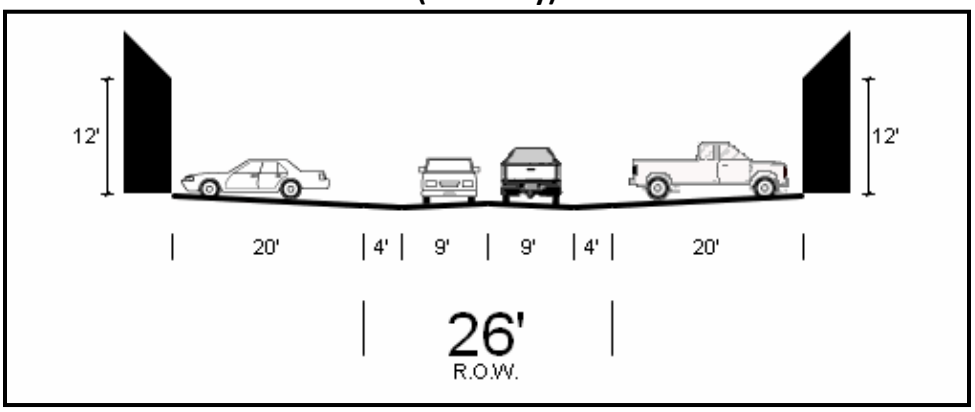
(no on-street parking)



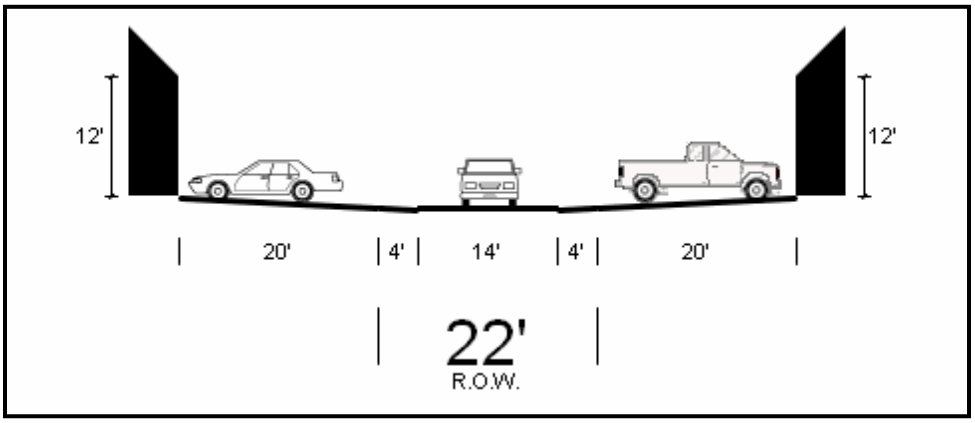
This cross section should only be used for lots with a minimum of three (3) on-site parking spaces.

FIGURE 10.2: RECOMMENDED ALLEY SECTION

(Two-way)



(One-way)



(B) Street Grades

(1) Street grades shall be not more than 12 percent (12%) nor less than -half of one percent (1/2%).

(2) Grades approaching intersections shall not exceed five percent (5%) for a distance of not less than 100 feet from the centerline of said intersection.

(C) Horizontal Curves

Where a centerline deflection angle of more than 10 degrees occurs, a circular curve shall be introduced, having a centerline radius of not less than the following:

(1) Major and Minor Arterials Streets: 300 ft.

(2) Collector Streets: 200 ft.

(3) Local Streets: 100 ft.

(D) Vertical Curves

All vertical curves shall have such length as necessary to provide safe sight distance and a gradual change in grade.

(E) Tangents

A tangent of at least 100 feet shall be provided between curves on all streets.

(F) Curb and Gutter

Curb and gutter is required along all new streets. The minimum width for vertical curb and gutter is two feet six inches (2'-6") and for valley curb and gutter is two feet (2'-0"). Minimum turning radius for residential curb cuts is two feet (2'-0'') and for commercial curb cuts is five feet (5'-0").

FIGURE 10.3: VERTICAL CURB AND GUTTER

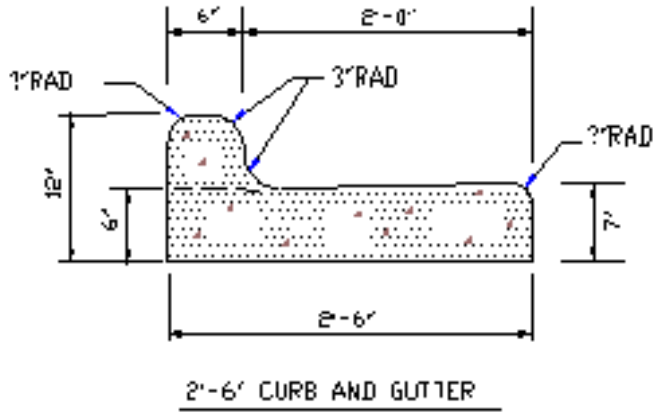


FIGURE 10.4: VALLEY CURB AND GUTTER

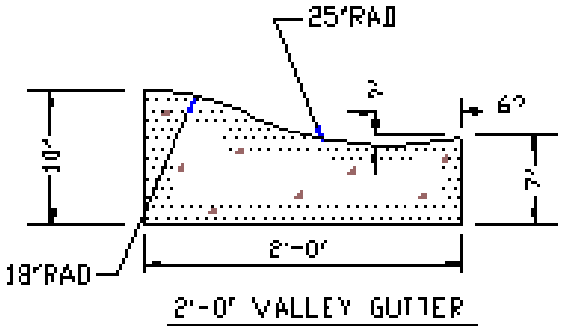
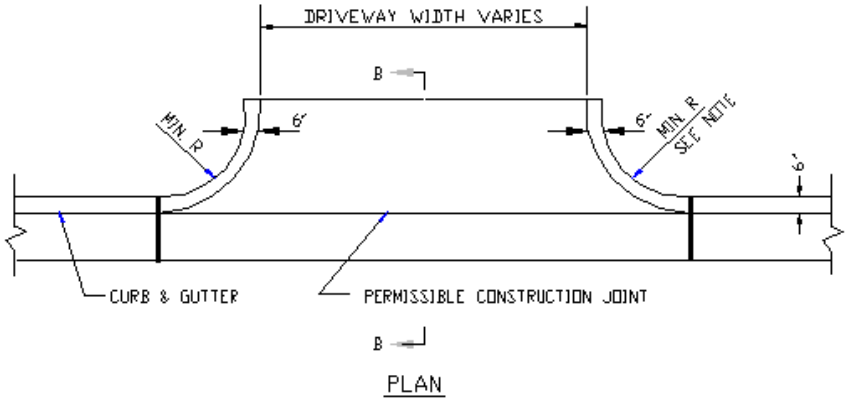


FIGURE 10.5: DRIVEWAY CUTS IN CURB AND GUTTER



MIN. 2'-0"

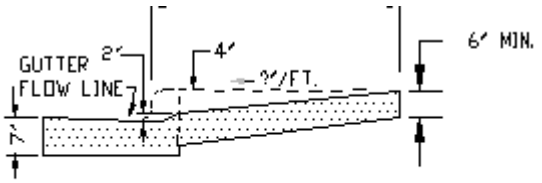
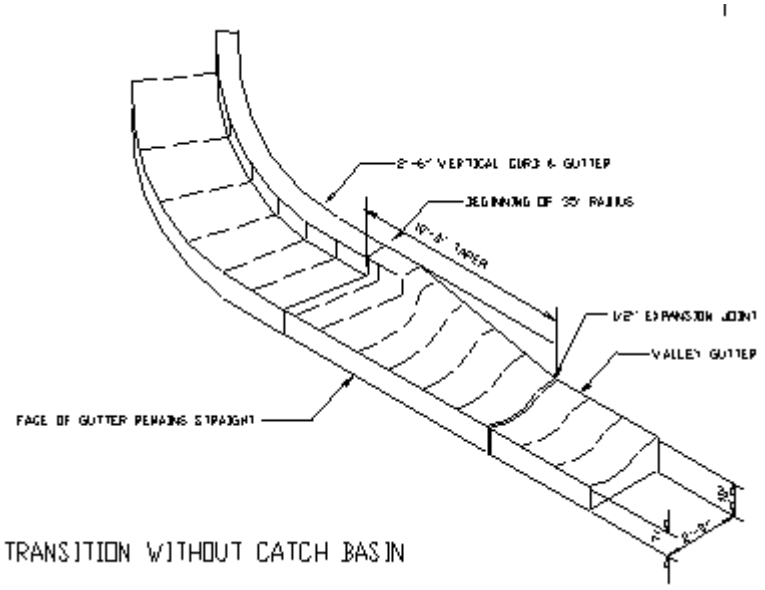


FIGURE 10.6: CURB AND GUTTER TRANSITION AT CUL-DE-SAC



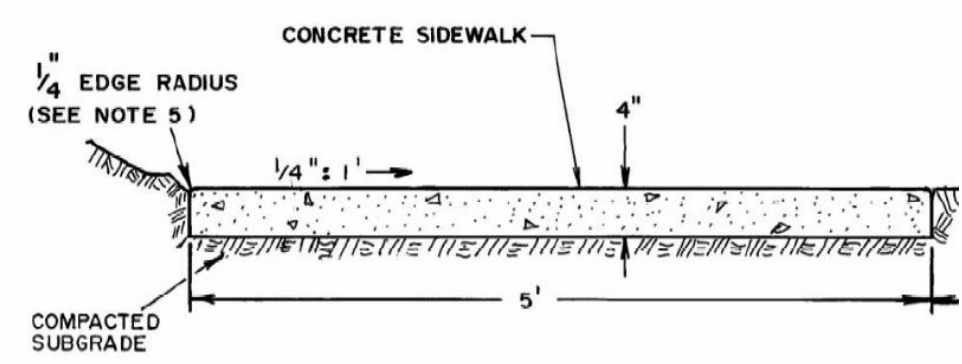
(G) Sidewalks

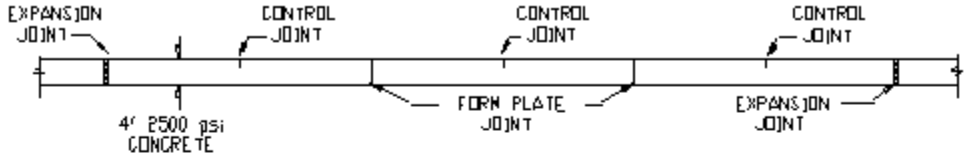
(1) Sidewalks shall be provided along the frontage street and at least on one (1) side of the new streets for all developments.

a. Where construction of sidewalks would be inconsistent or unreasonable based on surrounding conditions or pending NCDOT, Town, County, Regional or State Organization projects, the applicant has the option to make a payment in lieu of constructing the required sidewalks. The payment shall be 100% of the licensed engineer's current estimated cost to construct the sidewalk. Such funds shall be used at the discretion of the Town within a priority sidewalk area, or priority greenway corridor as identified by the Town of Forest City Transportation Plan. The Town Manager, upon review and receiving guidance from the Town Zoning Administrator, shall render the final decision.

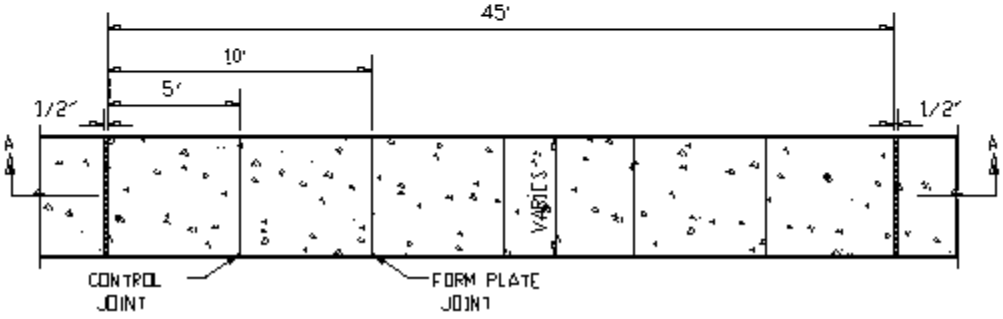
(2) Sidewalks shall be at least five (5) feet wide and shall be separated from the street by a minimum four (4) foot buffer. The minimum thickness of the concrete shall be four (4) inches. At vehicular traffic areas such as driveways the minimum thickness shall be six (6) inches. Also poured in place dummy joints shall be installed to match the width and expansion joints every 20 feet.

FIGURE 10.7: SIDEWALK DETAILS





SECTION A-A



10.1.4 Access Management and Connectivity

New streets shall be designed in relationship to adjoining property and land uses. Except where the Board of Commissioners determines that a different scheme is more appropriate, the proposed street system shall extend existing and projected streets at no less than the required minimum width for the classification of the street and shall be in conformance with the following criteria:

(A) Street Classification

All streets within and adjoining the development shall be classified according to function by the Board of Commissioners. Each street segment shall be classified in accordance with the Schedule of Street Classifications contained in the Appendix of these regulations and as defined herein. The classification of a street segment shall determine the cross-section and design standard to which that street segment shall be designed and constructed. Street design standards for each street classification are shown in the appendix. Street and roadway drainage system construction shall be in acceptance with North Carolina Department of Transportation standards.

(B) Connection to Adjoining Property

Proposed streets shall be extended to the boundary of the development for connection to existing streets on the boundary of adjoining property or for future connection. Cul-de-sacs shall not be used to avoid connection with an existing street to avoid the extension of a thoroughfare or collector street, or to avoid connection to adjoining property. In general, cul-de-sacs shall not be used to provide access to development on the boundary of the development. Cul-de-sacs shall not exceed 800 feet in length unless necessitated by topography or property accessibility and specifically approved by the Board of Commissioners. Measurement shall be from the point where the centerline of the dead end street intersects with the centerline of a general circulation street to the center of the turnaround of the cul-de-sac. Where one cul-de-sac extends from another cul-de-sac, the end of each cul-de-sac shall be no more than 800 feet from a general circulation street as measured by the centerline of the streets.

(C) Connection to State Streets

An approved NCDOT permit is required to connect to any existing state system

street.

(D) Restriction of Access

Where a development abuts or contains an existing or proposed thoroughfare, the Town Board may require marginal access streets, reverse frontage or such other treatment, as may be necessary for adequate separation of through and local traffic.

(E) Reserve Strips, Half Streets and Private Streets

Reserve strips and non-access easements adjoining street rights-of-way for the purpose of preventing access to or from adjacent property (except those required by the Town Board to prevent access to thoroughfares) and half-streets shall not be permitted under any condition. Private streets are not permitted.

(F) Secondary Access

At least two (2) entry points, constructed to NCDOT road standards, shall be provided in developments that contain 100 or more dwelling units and to all lots within the development. Alternatives may be allowed by the Town Board if the curb cuts for the two (2) accesses cannot meet the minimum distance allowed according to NCDOT regulations at any location.

(G) Fire Access

For developments of greater than 30 lots, a minimum 30 foot secondary access easement is required for Fire Department access. The easement shall be cleared so that a fire truck may pass, but does not have to be improved to public road standards.

(H) Street Alignment and Separation

(1) Streets shall be designed so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at an angle of less than 60 degrees. Streets crossing natural areas or streams shall cross at or near to right angles as possible within limits of topographic conditions. Offset intersections shall be avoided. A minimum intersection offset of 200 feet shall be maintained. See Subsection (3) for more detailed intersection offset requirements.

(2) Median breaks shall be provided to allow safe and efficient movement of traffic. The desirable spacing of median breaks shall be at 1000 foot intervals, with the minimum allowable spacing to be at 500 foot intervals.

(3) Intersections of roadways controlled by a traffic signal should be spaced along roadways at the following intervals:

Street Category	Interval Spacing
Major or Minor Arterial	2,620-5,280 feet
Collector	1,310 feet
Local	1,000 feet

(4) Four-legged intersections not controlled by a traffic signal should be spaced along roadways at the following intervals:

Street Category	Interval Spacing
Major or Minor Arterial	1,000 feet
Collector	750 feet
Local	300 feet

(5) Three legged intersections not controlled by a traffic signal should be spaced along roadways at the following intervals:

Street Category	Interval Spacing
Major or Minor Arterial	800 feet
Collector	500 feet
Local	

(I) Cul-de-sacs

(1) A cul-de-sac with a minimum 40-foot radius right-of-way and 30-foot radius pavement surface is required for all dead end streets.

(2) Permanent dead end streets shall not exceed 800 feet in length unless necessitated by topography or property accessibility.

(3) If the road length does not exceed 300 feet and if construction difficulties will not permit a turnaround, the use of "Y" or a "T" or other turning space of a design which will allow a vehicle with a wheel base of at least 20 feet to complete a turning movement with a maximum of one (1) backing movement, may be permitted if approved by the Town Board.

10.1.5 Street Names and Signs

(A) Proposed streets, which are obviously in alignment with others already existing and named, shall bear the names of existing streets. In no case shall the name for

proposed streets duplicate or be phonetically similar to existing street names, irrespective of the use of suffix street, avenue, boulevard, driveway, place, or court.

(B) Standard street name signs will be installed by the Town at all intersections in accordance with Town standards. The developer may, however, with the approval of the Board of Commissioners of design and material, install a different street name sign type at no cost to the Town. In such case, the developer or his successors or assignees shall be responsible for replacing such signs in instances of loss, damage or deterioration; otherwise, the Town will replace such signs with its standard sign. Outside the Town limits the developer shall be responsible for installing street name signs at all intersections in accordance with NCDOT standards.

(C) Street names shall be submitted to and approved by Rutherford County E-911 Addressing.

(D) In no case shall the name of a proposed development or street duplicate or be phonetically similar to existing development names or street names, irrespective of the use of suffix street, avenue, boulevard, driveway, place, or court.

10.1.6 Traffic Control Signs, Signals and Markings

Traffic control signs, signals and markings will be installed by the Town in accordance with Town standards and specifications inside the Town. Outside the Town the developer shall be responsible for installing such facilities in accordance with NCDOT standards and specifications.

10.1.7 Development Entrance Markers and Landscaped Medians

The Town Board may permit development entrance markers and landscaped medians within the public right-of-way subject to the following conditions and any additional conditions the Town Board may find to be appropriate in the individual circumstance:

(1) The Town will not be responsible for maintenance.

(2) An entity responsible for maintenance shall be created.

(3) No such improvements shall interfere with sight distance or with normal maintenance requirements or otherwise pose a hazard to vehicular or pedestrian traffic.

(4) In the event of loss, damage or lack of maintenance, the Town may remove all improvement and maintain the area in accordance with Town standards.

(5) NCDOT must approve any such developments in streets to be maintained by NCDOT.

10.1.8 Construction in Public Right-of-Way and Easements

The design and construction of any facilities whether required or provided, within public right-of-way and easements shall be in accordance with Town design and construction standards.

10.1.9 Right-of-Way Dedication

Proposed developments that adjoin existing streets maintained by either the Town or NCDOT shall dedicate the additional street right-of-way necessary to meet the minimum width requirements for the type of classification of the adjoining street. When any part of the development is on both sides of an existing street, the entire minimum right-of-way shall be provided. When the development is located on only one (1) side of an existing street, one-half (1/2) of the minimum right-of-way, measured from the centerline of the existing street, shall be provided. The dedication requirements of this Section shall not apply to infill single-family residential and two-family residential lots fronting on existing streets that have already been accepted for maintenance by the Town or NCDOT.

10.2 Utility Standards

10.2.1 Water and Sanitary Sewer Systems

(A) All developments shall be designed to provide Town water and sewer or meet Health Department requirements for on-site systems where Town services are not available. Water and sewer system shall be designed in accordance with Town standards. The developer shall be responsible for obtaining all necessary permits and approvals.

(B) The Town may, in order to serve future development, require the developer to install certain oversized water and sewer improvements and/or to increase such improvements to a size and/or extend beyond that necessary for the needs created by a non-residential development. In such cases, the Town shall enter into an agreement to reimburse the developer for the oversizing and/or extension based upon rates as agreed to by the Town.

(C) All waterline extensions must be constructed according to the latest edition of Title 15A.18C “Rules Governing Public Water Systems.” All sewer extensions must be constructed according to the latest edition of Title 15A.2T “Minimum Design Criteria for the Permitting of Gravity Sewers”. All pump stations and force mains must be constructed in accordance with Title 15A.2T “Minimum Design Criteria for Permitting of Pump Stations and Force Mains”.

(D) All proposed water and sewer facilities are subject to the review and approval of the Town’s consulting engineer prior to the application for a permit from the correct permitting authority.

(E) If substandard water and sewer services are within the immediate vicinity of the project and would require extending or accessing these facilities for the purpose of the development, then the developer is responsible for upgrading the facilities at no additional expense to the Town to meet the minimum design standards,

(F) Any development, which has public water system lines available, shall be required to extend the public water system throughout the development to each lot located therein. All required water line extensions shall include appropriate valves, hydrants, taps and service to the property line of each lot as required by the standards of the Town. All required sewer line extensions shall include appropriate manholes, lift stations pumps, clean outs, taps and service to the property line of each lot as required by the standards of the Town.

(1) For developments within or partially within the Town, the term "available" shall mean that there is an existing water line of adequate size and water flow and/or pressure either crossing the development property or immediately available from an adjacent public right-of-way or the town indicates its commitment to extend such a water line to the property line of the development at no cost to the developer.

(2) For developments located entirely outside the boundaries of the Town but within the jurisdiction of this Chapter, the term "available" shall mean that there is an existing water line of adequate size and water flow and/or pressure within the distances shown on the Table below of the outside boundary line of the development or the Town indicates its commitment to extend such a water line within the distances shown on the Table below of the property line of the development at no cost to the developer and there are no legal or topographic problems which prevent the developer from connecting onto and extending the existing system to the development. In the event there are phases to the development or else the development is a part of a larger tract of land owned or under the control of the developer, then, and in that event, public water service shall be deemed to be available if an existing or proposed public water system line extends or will be extended within the distances shown on the Table below to the larger tract of the land.

(3) In the event the Town elects not to extend a water line of sufficient size, flow and/or pressure, to the development (if in the Town) or within the distance shown on the Table below of the development boundary (if outside the Town) because of topographic features, legal obstacles, or financial reasons, then, the developer shall not be required to extend water lines to each lot nor provide water service to the development.

(4) In any case where a water or sewer system intended to serve more than two (2) lots is proposed to be installed in a development as part of the plan approval process, such system shall be considered to be a "Required Improvement" within the context of this Article regardless of whether such

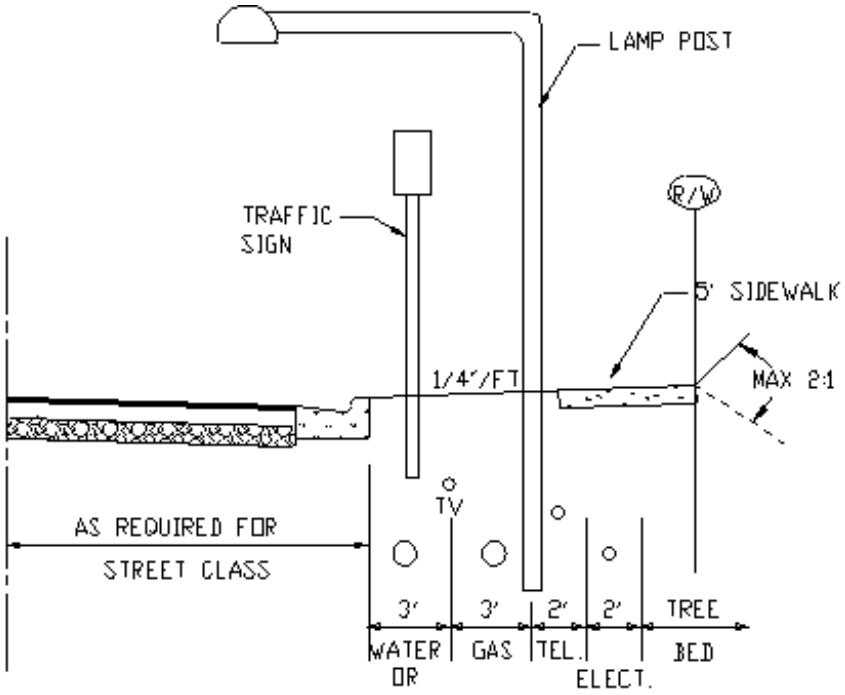
a system is an extension of the Town system or not and such system shall be required to be installed by the developer. This requirement includes both facilities within the development and off-site facilities, which are essential to providing the service to the property.

Available Utility Lines Water or sewer is available if the development contains the number of lots listed in "Lots" column and public lines are within the distance shown in the "Distance" column.	
LOTS	**DISTANCE**
2-10	200 feet
11-20	300 feet
21-50	600 feet
51-100	1,000 feet
101+	1,500 feet

10.2.2 Utility Location

(A) Utilities shall be located as depicted below within the right-of-way. All electrical and telephone lines in new developments shall be buried. Sewer lines shall be located under the street pavement as approved by the Public Works Department. Lines shall be buried to the depth required by Public Works or the utility provider.

FIGURE 10.8: UTILITY LOCATION



(B) Utility pedestals shall be located minimum of two (2) feet behind the sidewalk and near property lines between buildings and shall be screened with a wall, fence, or evergreen landscaping.

(C) To provide for electric, telephone and gas service, community antenna television distribution systems, water and sewer lines and other such facilities within the subdivision, appropriate utility easements not less than 20 feet shall be provided on the final plat. The locations of such easements shall be based upon the approved construction plans. All subdivision plats shall have a note stating that all lot lines shall be subject to a 10 foot utility easement centered on the lot line. All utilities and wire services shall be placed underground. The developer shall be responsible for incorporating the design of all utilities and services into the easement and construction design.

(D) All utilities located outside of the public right-of-way shall require a 20 foot easement centered on the utility line. No structures or retaining wall shall be allowed within this easement. The Town may require a developer to reserve a 20 foot utility easement for the purpose of extending sewer to adjacent properties at a location specified by the Town's consulting engineer.

10.2.3 Lighting

(A) Applicability

The provisions of this Section shall apply to the installation of all outdoor

lighting within the jurisdiction of this Ordinance except that the following shall be exempt from this Section:

(1) Outdoor lighting installed for governmental purposes by local, state or federal governmental units and their agents.

(2) Outdoor lighting required to be installed by laws or regulations of a local, state or federal governmental units.

(B) Prohibited Outdoor Lighting

The following types of outdoor lighting are prohibited unless exempt by Section 10.2.3(A) above:

(1) Light fixtures that imitate an official highway or traffic control light or sign.

(2) Light fixtures in the direct line of vision with any traffic control light or sign.

(3) Light fixtures that have a flashing or intermittent pattern of illumination.

(4) Privately-owned light fixtures located in the public right-of-way.

(5) Light fixtures that are a source of glare by their design, orientation or intensity.

(6) Searchlights.

(7) Unshielded open vertical light fixtures.

(8) Light fixtures that violate any law of the State of North Carolina relative to outdoor lighting.

(C) Plan Approval Required

Outdoor lighting for non-residential developments is subject to approval by the Administrator. The lighting plan shall show sufficient information to determine compliance with the standards of this Section and may require a photometric plan upon determination of the Administrator. In approving lighting plans the Administrator may modify the standards of this Section where the applicant agrees and where equal or better performance would result. In granting modifications, the Administrator may require such conditions as will secure, insofar as practicable, the objectives of the requirements modified.

(D) Outdoor Lighting Requirements

(1) Outdoor lighting fixtures shall be installed in a manner to protect the street and neighboring properties from direct glare or hazardous interference of any kind. Glare or hazardous interference are situations where the sensation

produced by luminance within the visual field is sufficiently greater than the luminance to which the eyes are adapted, such as to cause annoyance, discomfort, or loss in visual performance and visibility.

(2) Outdoor lighting shall be constructed and operated to minimize the spillover of obtrusive light onto property outside the boundaries of the property on which the lighting is sited which could result in annoyance, discomfort or distraction to persons on the other property.

(3) Gas station canopy lights should be recessed into the canopy to minimize light spillover.



Recessed Lights



Projecting Lights

(4) All outdoor lighting fixtures, subject to this Section, except for temporary and emergency lighting, that would otherwise cause glare or obtrusive spillover shall be shielded, recessed or otherwise oriented or treated in such a way to prevent glare or obtrusive spill over.

(5) As a general principle, all outdoor lighting shall be directed downward and away from adjoining property and streets.

(6) All floodlights shall be installed such that the fixture shall be aimed down at least 45 degrees from vertical, or the front of the fixture is shielded such that no portion of the light bulb extends below the bottom edge of an external shield. Floodlights and display lights shall be positioned such that any such fixture located within 50 feet of a public street right-of-way is mounted and aimed perpendicular to and away from the right-of-way, with a side-to-side horizontal aiming tolerance not to exceed 15 degrees from perpendicular to the right-of-way.

(7) The mounting height of all outdoor lighting shall not exceed 40 feet above finished grade, except that the mounting height of outdoor sports field and outdoor performance area lighting fixtures shall not exceed 80 feet from

finished grade. This shall not apply to publicly owned recreational facilities.

(8) All light fixtures shall meet the IESNA definition of cutoff fixtures. Forward throw fixtures (Type IV light distribution, as defined by the IESNA) are required within 25 feet of any public street right-of-way. Alternatively, directional fixtures (such as floodlights) may be used provided they shall be aimed and shielded in accordance with this Section.

(9) Sign lighting shall be regulated in accordance with Chapter 6.

(E) Street Lighting

The Town will install streetlights at appropriate locations in accordance to Town standards and specifications inside the Town. Where different light standards are proposed the developer shall enter into an agreement with the Town. Outside the Town the developer shall install streetlights at locations and to specifications approved by the Town.

10.3 Stormwater Management

10.3.1 Stormwater System Requirements

(A) The developer shall provide a street surface water drainage system constructed to the standards of the NCDOT, as reflected in the latest published edition of *Guidelines for Drainage Studies and Hydraulic Design*, subject to review by the Town of Forest City engineer or Town appointee.

(B) Stormwater design shall follow the most recent edition of NCDENR Division of Water Quality *Stormwater Best Management Practices.*

(C) Post-development run-off rate shall be the same as pre-development run-off rate. This may be achieved with on-site storm water detention, LID design (as described in the latest published edition of *Low Impact Development: A Guidebook for North Carolina*) or other methods approved the Town's consulting engineer. Detention facilities shall be designed to maintain the pre-development rate from the one-year, 10-year and 24-hour design storm events.

(D) The design of storm drainage systems and plans, including calculations, shall clearly indicate the easements and dedicated areas required for the construction

and maintenance of the drainage system.

(E) It shall be the responsibility of the developer to provide a drainage system, which is designed to meet the following objectives:

(1) No surface water shall be channeled or directed into a sanitary sewer.

(2) Connect onto an existing storm drainage system, where feasible.

(3) Where an existing storm drainage system cannot feasibly be extended to the subdivision, a drainage system shall be designed to protect the proposed development and adjacent properties from water damage.

(4) Provide for adequate drainage from all roads, parking lots and other developed areas.

(5) Provide a suitable building area on each lot intended for building development, which is safe from inundation, erosion, or subsidence.

(6) Prevent both the unnecessary impoundment of natural drainage ways and the creation of areas of standing water.

(7) Ensure the existing drainage ways serving adjacent properties are maintained.

(8) Ensure that natural runoff levels are not substantially increased in order to prevent harmful flooding downstream and to maintain desirable groundwater levels.

(9) Protect all roads, driveways, utilities and other types of development from major damages caused by improper drainage control.

(F) Surface drainage courses shall have side slopes, where feasible, or at least two (2) feet of horizontal distance for each one (1) foot of vertical distance (2:1). Courses should be of sufficient size to accommodate the drainage area and be designed to comply with the standards and specifications for erosion control as required by the North Carolina Sedimentation Pollution Control Act, NCGS 143-34.12, Chapter 113k Article 4, and the North Carolina Administration Code Title 15, Chapter 4, and any locally adopted erosion and sedimentation control ordinance.

(G) The minimum grade along the bottom of a surface drainage course shall be a vertical fall of at least one (1) foot in each 200 feet of horizontal distance.

(H) Stream banks and channels downstream from any land disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land disturbing activity in accordance with the North

Carolina Sedimentation Pollution Control Act, NCGS 143.34.12, Chapter 1 13A, Article 4, and the North Carolina Administrative Code Title 15, Chapter 4, and any locally adopted erosion and sedimentation control ordinances.

(I) Any dam constructed within a subdivision which is greater than 15 feet in height (measured from the lowest point on downstream top of the dam to the highest point on the fill) and is also greater than 10 acre-feet in area (measured from the top of the dam) shall comply with the North Carolina Dam Safety Law of 1967 and the North Carolina Administrative Code Title 15, Subchapter 2K.

10.3.2 Easements

(A) Where a development is traversed by a water course, drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such water course, and such further width or construction, or both as may be adequate for the purpose of drainage.

(B) No fences or structures shall be constructed across an open drainage channel that will reduce or restrict the flow of water. The Administrator may require any water course or stormwater management facility to be located within dedicated a drainage easement officially recorded at the Rutherford County Register of Deeds as a "public storm drainage easement" that provides sufficient width for maintenance.

(C) Where easements are required, they shall be noted on the Final Plat.

10.3.3 Grading Standards

The following standards shall be followed in establishing the grading plan for a development:

(A) No grading shall take place in an undisturbed stream buffer as required by Section 7.3.

(B) Developments shall be designed and constructed with a positive drainage flow away from buildings and towards approved storm water management facilities. Plans for drainage facilities shall be approved and sealed by a registered Professional Engineer.

(C) In the design of site grading plans, all impervious surfaces in the proposed development (including off street parking) shall be considered.

(D) Site grading and drainage facilities shall protect sinkholes, wetlands, ponds and lakes from increased sediment loading.

(E) All disturbed areas within the dedicated right-of-way and easements of any development street shall be restored with vegetation and the landscaping

standards of Chapter 8 shall be met.

(F) All grading shall meet North Carolina's Sedimentation and Erosion Control standards.

(G) No grading in the future right-of-way of the Town of Forest City shall exceed one (1) vertical foot for two (2) horizontal feet.

10.4 Fire Protection Standards

(A) The developer shall install fire hydrants meeting Town standards on all water lines at intervals of 500 feet and on all dead-end lines.

(B) Multi-family residences and subdivisions (apartments, townhouses, condominiums, etc.) shall require fire hydrants located such that each structure or portion thereof will be within 500 feet of a hydrant.

(C) Non-residential subdivisions shall require fire hydrants to be located such that each structure or portion thereof will be within 500 feet of a hydrant. This determination shall be made via vehicle access routes, (roadways, fire lanes, etc.) and by hose placement from the firefighting equipment in lieu of linear measurements. Fire hydrants shall be located at the right-of-way and the hydrant shall be located as not to exceed 500 feet between hydrants. When practical hydrants shall be located at street intersections, with intermediate hydrants between intersections, and at entrance drives to the property.

(D) For any structures that have a sprinkler system or a standpipe system, a fire hydrant shall be located no more than 100 feet from the fire department connection. This hydrant shall be dedicated to the fire department connection and shall be in addition to the hydrants required above. When possible, fire hydrants shall be located a minimum of 50 feet from any structure.

(E) In proposed subdivisions, where all structures have not been constructed, hydrant spacing shall be measured along the street right-of-way with spacing provided as shown above.

(F) Dead end water mains shall be provided with a fire hydrant. Water mains serving fire hydrants shall be eight (8) inches diameter minimum. Each phase of a project shall be designed and constructed to provide the minimum number of hydrants necessary to conform with the above requirements upon completion of the phase.

(G) The determination of distance shall be made via vehicle access routes (roadways, fire lanes, etc.) and by hose placement from the firefighting equipment located adjacent to the fire hydrant in lieu of direct measurements. The distances

specified above are meant to reflect the actual length of fire hose which would be laid by the fire department to reach the structure in the event of a fire at or in that structure. Distances shall be measured beginning at the point of the structure farthest from the hydrant, thence along an unobstructed pathway to a point in the centerline of the street, thence along the centerline of the street to a point opposite the hydrant. Unobstructed Pathway means a route which may be taken by firemen in laying fire hose. The unobstructed pathway shall be, and remain, free of trees and shrubs, walls, fences, wells, structures, or other obstacles to the passage of firefighters, hose and equipment for a width of 10 feet and a minimum vertical distance of 13 feet and six (6) inches (13'-6") and shall not be through, under, or over any portion of any structure, ditch or waterway.

(H) The developer of any new subdivision, subdivision or project, or development, whether it be single or multiple, or whether residential or commercial, is responsible for funding and installing the required fire hydrant(s) and water main to comply with the above requirements.

10.5 Garbage and Refuse Collection

(A) All nonresidential development shall be required to provide one (1) or more dumpsters for solid waste collection that are:

(1) Located so as to facilitate collection and minimize any negative impact on persons occupying the development site, neighboring properties, or public rights-of-way;

(2) Located in the side or rear yard; and

(3) Screened in accordance with Section 8.6.

(B) The method of garbage disposal shall be indicated on each Site Plan or Preliminary Plat that is submitted.

10.6 Installation of Markers and Monuments

Prior to the approval of the Final Plat, permanent reference points shall have been placed in accordance with the following requirements:

(A) In accordance with the "Manual of Practice for Land Surveying" Vol. I, at least one corner of the Development shall be designated by course and distance (tie) from a readily discernible reference marker. If a corner is within 2,000 feet of a U.S. Coast and Geodetic Section or N.C. Grid System coordinated monument, then this corner shall be marked with a monument so designated by computed X and Y coordinates which shall appear on the map with a statement identifying this section or monument to an accuracy of 1:15000. When such a monument or station is not available, the tie shall be made to some pertinent and readily recognizable land mark or identifiable point, physical object or structure.

(B) Within each block of a development at least two (2) monuments designed and designated as control corners shall be installed. The surveyor shall employ additional monuments if and when required.

(C) A steel or wrought iron pipe or the equivalent not less than three-fourths (3/4) inches in diameter and at least 30 inches in length shall be set at all corners, except those located by monuments.

(D) Land surveys within the Town limits shall have a maximum error of closure of 1:10000, and beyond the Town limits the maximum error of closure shall be 1:7500.

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CHAPTER 11
DEVELOPMENT REVIEW PROCESS

11.1 Purpose and Applicability 11-1
11.2 Zoning Permits 11-3
11.3 Site Plan Provisions 11-8
11.4 Special Use Permit Provisions 11-10
11.5 Minor Modifications to Approved Plans ..... **Error! Bookmark not defined.**
11.6 Subdivision Provisions 11-15

11.1 Purpose, Applicability, and General Provisions

11.1.1 Purpose

The purpose of this Chapter is to establish an orderly process to develop land within the Town of Forest City. It is also the intent of this Chapter to provide a clear and comprehensive development process that is fair and equitable to all interests including the applicants, affected neighbors, Town staff, related agencies, the Planning Board, Board of Adjustment and the Town Board of Commissioners. Approved plans shall be the guiding documents for final approval and permitting.

11.1.2 Applicability

(A) The development review process applies to all new development and alterations of existing development within the Town of Forest City.

(B) The Administrator may waive the required development review for a change in principal use, where such change would not result in a change in lot coverage, parking, or other site characteristics. The development review may also be waived if the Administrator determines that the submission of a development plan in accordance with this Chapter would serve no useful purpose.

(C) The following chart indicates the appropriate approval process for each development type:

Development Type	Administrative Approval	Planning Board Approval	Board of Adjustment Approval	Town Board of Commissioners Approval
Zoning Permit (single-family & two-family residential)	X (plot plan, no site plan)			
Zoning Permit (with Site Plan)	X			
Exempt Subdivision	X			
Major Subdivision Sketch Plan		X		
Major Subdivision Preliminary Plat		Review and Recommend		X
Major Subdivision Final Plat	X			
Minor Subdivision Final Plat	X			
Special Use Permit			X	

11.1.3 General Provisions

Subject to NCGS 160D-403, the following general provisions for development approval shall apply:

(A) To the extent consistent with the scope of regulatory authority granted by this Chapter, no person shall commence or proceed with development without first securing any required development approval from the Town with jurisdiction over the site of the development. A development approval shall be in writing and may contain a provision requiring the development to comply with all applicable State and local laws. The Town may issue development approvals in print or electronic form. Any development approval issued exclusively in electronic form shall be protected from further editing once issued.

(B) Applications for development approvals may be made by the landowner, a lessee or person holding an option or contract to purchase or lease land, or an authorized agent of the landowner. An easement holder may also apply for development approval for such development as is authorized by the easement.

(C) Unless a different period is specified by this Ordinance or other specific applicable law, including for a development agreement, a development approval issued pursuant to this Chapter expires one (1) year after the date of issuance if the work authorized by the development approval has not been substantially commenced. Nothing in this subsection limits any vested rights secured under G.S. 160D-108 or G.S. 160D-108.1.

(D) After a development approval has been issued, no deviations from the terms of the application or the development approval shall be made until written approval of proposed changes or deviations has been obtained. A minor modification to a development approval may be considered subject to Section 11.5. The Town shall follow the same development review and approval process required for issuance of the development approval in the review and approval of any major modification of that approval.

(E) Administrative staff may inspect work undertaken pursuant to a development approval to assure that the work is being done in accordance with applicable State and local laws and of the terms of the approval. In exercising this power, staff are authorized to enter any premises within the jurisdiction of the Town at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials; provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.

(F) In addition to initiation of enforcement actions under NCGS 160D-404 and Section 15.7 of this Ordinance, development approvals may be revoked by the Town by notifying the holder in writing stating the reason for the revocation. The Town shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing,

in the review and approval of any revocation of that approval. Development approvals shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable local development regulation or any State law delegated to the Town for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in securing the approval. Any development approval mistakenly issued in violation of an applicable State or local law may also be revoked. The revocation of a development approval by a staff member may be appealed pursuant to NCGS 160D-405 and Section 15.4 of this Ordinance. If an appeal is filed regarding a development regulation adopted by a Town pursuant to this Chapter, the provisions of NCGS 160D-405(e) regarding stays apply.

(G) The Town may, upon completion of work or activity undertaken pursuant to a development approval, make final inspections and issue a certificate of compliance or occupancy if staff finds that the completed work complies with all applicable State and local laws and with the terms of the approval. No building, structure, or use of land that is subject to a building permit shall be occupied or used until a certificate of occupancy or temporary certificate pursuant to NCGS 160D-1114 has been issued.

11.2 Zoning Permits

11.2.1 Zoning Permit Required

(A) No land shall be used or occupied and no building hereafter structurally altered, erected, or moved, shall be used, or its use changed, until a Zoning Permit shall have been issued by the Administrator stating that the building and/or the proposed use thereof complies with the provisions of this Ordinance. No Building Permit shall be issued and no building shall be occupied until that Permit is issued. The issuance of a valid Zoning Permit shall confer with it the right to undertake and complete the development and/or use of property under the terms and conditions of such Permit provided that such action as authorized by the Permit is commenced within 180 days of issuance and provided that all other permits are obtained. Otherwise the Permit shall be void.

(B) Clearing, grading, or excavation may not be commenced without the issuance of a Zoning Permit, except in accordance with an approved Preliminary Plat for Major Subdivisions.

(C) Zoning Permits are issued under this Ordinance only when a review of the application submitted, including the plans contained therein, indicates that the development will comply with the provisions of this Ordinance if completed as

proposed. Such plans and applications as are finally approved are incorporated into any permit issued, and all development shall occur strictly in accordance with such approved plans and applications.

(D) A Zoning Permit shall be issued in the name of the applicant (except that applications submitted by an agent shall be issued in the name of the principal), shall identify the property involved and the proposed use, shall incorporate by reference the plans submitted, and shall contain any special conditions or requirements lawfully imposed by the permit-issuing authority.

11.2.2 Zoning Permit Not Required

Notwithstanding any other provisions of this Ordinance, no zoning permit is necessary for the following uses:

(A) Street construction or repair

(B) Electric power, telephone, telegraph, cable television, gas, water and sewer lines, wires or pipes, together with supporting poles or structures, located within a public right-of-way

(C) Specific signs exempted in Chapter 6 of this Ordinance

(D) Mailboxes, newspaper boxes, fences, walls, birdhouses, flag poles, pump covers and doghouses.

(E) Interior alterations and renovations which do not alter the footprint, elevation, height, or use of an otherwise conforming use and/or structure.

11.2.3 Application Procedures

(A) Applications for a Zoning Permit will be accepted only from persons having the legal authority to take action in accordance with the permit. By way of illustration, in general this means that applications should be made by the owners of property, or their agents, or persons who have contracted to purchase property contingent upon their ability to acquire the necessary permits under this Ordinance, or the agents of such persons (who may make application in the name of such owners, lessees, or contract vendees). The Administrator may require an applicant to submit evidence of his/her authority to submit the application whenever there appears to be a reasonable basis for questioning this authority.

(B) All applications for Zoning Permits must be complete before the Administrator is required to consider the application. An application is complete when it contains all the information necessary for the permit-issuing authority to decide whether or not the development, if completed as proposed, will comply with all of the requirements of this Ordinance.

(C) A completed application form for a Zoning Permit shall be submitted by filing a copy of the application with the Administrator. A fee, set by the Town Board of Commissioners, shall be charged for the processing of such application. The adopted fee schedule shall be available at Town Hall.

(D) For single-family and two-family residential structures, a plot plan and the following information shall be submitted to the Administrator with the Zoning Permit application and fee:

(1) The shape and dimensions of the lot on which the proposed building or use is to be erected or conducted;

(2) The location of said lot with respect to adjacent rights-of-way;

(3) The shape, dimensions and location of all buildings, existing and proposed, on said lot;

(4) The nature of the proposed use of the building or land, including the extent and location of the use, on said lot;

(5) The location and dimensions off-street parking and driveways;

(6) Building elevations of the front facade; and

(7) Any other information which the Administrator may deem necessary for consideration in enforcing the provisions of this Ordinance.

(E) For all other developments requiring a Zoning Permit, a Site Plan shall be submitted in accordance with the development plan requirements of Chapter 12 and follow the approval process outlined in Section 11.3 prior to Zoning Permit issuance by the Administrator. Any development project requiring a Special Use Permit, shall follow the Board of Adjustment approval process outlined in Section 11.4 prior to Zoning Permit issuance by the Administrator.

11.2.4 Zoning Permit Approval, Effect of Approval and Compliance

(A) The Administrator shall issue the Zoning Permit unless he/she finds, after reviewing the application and consulting with the applicant that:

(1) The requested permit is not within his/her jurisdiction according to the Permitted Uses Table, or

(2) The application is incomplete, or

(3) If completed as proposed in the application, the development will not

comply with one (1) or more requirements of this Ordinance, not including those requirements concerning which a Variance has been granted or those requirements that the applicant is not required to comply with under the circumstances specified in Chapter 13 Nonconformities.

(B) No Zoning Permit shall be issued to any person who has failed, after notice, to remedy defective work or otherwise comply with the Town of Forest City Code of Ordinances, this Ordinance, or the laws of the State of North Carolina.

(C) Issuance of a Zoning Permit, authorizes the recipient to commence the activity resulting in a change in use of the land or (subject to obtaining a building permit) to commence work designed to construct, erect, move, or substantially alter buildings or other substantial structures. However, the intended use may not be commenced, no building may be occupied until all of the requirements of this Ordinance, and all additional requirements imposed pursuant to the issuance of a Zoning Permit, have been complied with. In cases when, because of weather conditions or other factors beyond the control of the Zoning Permit recipient (exclusive of financial hardship), it would be unreasonable to require the Zoning Permit recipient to comply with all of the requirements of this Ordinance prior to commencing the intended use of the property or occupying any buildings, the Administrator may authorize the commencement of the intended use or the occupancy of buildings (insofar as the requirements of this Ordinance are concerned) if the permit recipient provides a performance bond or other security satisfactory to the Administrator to ensure that all of the requirements of this Ordinance will be fulfilled within a reasonable period (not to exceed 12 months) determined by the Administrator.

(D) No building which has been erected, added to, relocated, or structurally altered for which a building permit has been issued shall be used or occupied nor the use of any building or land changed until a Certificate of Occupancy has been issued by the Building Inspector stating that the building or structure or part thereof complies with the North Carolina State Building Code and the provisions of this Ordinance. No previously unoccupied structure shall be occupied until a Certificate of Occupancy is issued.

(E) No temporary utilities shall be connected until a building permit is issued. No permanent utilities shall be connected until a Certificate of Occupancy is issued.

11.2.5 Right of Appeal

If a Zoning Permit is denied, then the applicant may appeal the action of the Administrator to the Board of Adjustment in accordance with Section 15.4. Such appeal shall be made within 30 days of such permit denial.

11.2.6 Effect of Permit on Successors and Assigns

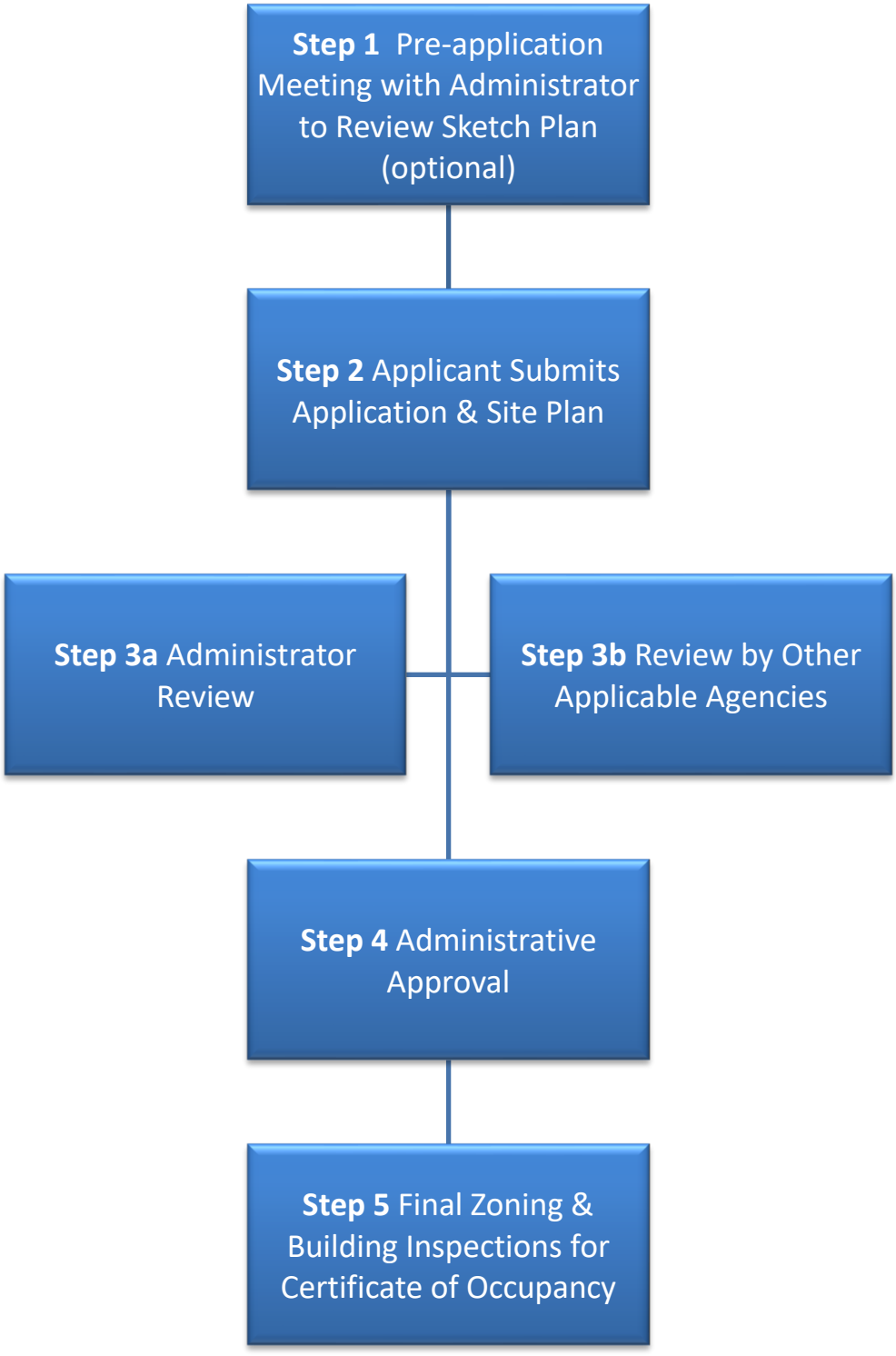
Zoning Permits authorize the permittee to make use of land and structures in a particular way. Such permits are transferable. However, so long as the land or structures or any portion covered under a permit continues to be used for the purposes for which the permit was granted, then:

(A) No person (including successors or assigns of the person who obtained the permit) may make use of the land or structures covered under such permit for the purposes authorized in the permit except in accordance with all the terms and requirements of that permit, and

(B) The terms and requirements of the permit apply to and restrict the use of land or structures covered under the permit, not only with respect to all persons having an interest in the property at the time the permit was obtained, but also with respect to persons who subsequently obtain any interest in all or part of the covered property and wish to use it for or in connection with purposes other than those for which the permit was originally issued, so long as the persons who subsequently obtain an interest in the property had actual or record notice.

11.3 Site Plan Provisions

Zoning Permits requiring Site Plans shall be approved administratively. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.



Step 1. Pre-Application Meeting with Sketch Plan (optional)

(A) To minimize development planning costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the developer and the Administrator concerning the application of this Ordinance to the proposed development is recommended.

(B) Before submitting a Zoning Permit application and Site Plan, the developer may submit to the Administrator a Sketch Plan in accordance with requirements of Section 12.3. The Administrator shall meet with the developer as soon as conveniently possible to review the Sketch Plan.

(C) The Administrator shall review the Sketch Plan for general compliance with the requirements of this Ordinance and any other applicable requirements. The Administrator shall advise the developer or his authorized agent of the regulations pertaining to the proposed development and the procedures to be followed.

(D) One (1) copy of the Sketch Plan shall be retained as a part of the record of the Administrator with one (1) copy being returned to the developer or his authorized agent along with any comments made by the Administrator concerning the proposed development.

Step 2. Applicant Submits Application and Site Plan

The applicant shall submit the applicable application, fee and the Site Plan that meets the development plan requirements of Section 12.6 and other required materials.

Step 3A and B. Administrator and Other Applicable Agency Review

(A) The Administrator and other applicable agencies shall review the Site Plan in accordance with the requirements of this Ordinance and any other applicable requirements.

(B) Other applicable agencies may provide comments to the Administrator regarding the design of the development. It shall be the responsibility of the Administrator to address those comments, wherever possible. The reviewing government agencies and officials may include, but need not be limited to the following: Public Works Department, Fire Marshal, Police Department, Building Inspector, Town Attorney, NCDOT, NCDENR, Utilities Providers, Health Department, Board of Education, Rural Planning Organization, US Army Corps of Engineers, contracted expertise and other agencies as needed.

Step 4. Administrative Approval

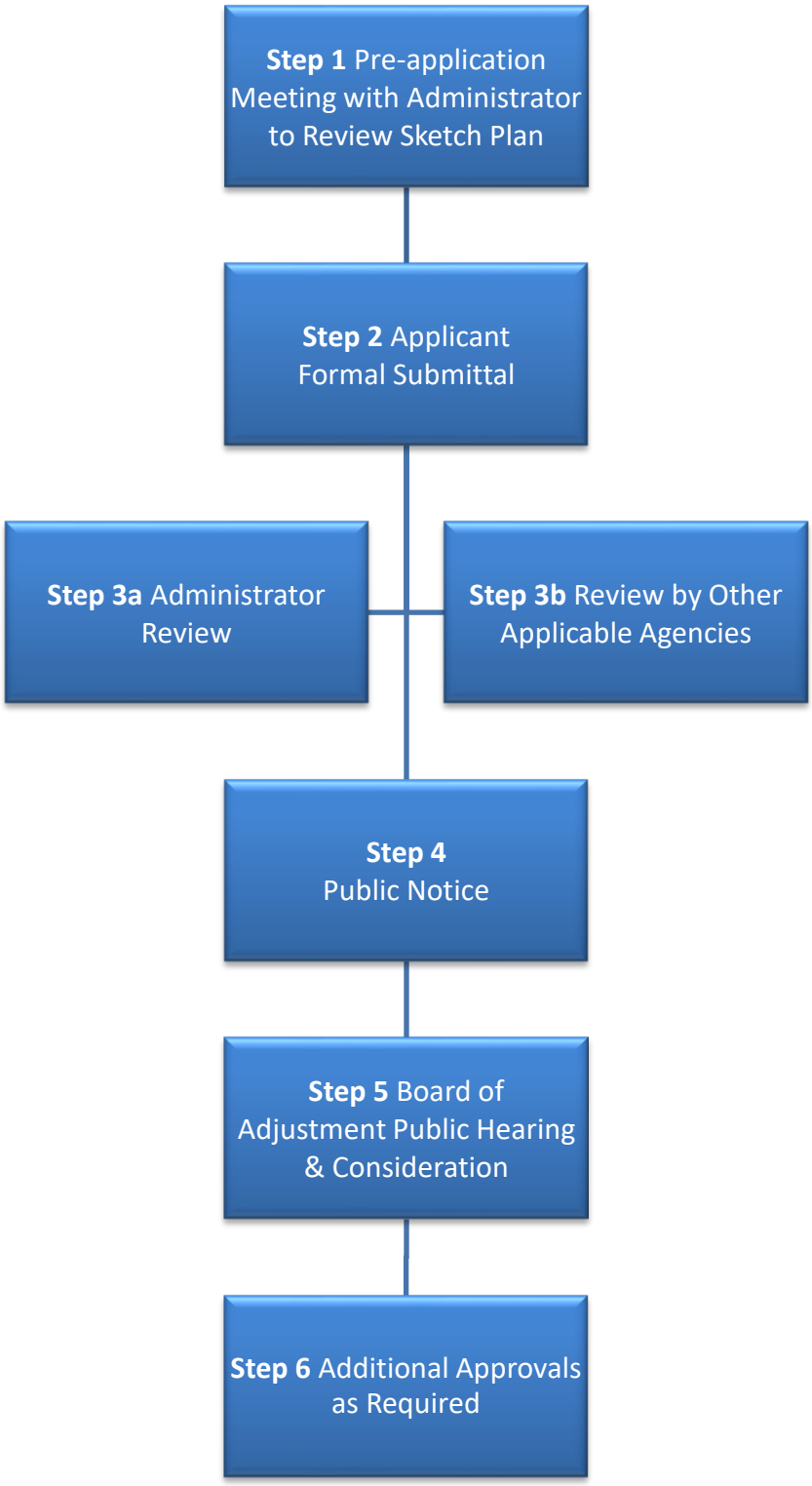
If a Site Plan is found to meet all of the applicable regulations of this Ordinance, then the Administrator shall issue a Zoning Permit. The developer may then obtain a building permit from the Building Inspections Department.

Step 5. Final Building and Zoning Inspections for Certificate of Occupancy

Prior the issuance of a Certificate of Occupancy by the Building Inspector, the Administrator or his designee shall conduct a final zoning inspection to ensure that the approved plan has been followed and all required improvements have been installed to Town standards.

11.4 Special Use Permit Provisions

Special Use Permits shall be reviewed and approved by the Board of Adjustment, subject to NCGS 160D-406 and 160D-705 and Section 15.4 of the Ordinance. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.



Step 1. Pre-Application Meeting with Administrator to Review Sketch Plan

(A) To minimize development planning costs, avoid misunderstanding or misinterpretation and ensure compliance with the requirements of this Ordinance, pre-application consultation between the developer and the Administrator concerning the application of this Ordinance to the proposed development is required.

(B) Before submitting an application authorizing a Special Use Permit, the developer shall submit to the Administrator a Sketch Plan In accordance with requirements of Section 12.3. The Administrator shall meet with the developer as soon as conveniently possible to review the Sketch Plan.

(C) The Administrator shall review the Sketch Plan for general compliance with the requirements of this Ordinance and any other applicable requirements. The Administrator shall advise the developer or his authorized agent of the regulations pertaining to the proposed development and the procedures to be followed.

(D) One (1) copy of the Sketch Plan shall be retained as a part of the record of the Administrator with one (1) copy being returned to the developer or his authorized agent along with any comments made by the Administrator concerning the proposed development.

Step 2. Formal Application Submittal

The applicant shall submit the applicable application, fee and the Special Use Permit Site Plan that meets the requirements of Section 12.6 and other required materials.

Step 3A and B. Administrator and Other Applicable Agency Review

(A) The Administrator and other applicable agencies shall review the Special Use Permit Site Plan in accordance with the requirements of this Ordinance and any other applicable requirements.

(B) Other applicable agencies may provide comments to the Administrator regarding the design of the development. It shall be the responsibility of the Administrator to address those comments, wherever possible. The reviewing government agencies and officials may include, but need not be limited to the following: Public Works Department, Fire Marshal, Police Department, Building Inspector, Town Attorney, NCDOT, NCDEQ, Utilities Providers, Health Department, Board of Education, Rural Planning Organization, US Army Corps of Engineers, contracted expertise and other agencies as needed.

Step 4. Public Notice

(A) For Special Use Permits, the following notice shall be given, in accordance with NCGS 160D-406:

(1) The Administrator shall mail written notice of the quasi-judicial evidentiary hearing via certified class mail to the owners of all adjacent properties. The notice shall be deposited in the mail at least 10 but not more than 25 days prior to the date of the public hearing.

(2) The Administrator shall also post notices of the quasi-judicial evidentiary hearing on the subject property or on an adjacent public street or highway right-of-way. When multiple parcels are involved, a posting on each individual parcel is not required, but the Town shall post sufficient notices to provide reasonable notice to interested persons. The Administrator may elect to take any other action deemed to be useful or appropriate to give notice of the hearing on any proposed amendment. The notice(s) shall be posted no less than 10 days prior to date of the hearing.

(B) The notices required by this Section shall state the date, time and place of the hearing, reasonably identify the lot that is the subject of the application or appeal, and give a brief description of the action requested or proposed.

(C) The Board of Adjustment may continue the hearing until a subsequent meeting and may keep the hearing open to take additional information up to the point a final decision is made. No further notice of a continued hearing need be published unless a period of six (6) weeks or more elapses between hearing dates.

Step 5. Board of Adjustment Evidentiary Hearing and Consideration

(A) Before making a decision on an application, the Board of Adjustment shall hold a quasi-judicial evidentiary hearing.

(B) The Board of Adjustment shall approve, approve with conditions, or deny the request following the hearing. In granting a Special Use Permit the Board of Adjustment shall make written findings that the applicable regulations of the district in which it is located are fulfilled. With due regard to the nature and state of all adjacent structures and uses, the district within which same is located, and official plans for future development, the Board of Adjustment shall also make written findings that the following provisions are fulfilled:

(1) The use requested is among those listed as an eligible Special Use in the district in which the subject property is located.

(2) That the Special Use will not materially endanger the public health or safety if located where proposed and developed according to the plan as proposed.

(3) That the Special Use meets all required conditions and specifications; and that satisfactory provision and arrangement has been made for at least the following, where applicable:

(a) Satisfactory ingress and egress to property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control;

(b) Provision of off-street parking and loading areas, where required, and the economic, noise, glare and odor effects of the Special Use on adjoining properties in the area;

(c) Adequate and proper utilities, with reference to locations, availability and compatibility;

(d) Buffering, with reference to type, location and dimensions;

(e) Signs, if any, and proposed exterior lighting, with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district;

(f) Playgrounds, open spaces, yards, landscaping, access ways, pedestrian ways, with reference to location, size and suitability;

(g) Buildings and structures, with reference to location, size and use;

(h) Hours of operation, with particular reference to protecting and maintaining the character of the neighborhood; and

(i) That the location and character of the Special Use if developed according to the plan as proposed will be in harmony with the area in which it is to be located or is a public necessity and in general conformity with the Comprehensive Plan, Comprehensive Transportation Plan, or other plan officially adopted by the Town.

(C) The applicant has the burden of producing competent, material and substantial evidence to establish the facts and conditions. If any person submits evidence allegedly contrary to any of the facts or conditions, the burden-of-proof for overcoming such evidence shall rest with the applicant.

(D) In granting a Special Use Permit, the Board may impose such conditions upon such Permit as it may deem necessary in order that the purpose and intent of this Ordinance are served, public welfare secured and substantial justice done, subject to the authority granted by North Carolina General Statutes. If all requirements and conditions are accepted by the applicant, the Board shall authorize the issuance of the Special Use Permit, otherwise the Permit shall be denied. Any Special Use Permit so authorized shall be perpetually binding upon the property included in such permit unless subsequently changed or amended by the Board, as provided for in this Section. The applicant shall provide written consent to conditions to ensure enforceability.

(E) Minor modifications to the approval may be considered subject to Section 11.5.

Step 6. Additional Approvals as Required

Approval of a Special Use Permit by the Board of Adjustment does not constitute final approval of the development plan. Development plans that have received a Special Use Permit may still be subject to additional approval processes depending on the size and type of development that is proposed.

11.5 Minor Modifications to Approved Plans

In accordance with NCGS 160D-403 (d), minor modifications to approved development plans including Special Use Permits, Subdivisions, Conditional Zoning plans, and other development approvals with Site Plans may be approved by the Administrator subject to the following criteria:

(A) For purposes of this Section, minor modifications or changes are those that have no substantial impact on neighboring properties, the general public, or those intended to occupy or use the proposed development. A minor modification is a change that does not:

(1) Substantively change any condition of approval;

(2) Alter the layout of the development plan by more than 10% of the total development are;

(3) Increase the number of residential units or residential density;

(4) Decrease the amount of open space or increase the amount of impervious area by more than 10%;

(5) Significantly change the location of vehicular and pedestrian access of circulation; or

(6) Add or take away the provision of public water or sewer.

(B) All other requests for changes in approved plans will be processed as new applications. If such requests are required to be acted upon by the Board of Adjustment, new conditions may be imposed, but the applicant retains the right to reject such additional conditions by withdrawing his/her request for an amendment and may then proceed in accordance with the previously issued permit.

(C) A developer requesting approval of changes shall submit a written request for such approval to the Administrator, and that request shall identify the changes. Approval of all changes must be given in writing.

11.6 Subdivision Provisions

11.6.1 Subdivisions Defined

(A) All plats and proposed subdivisions shall be reviewed by the Administrator for initial determination as to whether the proposed subdivision is to be classified as a subdivision or is exempt from subdivision requirements subject to NCGS 160D-802. Resultant lots shall meet minimum zoning district standards even if the creation of such lots is exempt from the Subdivision regulations of this Section.

(B) For the purpose of this Ordinance, "Subdivision" shall mean all divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations of this Section:

(1) The combination or recombination of portions of previously subdivided and recorded Lots where the total number of lots is not increased and the resultant Lots are equal to or exceed the standards of this Ordinance;

(2) The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved;

(3) The public acquisition by purchase of strips of land for the widening or opening of streets of for public transportation system corridors;

(4) The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant Lots are equal to or exceed the standards of this Ordinance;

(5) The division of land into burial plots where no street right-of-way dedication is involved; and,

(6) The division of a tract into parcels in accordance with the terms of probated will or in accordance with intestate succession under NCGS Chapter 29. (Note: Although the division of land by will is exempt from the requirements of this Ordinance, the resultant lots may not be eligible for a Zoning Permit if the lots do not meet the dimensional standards and requirements of this Ordinance.)

(C) The Town may require only a plat for recordation for the division of a tract or parcel of land in single ownership if all of the following criteria are met:

(1) The tract or parcel to be divided is not exempted as a division of land into parcels of greater than 10 acres where no street right-of-way dedication is involved;

(2) No part of the tract or parcel to be divided has been divided under this subsection in the 10 years prior to division;

(3) The entire area of the tract or parcel to be divided is greater than five (5) acres;

(4) After division, no more than three (3) lots result from the division; and

(5) After division, all resultant lots comply with all of the following:

- All lot dimension size requirements of the applicable land-use regulations, if any;
- The use of the lots is in conformity with the applicable zoning requirements, if any; and
- A permanent means of ingress and egress is recorded for each lot.

(D) Subdivision Exemption

If the Administrator determines that a division of land does not meet the definition of a subdivision as set forth by NCGS 160D-802 (see Appendix A Definitions) and Subsection (B) above, then the division shall be considered a subdivision exemption and shall not be subject to the entire subdivision review process. The Administrator shall ensure that resultant lots comply with the dimensional, frontage and access requirements of the zoning district in which the property is located. Where a public street is to be created, dedicated and platted as part of the division, the division shall not be exempt from the provisions of this Ordinance regardless of any other factors. If the Administrator determines that the proposed division is exempt from the subdivision provisions of this Ordinance, the plat shall be endorsed with the following certificate, signed and dated by all record property owner(s) with direct interest in the property and the Administrator:

Certificate of "No Approval Required"

This division of land does not meet the definition of a subdivision as set forth by North Carolina General Statute 160D-802 and is not subject to the subdivision standards or subdivision review process of the Town of Forest City. The minimum lot requirements for the subject zoning district have been met.

_____ _____

Subdivision Administrator Date

(E) Major Subdivision

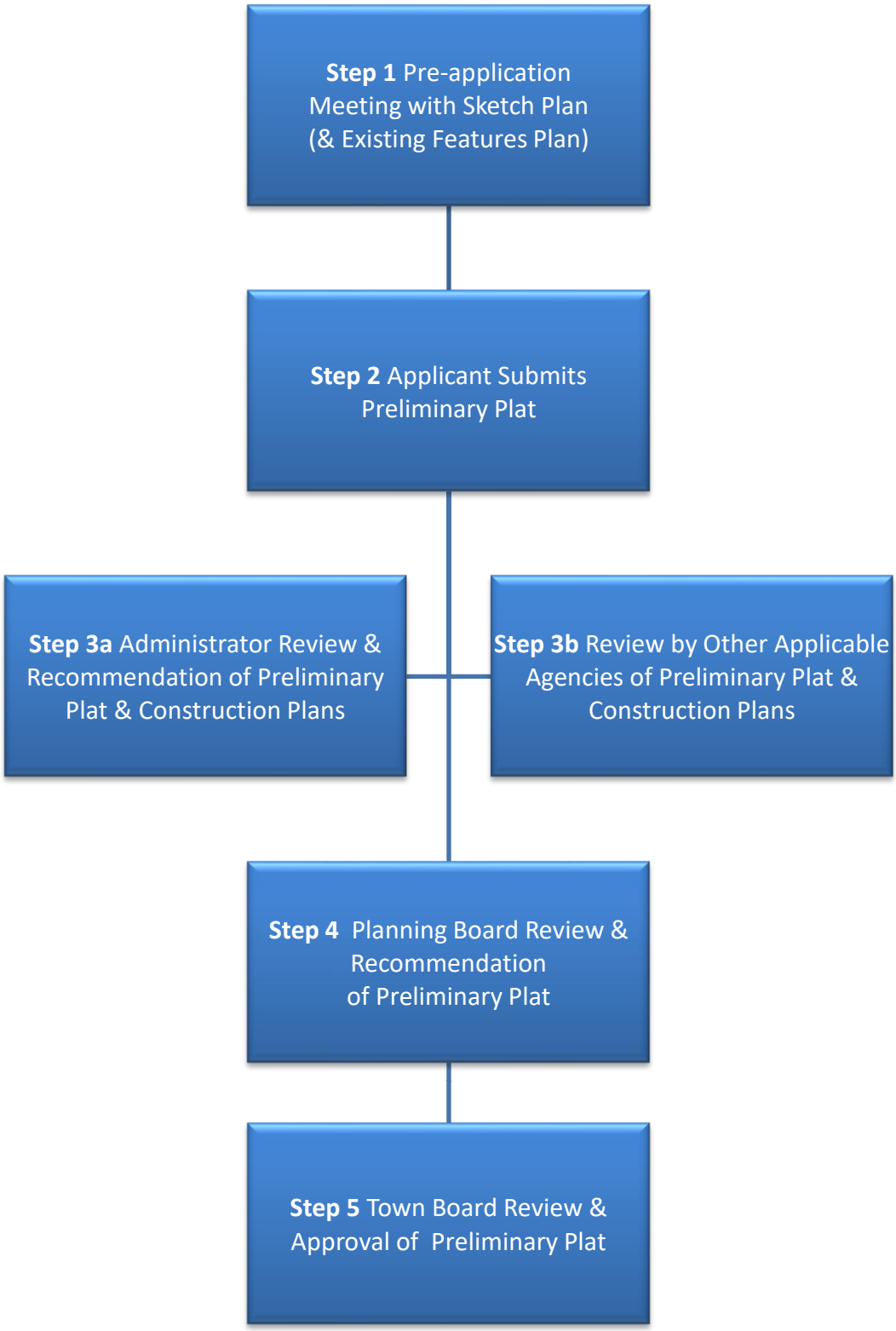
Major Subdivisions are those subdivisions which involve more than five (5) lots or more than 10 acres, those Subdivisions which involve the dedication of new street segments (but not simply widening), those Subdivisions where special developments are involved as permitted by this Ordinance, and those subdivisions that involve dedication or reservation of land for open space, school sites and other public purposes.

(F) Minor Subdivisions

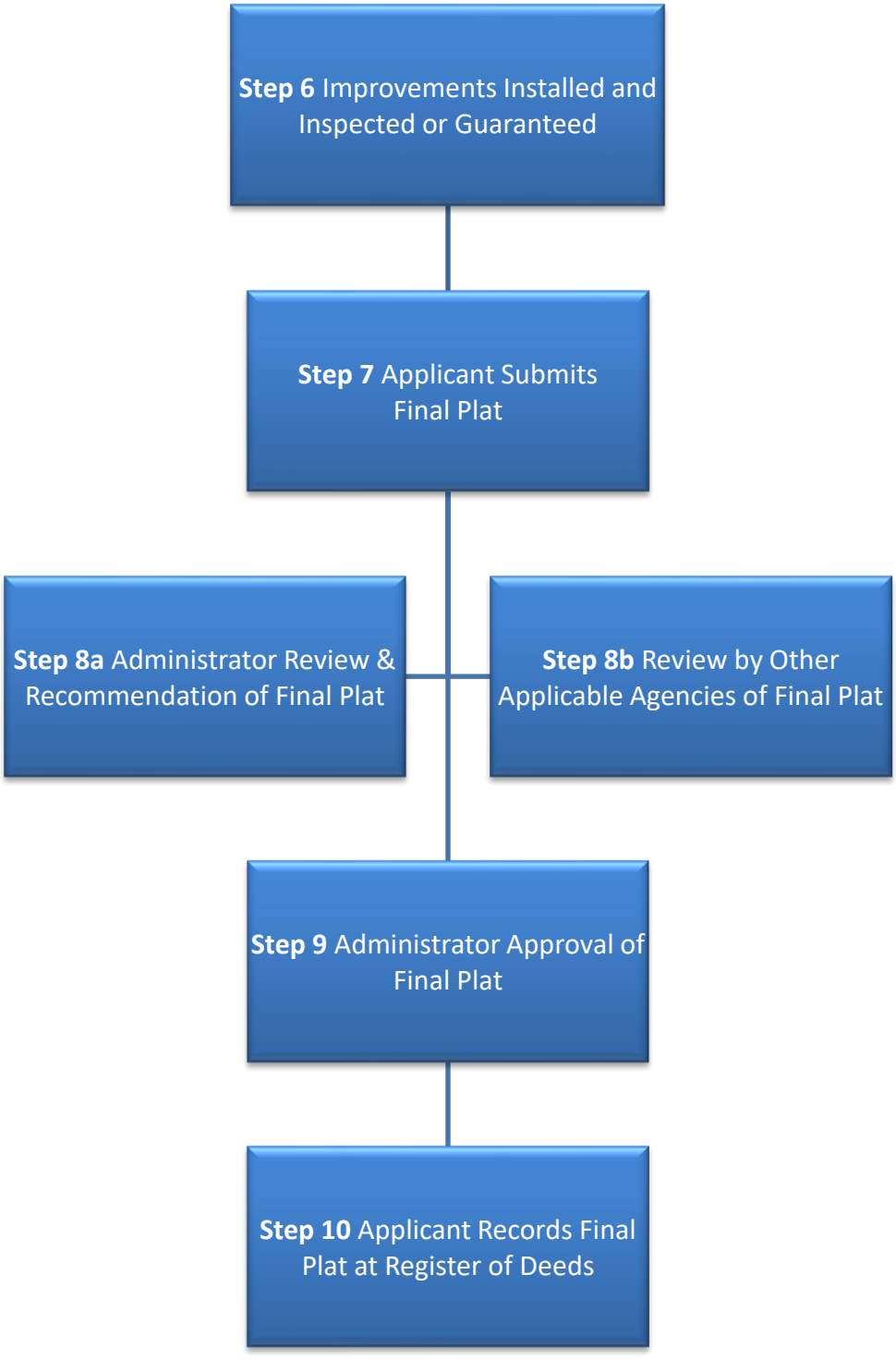
Minor Subdivisions include all other subdivisions that do not meet the definitions of exempt subdivision and major subdivision above.

11.6.2 Major Subdivision Approval Process (includes Conservation Subdivisions)

The steps shown in the following diagram correspond with a detailed description of each step of the process on the following pages.



CONTINUED ON NEXT PAGE



Step 1. Pre-Application Meeting with Sketch Plan and Existing Features Plan

(A) To minimize subdivision planning costs, avoid misunderstanding or misinterpretation and ensure compliance with the requirements of this Ordinance, pre-application consultation between the developer and the Administrator concerning the application of this Ordinance to the proposed subdivision is required.

(B) Before submitting an application authorizing a subdivision that consists of or contains a Subdivision, the developer shall submit to the Administrator an Existing Features Plan and a Sketch Plan in accordance with requirements of Sections 12.2 and 12.3. The Administrator shall meet with the developer as soon as conveniently possible to review the Sketch Plan.

(C) The Administrator shall review the Sketch Plan for general compliance with the requirements of this Ordinance and any other applicable requirements. The Administrator shall advise the developer or his authorized agent of the regulations pertaining to the proposed subdivision and the procedures to be followed.

(D) One (1) copy of the Sketch Plan shall be retained as a part of the record of the Administrator with one (1) copy being returned to the developer or his authorized agent along with any comments made by the Administrator concerning the proposed subdivision.

Step 2. Applicant Submits Preliminary Plat

The applicant shall submit to the Administrator a completed application form, a complete Preliminary Plat (see Chapter 12) and a filing fee as established by the Town Board of Commissioners. These completed items shall be submitted a minimum of 30 days prior to the Planning Board meeting at which they will be reviewed.

Step 3a and b. Administrator and Other Applicable Agency Review of Preliminary Plat and Construction Plans

(A) The Administrator shall review the Preliminary Plat and Construction Plans to ensure compliance with the requirements of this Ordinance.

(B) Other applicable agencies may provide comments to the Administrator regarding the design of the subdivision. It shall be the responsibility of the Administrator to address those comments, wherever possible. The reviewing government agencies and officials may include, but need not be limited to the following: Town Maintenance Department, Fire Marshal, Police Department, Building Inspector, Town Attorney, NCDOT, NCDENR, Utilities Providers, Health Department, Board of Education, Rural Planning Organization, US Army Corps of Engineers, contracted expertise and other agencies as needed.

Step 4. Planning Board Review and Recommendation

(A) Upon receipt of the comments and recommendations from other applicable agencies, the Administrator shall submit to the Planning Board an analysis of the application and his/her recommendation.

(B) The Planning Board shall recommend approval, conditional approval, or disapproval of the Preliminary Plat within a period of 90 days of its first consideration. If conditional approval or if disapproval is recommended, the reasons for such action shall be stated in writing and reference shall be made to the specific section or sections of this Ordinance with which the Preliminary Plat does not comply. If the Planning Board fails to act within the 90-day time period, the applicant may request approval by the Town Board of Commissioners at its next scheduled meeting provided the Preliminary Plat is filed with the Town Clerk at least 10 working days prior to the next scheduled meeting.

(C) The Administrator shall notify the Town Clerk and applicant of the Board's decision and the Clerk shall transmit the Plat with the Planning Board's recommendations including any conditions or modifications to the Town Board of Commissioners. If conditionally approved, the Planning Board may require that the developer submit a revised Preliminary Plat.

Step 5. Town Board of Commissioners Review and Approval of Preliminary Plat

(A) Upon receipt of the Preliminary Plat and the Planning Board's recommendation, the Board of Commissioners shall review it for compliance with the requirements of this Ordinance and consider the recommendations of the Planning Board and other reviewers, if any. The Board shall approve, approve conditionally, or disapprove the preliminary plat within 60 days of submittal by the Planning Board.

(B) If the Board of Commissioners approves the Preliminary Plat, approval shall be noted on all copies submitted; at least two (2) copies shall be retained by the Administrator.

(C) If the plat is approved with conditions, the conditions and the reasons for the conditional approval shall be recorded in the minutes of the meeting and a copy of any conditions shall be attached to the plats.

(D) If the Board of Commissioners disapproves the Preliminary Plat, the reasons for disapproval shall be stated in the minutes of the meeting and reference shall be made to the specific section(s) of this Ordinance with which the plat does not comply. The applicant shall receive written notification of the reasons for disapproval. The applicant may make the recommended revisions and submit a revised Preliminary Plat.

(E) Approval of the Preliminary Plat shall be effective for a period not to exceed two (2) years, and shall thereafter expire and be considered null and void, unless a petition for an extension of time is submitted to and subsequently approved by the Planning Board.

Step 6. Improvements Installed and Inspected or Guaranteed

(A) The applicant shall proceed with the installation of improvements as shown on the Preliminary Plat and Construction Plans and in accordance with Chapter 10 infrastructure requirements.

(B) Approval of the Final Plat shall be subject to the developer having installed the required improvements or having guaranteed, to the satisfaction of the Town, the installation of said improvements. The Town's consulting engineer shall inspect the improvements to ensure compliance with Town standards prior to approval of the Final Plat. Underground utilities shall be inspected by the Town's consulting engineer before they are covered.

(C) In lieu of requiring the completion, installation and dedication of all improvements prior to Final Plat approval, the Town may enter into an agreement with the developer whereby the developer shall agree to complete all required improvements as specified by the approved Preliminary Plan for that portion of the subdivision to be shown on the Final Plat within a mutually agreed upon specified time period, subject to NCGS 160D-804.1 and Section 11.6.8 of this Ordinance with respect to performance guarantees:

Step 7. Applicant Submits Final Plat

(A) The applicant shall submit the applicable application, fee and the Final Plat that meets the requirements of Chapter 12 and other required materials.

(B) The Final Plat shall constitute only that portion of the approved Preliminary Plat which the developer proposed to develop and record at the time of submission.

Step 8a and b Administrator and Other Applicable Agency Review

(A) The Administrator and other applicable agencies shall review the Final Plat Site Plan in accordance with the requirements of this Ordinance and any other applicable requirements.

(B) Other applicable agencies may provide comments to the Administrator regarding the proper installation of required improvements as shown on the Preliminary Plat. It shall be the responsibility of the Administrator to address those comments, wherever possible. The reviewing government agencies and officials may include, but need not be limited to the following: Town Maintenance Department, Fire Marshal, Police Department, Building Inspector, Town Attorney, NCDOT, NCDENR, Utilities Providers, Health Department, Board of Education, Rural Planning Organization, US Army Corps of Engineers, contracted expertise and other agencies as needed.

(C) The Administrator shall check the Final Plat for conformance with the approved Preliminary Plat and with the requirements of these regulations. The Administrator shall notify the developer in writing of any non-compliance with these regulations or any deviation from the approved Preliminary Plat.

Step 9. Administrator Approval of Final Plat

(A) The Administrator shall approve or disapprove the Final Plat within the period of 30 calendar days of the final plat submittal. If the Administrator disapproves the Final Plat, the reasons for such action shall be transmitted by letter to the developer or his agent, and reference shall be made to the specific section or sections of this Ordinance with which the Final Plat does not comply.

(B) The Final Plat shall be properly signed and executed as required for recording by the Register of Deeds of Rutherford County. The approved final plat must be recorded with the Register of Deeds of Rutherford County within 30 days after approval by the Administrator.

Step 10. Applicant Records Final Plat at Register of Deeds
Within 30 days after the Final Plat has been approved by the Planning Board, it shall have been recorded with the Register of Deeds of Rutherford County. Should this time limit expire before the plat is recorded, it must be re-submitted to the Administrator for reprocessing.

11.6.3 No Subdivision or Improvements Without Plat Approval

(A) The Rutherford County Register of Deeds shall not thereafter file or record a plat of a subdivision located within the territorial jurisdiction of the Town of Forest City until said plat has been approved. Without the approval, the filing or recording of a subdivision plat shall be null and void. The Clerk of Superior Court of Rutherford County shall not order or direct the recording of a plat where such recording would be in conflict with this Ordinance.

(B) No person may subdivide his/her land except in accordance with all of the provisions of this Ordinance. In particular, no person may subdivide his/her land unless and until a Final Plat of the subdivision has been approved and recorded in the Rutherford County Register of Deeds.

(C) No grading or physical improvements to land to be subdivided may be commenced except in accordance with and pursuant to the approved Preliminary Plat.

(D) No Zoning Permit or Building Permit shall be issued by the Town of Forest City for the construction of any building on any lot within a proposed subdivision until a Final Plat of said subdivision has been approved in a manner as prescribed by this Ordinance and recorded at the Rutherford County Register of Deeds Office.

(E) A Final Plat must be recorded before final sale or lease of lots can occur. However, the developer, upon approval of a Preliminary Plat, may enter into contracts to sell or lease the lots shown on the approved Preliminary Plat, provided that the contract does all of the following:

(1) Incorporates as an attachment a copy of the approved Preliminary Plat referenced in the contract and obligates the owner to deliver to the buyer a copy of the approved and recorded Final Plat prior to closing and conveyance.

(2) Plainly and conspicuously notifies the prospective buyer or lessee that a final subdivision plat has not been approved or recorded at the time of the contract, that no governmental body will incur any obligation to the prospective buyer or lessee with respect to the approval of the final subdivision plat, that changes between the Preliminary and Final Plats are possible, and that the contract or lease may be terminated without breach

by the buyer or lessee if the final approved and recorded plat differs in any material respect from the approved Preliminary Plat.

(3) Provides that if the approved and approved and recorded Final Plat does not differ in any material respect from the plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than 5 days after the delivery of a copy of the final approved and recorded plat.

(4) Provides that if the approved and recorded Final Plat differs in any material respect from the approved Preliminary Plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than 15 days after the delivery of the final approved and recorded plat, during which 15-day period the buyer or lessee may terminate the contract without breach or any further obligation and may receive a refund of all earnest money or prepaid purchase price.

11.6.4 Exceptions from Subdivision Requirements

Where strict adherence to any of the provisions of Chapter 10 infrastructure requirements would cause unnecessary hardship, due to topographical or other conditions peculiar to the site in regards to the installation of the improvements, the Planning Board may recommend and the Board of Commissioners may approve an exception at the Preliminary Plat stage of the subdivision approval process. The reasons for the granting of any such exception shall be clearly specified and entered into the minutes of the Board of Commissioners.

11.6.5 Completing Subdivisions in Phases

(A) All phase line shall be shown on the Preliminary Plat.

(B) If a subdivision that is to be built in phases includes common area improvements that are designed to relate to, benefit, or be used by the entire subdivision (such as a swimming pool or tennis courts in a residential subdivision) then, as part of his/her application for subdivision approval, the developer shall submit a proposed schedule for completion of such common area improvements. The schedule shall relate completion of such common area improvements to completion of one (1) or more phases of the entire subdivision. Once a schedule of improvements has been approved, no land may be used or no buildings may be occupied, and no subdivision lots may be sold except in accordance with the schedule approved.

11.6.6 Preliminary Plat Validity

(A) The applicant shall submit an amended application for review as an original application if he/she proposes to substantially amend or modify his/her

application after the Town Board of Commissioners has approved the Preliminary Plat. This shall not apply to minor changes. A change may be considered a minor change if it does not involve any of the following:

(1) any substantive change in a condition of approval;

(2) an increase in the number of building lots proposed;

(3) any substantial change in the location of, or any decrease in, the amount of open space, buffers, or areas reserved for recreational use;

(4) any substantial change in pedestrian and/or vehicular access or circulation including road classification;

(5) any change in the provision of services such as water supply and wastewater disposal; and

(6) any substantial change in the location of utilities or other easements.

(B) The approval of a Preliminary Plat shall be effective for two (2) years from the date of approval by the Town Board of Commissioners. By the end of that time period, a Final Plat shall have been approved and recorded Any plat or portion thereof not receiving final approval within the time period set forth herein shall be null and void except under the following conditions:

(1) The subdivision is built in sections or phases, and was approved as part of the Preliminary Plat; and

(2) The period between the approval date of the Preliminary Plat and the approval date of the Final Plat for the first phase does not exceed two (2) years; and

(3) The period between the approval date of the Final Plat of the first phase and the approval date(s) of the Final Plat(s) of any subsequent phase(s) does not exceed the time limits specified in the phasing schedule of the Preliminary Plat.

(C) The Town Board may upon expiration of a Preliminary Plat re-approve the expired Preliminary Plat or portions thereof, as long as the subdivision design and conditions of approval are in compliance with this Ordinance, and any other applicable Town ordinances and/or plans in effect at the time of application for re-approval, and changes to the original design or conditions of approval are considered minor.

11.6.7 Plat Approval Not Acceptance of Dedication Offers

Approval of a plat does not constitute acceptance by the Town of the offer of dedication of any streets, sidewalks, parks, or other public facilities shown on a plat. However, the Town may accept any such offer of dedication by resolution of the Town Board of Commissioners or by actually exercising control over and maintaining such facilities.

11.6.8 Performance Guarantees

To assure compliance with G.S. 160D-804 and other development regulation requirements, a subdivision regulation may provide for performance guarantees to assure successful completion of required improvements. For purposes of this section, all of the following apply with respect to performance guarantees:

(A) Type

The type of performance guarantee shall be at the election of the developer. The term "performance guarantee" means any of the following forms of guarantee:

(1) Surety bond issued by any company authorized to do business in this State.

(2) Letter of credit issued by any financial institution licensed to do business in this State.

(3) Other form of guarantee that provides equivalent security to a surety bond or letter of credit.

(B) Duration

The duration of the performance guarantee shall initially be one year, unless the developer determines that the scope of work for the required improvements necessitates a longer duration. In the case of a bonded obligation, the completion date shall be set one year from the date the bond is issued, unless the developer determines that the scope of work for the required improvements necessitates a longer duration.

(C) Extension

A developer shall demonstrate reasonable, good-faith progress toward completion of the required improvements that are secured by the performance guarantee or any extension. If the improvements are not completed to the specifications of the Town, and the current performance guarantee is likely to expire prior to completion of the required improvements, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period. An extension under this subdivision shall only be for a duration necessary to complete the required improvements. If a new performance guarantee is issued, the amount shall be determined by the procedure provided in subdivision (3) of this subsection and shall include the total cost of all incomplete improvements.

(D) Release

The performance guarantee shall be returned or released, as appropriate, in a timely manner upon the acknowledgement by the Town that the improvements for which the performance guarantee is being required are complete. The Town shall return letters of credit or escrowed funds upon completion of the required improvements to its specifications or upon acceptance of the required improvements, if the required improvements are subject to Town acceptance. When required improvements that are secured by a bond are completed to the specifications of the Town, or are accepted by the Town, if subject to its acceptance, upon request by the developer, the Town shall timely provide written acknowledgement that the required improvements have been completed.

(E) Amount

The amount of the performance guarantee shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion at the time the performance guarantee is issued. The Town may determine the amount of the performance guarantee or use a cost estimate determined by the developer. The reasonably estimated cost of completion shall include one hundred percent (100%) of the costs for labor and materials necessary for completion of the required improvements. Where applicable, the costs shall be based on unit pricing. The additional twenty-five percent (25%) allowed under this subdivision includes inflation and all costs of administration regardless of how such fees or charges are denominated. The amount of any extension of any performance guarantee shall be determined according to the procedures for determining the initial guarantee and shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion of the remaining incomplete improvements still outstanding at the time the extension is obtained.

(F) Timing

The Town, at its discretion, may require the performance guarantee to be posted either at the time the plat is recorded or at a time subsequent to plat recordation.

(G) Coverage

The performance guarantee shall only be used for completion of the required improvements and not for repairs or maintenance after completion.

(H) Legal Responsibilities

No person shall have or may claim any rights under or to any performance guarantee provided pursuant to this subsection or in the proceeds of any such performance guarantee other than the following:

(1) The Town to whom the performance guarantee is provided.

(2) The developer at whose request or for whose benefit the performance guarantee is given.

(3) The person or entity issuing or providing the performance guarantee at the request of or for the benefit of the developer.

(I) Multiple Guarantees

The developer shall have the option to post one type of a performance guarantee as provided for in subdivision (1) of this section, in lieu of multiple bonds, letters of credit, or other equivalent security, for all development matters related to the same project requiring performance guarantees.

(J) Exclusion

Performance guarantees associated with erosion control and stormwater control measures are not subject to the provisions of this section. (2020-25, s. 20(b).)

11.6.9 Acceptance of Dedicated Areas

(A) All facilities and improvements with respect to which the owner makes an offer of dedication to public use shall be maintained by the owner until such offer of dedication is accepted by the appropriate public authority.

(B) Acceptance of improvements for maintenance by the Town shall be in accordance with the Town's acceptance policy. Acceptance shall not occur until the development project is at least 75 percent built and all improvements are installed as shown on the approved plan. No improvements shall be accepted until such have been inspected and certified by an applicable state agency, Town Public Works Director, Town Engineer, and/or contracted certified Professional Engineer.

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CHAPTER 12
DEVELOPMENT PLAN REQUIREMENTS

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12.1 Purpose and Applicability

The purpose of this Chapter is to provide uniform standards for all development plans requiring approval by the Town of Forest City in accordance with Chapter 11. Every development plan shall include notes and graphics depicting the requirements of all applicable sections of this Ordinance.

12.2 Existing Features Plan

12.2.1 Existing Features Plan Submittal Requirements

Two (2) copies must be submitted with a required Sketch Plan

12.2.2 Plan Labeling

Plans analyzing each site's existing features are required for all Subdivisions of greater than five (5) lots and Zoning Permits for developments of greater than one (1) acre, as they form the basis of the design process for building locations, lot lines, street alignments and conservation areas. Detailed requirements for the Existing Features Plan shall include, at the minimum:

(A) Property Boundaries;

(B) Topographical contour lines, a minimum of five (5) foot intervals;

(C) The location of severely constraining elements such as steep slopes (over 20 percent), wetlands, watercourses, perennial streams, intermittent streams and 100-year floodplains and all rights-of-way and easements; and

(D) The location of significant features such as woodlands, tree lines, open fields or meadows, scenic views into or out from the property, watershed divides and drainage ways, fences or stone walls, rock outcrops and existing structures, streets, tracks and trails.

12.3 Sketch Plans

12.3.1 Sketch Plan Submittal Requirements

- Two (2) copies for review by the Administrator
- Digital copy in PDF format

12.3.2 Plan Labeling

A sketch plan is drawn to illustrate the initial thoughts about a conceptual layout for building sites, street alignments and conservation areas, taking into account the special conditions identified in the Existing Features Plan. This is the stage where drawings are tentatively illustrated, before heavy engineering costs are incurred in the design of any proposed development layout. The applicant shall submit a Sketch Plan drawn at a scale no smaller than 100 feet to one (1) inch (100:1), unless the project is so large the Administrator determines a scale of 200 feet to one (1) inch is adequate. The Sketch Plan shall contain the following information:

(A) Name of proposed development

(B) Sketch vicinity map

(C) Tract boundary and total acreage

(D) Proposed lot layout and size of lots

(E) Proposed street layout and approximate right-of-way widths

(F) Location of nearest existing and proposed water and sewer lines

(G) Sketch of any proposed drainage facilities

(H) Statements regarding how property will be served with water and sewer

(I) Zoning of subject and adjacent property

(J) Location in proximity to any Special Flood Hazard Areas

(K) Existing Features Plan

12.4 Preliminary Plats

12.4.1 Preliminary Plat Submittal Requirements

A Preliminary Plat shall be prepared by a Registered Land Surveyor, Landscape Architect, or Professional Engineer. The following number of copies shall be submitted for review:

- Four (4) full size paper copies for review by the Administrator and Applicable Agencies
- Ten (10) full size paper copies for review by the Planning Board
- Ten (10) full size paper copies for review by the Town Board
- Digital copy in PDF format

12.4.2 Preliminary Plat Labeling Requirements

(A) Title Block: Development name, developer's name, north arrow, scale (denoted graphically and numerically), date of plat preparation, location of development (township, county and state), name and seal of registered land surveyor preparing the plat.

(B) Vicinity Map: A sketch vicinity map showing the location of the development in relation to the surrounding area.

(C) Site Data: Acreage in total tract, smallest lot size, total number of lots, lineal feet of streets.

(D) Town Limits and Zoning: Indicate both on and adjacent to the land to be subdivided the location of town limits, zoning of property and location of zoning lines if property is located in more than one (1) zone.

(E) Tract Boundaries: Exact boundaries of the tract or portion thereof to be subdivided, with all bearings and distances accurately shown.

(F) Property Lines: Property lines and owners' names of record of all adjoining properties and/or adjoining development of record which intersect with the perimeter of the tract being subdivided.

(G) Natural Features/Critical and Sensitive Areas: streams, creeks, ponds, reservoirs, location of the floodway and flood fringe boundaries if applicable, wetlands, farmland, rock outcrops, wooded areas, slopes greater than 25 percent; significant cultural features including cemeteries and National Register of Historic Places landmarks or districts.

(H) Existing Physical Features: Existing physical features including buildings, streets

(include names, whether public or private, right-of-way, pavement type and width), railroads, power lines, drainage ways, culverts and drainpipes, sewer and water mains and any public utility easements on and adjacent to the tract being subdivided.

(I) Topographic Lines: Topographic contour lines at five (5) foot intervals.

(J) Proposed Lot Layout: All proposed lot and street right-of-way lines with approximate dimensions, lot and block numbers, all easements, designation of any dedication or reservations to be made, building setback lines (if applicable) and proposed use of land if other than single family residences.

(K) Street Layout: Proposed streets and alleys, showing pavement widths; rights-of-way; curbing if any; percent of finished grades, street names and a street profile drawn to the scale of one inch equals 40 feet horizontal (1"=40'), and one inch equals four feet vertical (1"=4').

(L) Street Maintenance: Statement whether streets are private or are to be taken over by the Town of Forest City or NCDOT.

(M) Provision of water and wastewater disposal shall be indicated by one (1) of the following methods:

(1) Water and Sewer Layout:

(a) Sketch view of proposed water and sewer system layouts showing location of lines, line sizes, approximate location of manholes, pumps, hydrants, force mains or treatment facilities and the connection of the proposed system(s) with existing systems. A typical trench section shall be shown.

(b) Letters of approval for the plans for the proposed sanitary sewer and water distribution systems from the appropriate agencies.

(c) Water and sewer plans shall be submitted to the town's consulting engineer for review and recommendation to the Planning Board and Board of Commissioners prior to Preliminary Plat approval.

(2) Location plans for individual water supply and septic system as approved by Rutherford County Health Department (if connection to Town systems not possible)

(N) Drainage System: Sketch view of proposed drainage facilities, including approximate location and dimensions of open drainage ways, storm sewers, culverts, retaining ponds or areas where water is to be diverted through grading, and any other evidence necessary to assure the Board of Commissioners that the proposed method of drainage is adequate to safeguard property in the Town. Drainage provisions shall be submitted to the Town's consulting engineer for review and recommendation to the Planning Board and Board of Commissioners prior to Preliminary Plat Approval.

(O) Sedimentation Control: A sedimentation control plan approved by NCDENR.

(P) Driveway Permits: Any driveway permits approved by NCDOT.

(Q) Other Improvements: Proposed location and description of any other improvements including, but not limited to, school sites, pedestrian or bike ways, reserved open space or recreational facilities (indicate whether public or private), commercial areas, or buffer strips.

(R) Forms of Final Certifications: The following certificates shall be shown on the original and all copies of the approved Preliminary Plat:

(1) Certificate of Recommendation by Planning Board

I hereby certify that this Preliminary Plat was recommended for approval by the Planning Board of the Town of Forest City on the _____ day of _____ 20_____

_____ _____

Chairman, Planning Board Date

(2) Certificate of Approval by Town Board of Commissioners

I hereby certify that this Preliminary Plat was approved by the Board of Commissioners of the Town of Forest City on the _____ day of _____ 20_____

_____ _____

Mayor Date

12.5 Final Plats

12.5.1 Final Plat Submittal Requirements

The Final Plat shall be prepared by a Registered Land Surveyor currently licensed and registered in the State of North Carolina by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors. The Final Plat shall conform to the provisions for plats, developments and mapping requirements set forth in NCGS 47-30 and the Manual of Practice for Land Surveying in North Carolina. The Final Plat shall be of a size suitable for recording with the Rutherford County Register of Deeds and shall be at a scale of not less than one inch equals 100 feet (1"=100'). Maps may be placed on more than one (1) sheet with appropriate match lines. The following number of copies shall be submitted for review:

- Four (4) full size paper copies for review by the Administrator and Applicable Agencies
- Two (2) mylar copies for signature
- One (1) copy of recorded plat for file
- Digital copy in PDF format (seal not required)

12.5.2 Final Plat Labeling Requirements

(A) Title Block: Subdivision name, north arrow, scale denoted graphically and numerically, date of plat preparation and township, county and state in which the subdivision is located and the name(s) of the owner(s) and the registered surveyor responsible for the subdivision (including the seal and registration number of the registered surveyor).

(B) Tract Boundaries: The exact boundary lines of the tract to be subdivided fully dimensioned by lengths and bearings and the location of intersecting boundary lines and adjoining lands.

(C) Adjoining Property Owners: The names and deed references of owners of adjoining properties and adjoining developments of record (proposed or under review).

(D) Location of Improvements: All visible and apparent rights-of-way, watercourses, utilities, roadways and other such improvements shall be accurately located where crossing or forming any boundary line of the property shown.

(E) Engineering Data: Sufficient engineering data to determine readily and reproduce on the ground every straight or curved boundary line, street line, lot line, right-of-way line, easement line and setback line, including dimensions, bearings or deflection angles, radii, central angles and tangent distances for the centerline of curved streets and curved property lines that are not the boundary of curved streets.

(F) Monuments: The accurate locations and descriptions of all monument, markers and control points.

(G) Lot and Block Numbers: The blocks numbered consecutively throughout the entire subdivision and the lot numbered consecutively throughout each block.

(H) Setback Lines: Minimum building setback lines, if applicable.

(I) Streets: Street names, right-of-way lines and percents grade of all streets and the location and width of all adjacent streets and easements. Designation shall be made as to whether said streets are to be designated as public or private.

(J) Utility easements: Locations of water, sanitary sewer and storm drainage easements.

(K) Right-of-Way: The location and dimensions of all rights-of-way, utility or other easements, natural buffers, pedestrian or bicycle paths and areas to be dedicated to public use with the purpose of each stated.

(L) Flood Information: The location of the floodway and flood fringe boundaries, if applicable.

(M) Open Space: The location of dedicated open space with a note that the land shall not be developed for any purposes other than the designated open space type.

(N) Forms of Final Certifications: The following certificates shall be shown on the original and all copies of the Final Plat:

(1) Certificate of Approval by the Administrator

I, _____, Subdivision Administrator, hereby certify that this final plat meets the requirements of the Town of Forest City Unified Development Ordinance on the _____ day of _____, 20____.

_____ _____
Administrator Date

(2) Certificate of Ownership and Dedication

I (We) hereby certify that I am (we are) owner(s) of the property shown and described herein, that the property is within the Subdivision Jurisdiction of the Town of Forest City and that I (we) hereby adopt this plan of subdivision with my (our) free consent and hereby establish all lots and dedicate all streets, alleys, walks, parks and other open spaces to public or private use as noted.

_____
Owner(s)

_____
Owner(s)

(3) Certificate of Survey and Accuracy

I, _____, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in book _____ page_____, etc.) (other); that the boundaries not surveyed are clearly indicated as drawn from information found in book_____ page_____; that the ratio of precision as calculated is 1: _____; that this plat was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, registration number and seal this _____ day of_____ A.D., 20___.

Seal or Stamp

_____
Surveyor

_____
Registration #

(maximum allowable error: 1:10,000)

(4) Review Officer Certificate

State of North Carolina
County of Rutherford

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

_____
Review Officer

_____
Date

(5) Register of Deeds Certificate

State of North Carolina, Rutherford County

This instrument was presented for registration and recorded in Map Book_____, Page _____ this _____day of_____, 20___ at _____ (a.m./p.m.)

_____
Register of Deeds

(6) Certificate of Approval of Design and Installation of Streets, Utilities and Other Required Improvements (if applicable)

I hereby certify that all streets, public utilities and other required improvements have been installed in an acceptable manner and according to N.C. Department of Transportation and/or Forest City specifications and standards or as otherwise provided for in this Ordinance, or that guarantees for the installation of the required improvements in an amount and manner satisfactory to Forest City have been submitted.

Official Seal

_____
Professional Engineer Registration Number Date

_____
Public Works Director Date

(7) NCDOT Construction Standards Certification (if applicable)

Department of Transportation
Division of Highways
Proposed Subdivision Road Construction Standards Certificate

Approved:_____ Date: _____
District Engineer

(8) Onsite Water and/or Sewer Note (where appropriate)

Note:(ALL the LOTS) or (LOTS#_____) as shown on this Plat are proposed to be served with on-site water and/or sewer systems. The lots as shown meet the minimum size prescribed by the Rutherford County Health Department for such system(s). However, the recording of this Plat does not guarantee that any such lots will meet the requirements for the approval by the Health Department for such on-site system(s).

_____

Engineer/Survey License or Registration #

(9) Special Flood Hazard Area Note (Word to represent actual situation)

Note: (Part of) this property (does/does not) lie in a Special Flood Hazard Area

Reference: Floodway Panel #_____

Date:_____ (of Panel)

(If part of the property is in a Special Flood Hazard Area it shall be shown graphically on the Plat and comply with the Flood Damage Prevention Regulations of Section 7.4.)

12.6 Site Plans

The requirements for this Section apply to all site plans including those for Special Use Permits.

12.6.1 Site Plan Submittal Requirements:

- Four (4) full-size paper copies for review and revisions
- Ten (10) full size paper copies for review by the Board of Adjustment (Special Use Permits only)
- One (1) digital copy in PDF format (if Administrator deems necessary)

12.6.2 Labeling

All site plans shall include the following:

(A) Title

(B) Original submittal date

(C) Revision dates

(D) Vicinity map

(E) North arrow

(F) Scale {no smaller than one inch equals 100 feet (1"=100')}

(G) Lot lines with bearings and distances

(H) Zoning district and applicable overlay districts

(I) Adjacent property owner names, parcel numbers and zoning

(J) Total acreage

(K) Acreage in right-of-way

(L) Density per acre

(M) Building setbacks in table format and building envelopes show on lots

(N) Locations of existing structures

12.6.3 Plans and Details

(A) Site Plan

(B) Existing Features Plan (if applicable)

(C) Grading Plan (if applicable)

(D) Soil and Erosion Control Plan (if applicable)

(E) Written approval from NCDENR for Soil and Erosion Control (if applicable)

(F) Stormwater Plan (if applicable)

(G) Landscaping Plan

(H) Utility Plan

(I) Lighting Plan (if applicable)

(J) Building Elevations showing:

(1) Exterior wall materials

(2) Roof materials

(3) Dimensions including building height, width and roof slope

(4) Front façade window dimensions including sill height, window height, window width and window area.

CHAPTER 13
NONCONFORMITIES

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13.1 Purpose and Applicability

(A) The purpose of this Chapter is to avoid undue hardship by permitting the continued use of any building, structure, or property that was lawful at the time of the enactment of this Ordinance or any applicable amendment thereof even though such use, structure or property does not conform to the provisions of this Ordinance. However, this Article is also established to require that nonconforming situations be terminated under certain circumstances.

(B) Nonconforming situations that were otherwise lawful on the effective date of this Ordinance may be continued, subject to the restrictions and qualifications set forth in this Chapter.

(C) Many nonconformities may continue, but the provisions of this Chapter are designed to minimize substantial investment in nonconformities and to bring about eventual elimination and/or lessen their impact upon surrounding conforming properties in order to preserve the integrity of the area in which it is located and the intent of this Ordinance.

(D) Minor repairs to and routine maintenance of property where nonconforming situations exist are permitted and encouraged. In no case, however, shall work costing more than 60 percent of the taxed value of the structure be done, singularly or cumulatively, within any five (5) year period.

13.2 Nonconforming Lots

Where the owners of a lot of record at the time of the adoption of this Ordinance or his successor in title thereto does not own sufficient land to enable him to conform to the area or lot width requirements of this Ordinance, such lot may be used as a building site provided all other dimensional requirements are met and provided that the use to be made of the property is not one to which larger than minimum lot area requirements are called for in the list of Permitted and Special Uses and the Supplemental Requirements. For lots with existing buildings.

13.3 Nonconforming Uses

13.3.1 Open Uses of Land

This category of nonconformance consists of lots used for storage yards, motor vehicle sales, auto wrecking, junkyards and similar open spaces where the only buildings on the lot are incidental and accessory to the open use of the lot and where such use of the land is not permitted to be established hereafter, under this Ordinance, in the district in which it is located. A legally established non-conforming open use of land may be

continued except as follows:

(A) When a nonconforming use of land has been changed to a conforming use, it shall not thereafter revert to any nonconforming use.

(B) A nonconforming open use of land shall be changed only to conforming uses.

(C) A nonconforming open use of land shall not be enlarged to cover more land than was occupied by that use when it became nonconforming.

(D) When any nonconforming open use of land is discontinued for a period in excess of 180 days, any future use of the land shall be limited to those uses permitted in the district in which the land is located. Vacancy and/or non use of the land, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision.

13.3.2 Uses of Structures

This category of nonconformance consists of buildings or structures used at the time of enactment of this Ordinance, or any amendment thereto, for purposes of use not permitted in the district in which they are located. Such uses may be continued as follows:

(A) A nonconforming use shall not be changed to another nonconforming use. Any nonconforming use may be changed to a conforming use.

(B) When a nonconforming use has been changed to a conforming use, it shall not thereafter revert to any nonconforming use.

(C) A nonconforming use may not be extended or enlarged, nor shall a structure containing a nonconforming use be altered except as follows:

(1) Structural alterations as required by law or ordinance to secure the safety of the structure are permissible.

(2) Minor repairs to and routine maintenance of property where a nonconforming use exists is permitted and encouraged. Major renovation - i.e., work estimated to cost more than 10 percent but less than 60 percent of the taxed value of the structure to be renovated may be done provided that the work will not result in a violation of any other paragraphs of this Subsection particularly (E) above. In no case, however, shall work costing more than 60 percent of the taxed value of the structure be done, singularly or cumulatively, within any five (5) year period.

(3) Expansion of a nonconforming use within a building or structure into portions of the structure which, at the time the use became nonconforming, were already erected and arranged or designed for such nonconforming use is permissible.

(D) When any nonconforming use of a building or structure is discontinued for a period in excess of 180 days, the building or structure shall not thereafter be used except in conformance with the regulations of the district in which it is located. Vacancy and/or non-use of the land, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision.

(E) Nothing herein shall prevent the maintenance, repair and extension of a single-family dwelling that is nonconforming as to use, provided it is done in conformance with the dimensional requirements of the R-6 or R-4 zoning district, nor prevent the maintenance, repair, extension, or construction of a residential accessory building or swimming pool, provided done in conformance with the requirements of this Ordinance.

13.3.3 Discontinuance of Nonconforming Uses

(A) When active operation or occupancy of a nonconforming use is discontinued regardless of the purpose or reason for a consecutive period of 180 days, the property involved may thereafter be used only for conforming uses.

(B) For purposes of determining whether a right to continue a nonconforming situation is lost pursuant to this Subsection, all of the buildings, activities and operations maintained on a lot are generally to be considered as a whole. For example, the failure to rent one (1) apartment in a nonconforming apartment building or one (1) space in a nonconforming manufactured home park for 180 days shall not result in a loss of the right to rent that apartment or space thereafter so long as the apartment building or manufactured home park as a whole is continuously maintained. But if a nonconforming use is maintained in conjunction with a conforming use, cessation of operation or occupancy of the nonconforming use for the required period shall terminate the right to maintain it thereafter.

13.4 Nonconforming Structures

This category includes any structure not in conformance with the restrictions of this Ordinance after the effective date of adoption. Such nonconformities shall include, but not be limited to, height, bulk and setback. Such nonconforming structures shall be allowed to remain with the following conditions:

(A) A nonconforming structure may not be enlarged or altered in any dimension that increases the nonconformity except where maintenance and repair are necessary to keep the structure in sound condition.

(B) When any nonconforming structure is removed, it may not be replaced with another nonconforming structure.

(C) When any nonconforming structure is damaged, repair must follow the guidelines listed in Section 13.5.

(D) Structural alterations as required by law or ordinance to secure the safety of the structure are permissible.

(E) Conforming uses, except Adult Establishments, may be established or re-established in nonconforming buildings or structures provided that off-street parking is provided as required by this Ordinance and provided no other provision of this Ordinance for the establishment of new uses is violated.

13.5 Reconstruction of Damaged Structures

Any nonconforming structure, or any structure containing a nonconforming use, which has been damaged by fire, wind, flood or other causes, shall not be rebuilt, altered or repaired after damage exceeding 60 percent of its tax value immediately prior to damage with the exception of single family homes or manufactured homes used for residential purposes which may be rebuilt or replaced provided the provisions of the Flood Damage Prevention regulations of Section 7.4, other Town of Forest City ordinances and the conditions below are met:

(A) Repairs are initiated within one (1) year and completed within two (2) years of such damage;

(B) The total amount of space devoted to a nonconforming use may not be increased;

(C) Reconstructed nonconforming structures may not be made more nonconforming by the repairs; and

(D) Where possible, any nonconforming structure shall be repaired or reconstructed in such a manner so as to minimize the nonconformance(s).

(E) Nothing herein shall prevent the reconstruction of a nonconforming single-family dwelling that was destroyed by fire or natural disaster provided such reconstruction conforms to the dimensional requirements of the zoning district in which it is located.

13.6 Nonconforming Manufactured Homes and Parks

(A) A nonconforming manufactured home on an individual lot outside of a manufactured home park may not be replaced except by a conforming dwelling. A nonconforming manufactured home may not be enlarged or altered externally in any way.

(B) All manufactured homes placed on approved spaces in existing nonconforming manufactured home parks shall meet the requirements of Section 4.2.6 (A), (F), and (G) and have continuous underpinning installed around the base perimeter of the home.

13.7 Nonconforming Signs

(A) Signs that were legally erected and were in place prior to the adoption of this Ordinance but which do not conform to the provisions of this Ordinance are declared nonconforming signs. Signs that were legally erected and that are in place and which conformed to the provisions of this Ordinance at the time erected, but which do not conform to an amendment of this Ordinance enacted subsequent to the erection of said signs also are declared nonconforming signs.

(B) A nonconforming sign may be continued but it shall not be:

(1) Changed or replaced with another nonconforming sign, except that the sign face may be changed as long as no structural changes to the sign are made.

(2) Expanded or modified in any way which increases the sign nonconformity. Nor may illumination be added.

(3) Moved except to bring the sign into complete conformity with this Ordinance.

(4) Re-established once the sign structure has been removed.

(5) Re-established after damage or deterioration.

(6) Re-established after it has been discontinued regardless of reason or intent for 180 days or more.

(C) Nonconforming portable and temporary signs shall be removed within 180 days of the effective date of this Ordinance.

(D) Minor repairs and maintenance of nonconforming signs necessary to keep a nonconforming sign in sound condition are permitted. If repair or maintenance of a nonconforming sign results in the removal of the sign frame structure for any length of time, the replaced sign frame structure and any copy placed on it shall be in conformance with this Ordinance.

(E) If a nonconforming sign is blank or advertises a business, service, commodity, accommodation, attraction or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be deemed abandoned and shall be removed or brought into compliance by the sign owner, property owner, or other party having control over such sign within 180 days after the use has ceased operation or the service or commodity has ceased being offered.

13.8 Nonconforming Landscaping and Buffering

Except as herein provided, any expansion of 20 percent or greater an existing use, structure, or parking area or a significant change of use which is deficient in landscaping and/or buffering, shall not occur without the screening and/or landscaping required by Chapter 8 having first been provided on-site. The C-1 and C-T districts are exempt from this requirement. The requirements of Chapter 8 shall be met to the greatest extent possible as determined by the Administrator.

13.9 Nonconforming Parking and Loading

(A) On any lot in any zoning district, except the C-1 and C-T districts, which contains a use which does not comply with the off-street parking and loading regulations contained in Chapter 9 of this Ordinance, no expansion of greater than 20 percent or any significant change of use shall be approved which would result in a need to increase the number of off-street parking and/or loading spaces required (except as herein provided), until the requisite number of off-street parking spaces and all paving requirements have been met.

(B) A Zoning Permit may be issued when there has been a significant change of use and the number of off-street parking spaces required for the new use (per Chapter 9 of this Ordinance) is within 10 percent or 10 spaces, whichever is less, of the number of off-street parking spaces actually provided. Such relief may be granted on a one-time only basis per lot or planned development.

13.10 Discontinuance of Nonconforming Adult Oriented Businesses

Notwithstanding the provisions of Section 13.3.3, Adult Oriented Businesses shall be governed by the following:

(A) Any Adult Oriented Business that fails to comply with the use and locational requirements of this Ordinance, but which was lawfully operating before the effective date of this Ordinance shall not be deemed to be in violation of this Ordinance but shall be nonconformity. Any such business, which ceases active operation for a period of 30 days regardless of the purpose or reason, shall be subject to all the requirements of this Ordinance and the property may thereafter be used only for conforming uses.

(B) Any Adult Oriented Business lawfully operating as of the effective date of this Ordinance but which subsequently fails to comply with the use and locational requirements of this Ordinance as the result of changes within the vicinity or amendment to this Ordinance shall not be deemed to be in violation of this Ordinance but shall be a nonconformity. Any such business, which ceases active operation for a period of 30 days regardless of purpose or reason, shall be subject to all the requirements of this Ordinance and the property may thereafter be used only for conforming uses.

(C) Any Adult Oriented Business that is rendered a nonconforming use as a result of the conditions described in (A) and (B) above, shall either cease to operate or meet all of the requirements of this Ordinance for the use no later than 60 months from the date that the Adult Oriented Business becomes a nonconforming use.

13.11 Certificate of Nonconformity Adjustment

A Certificate of Nonconformity Adjustment may be granted by the Board of Adjustment to enlarge, expand, or otherwise alter a nonconforming use or structure as set forth in this Section.

(A) Application for a Certificate of Nonconformity Adjustment shall be submitted to the Administrator with a detailed site plan showing the degree of any proposed expansion in relationship to the existing site improvements and a detailed explanation of the current use of the property.

(B) The Board of Adjustment shall conduct a public hearing on the application in accordance with the requirements of Section 15.4 of this Ordinance.

(C) After the hearing, the Board of Adjustment will either approve or deny the request based on the following criteria:

(1) Noise: Does the nonconformity create noise above and beyond levels considered normal to the area?

(2) Traffic: Does the nonconformity generate or have the potential to generate a significantly higher volume of traffic than surrounding land use?

(3) Other measurable physical effects: Does the nonconformity generate any other negative effects including but not limited to dust, air pollution, odor, etc.

(4) Surrounding property values: Does the nonconformity detract from prevailing property values?

(5) Aesthetics: Does the nonconformity compliment or detract from the overall aesthetic character of the area?

(D) Conditions may be placed on the approval of the Certificate of Nonconformity Adjustment in order to mitigate potential impacts to the surrounding area. Approval and conditions "run with the land" and are applicable to future property owners. The Board may impose such additional conditions upon approval as it may deem necessary in order that the purpose and intent of this Ordinance are served, public welfare secured and substantial justice done. The applicant shall provide written consent to conditions to ensure enforceability.

(E) If the Board of Adjustment denies the adjustment request, then the nonconformity will be handled in accordance with the requirements of this Chapter.

(F) Appeals from a Board of Adjustment decision shall be taken in the manner prescribed in Section 15.4.

CHAPTER 14
MAP AND TEXT AMENDMENTS

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14.1 Purpose

The purpose of this Chapter is to set forth procedures for amending the text of these regulations and the zoning classification of land as shown on the Zoning Map. The purpose is not to relieve particular hardships, nor to confer special privileges or rights on any person, but only to make adjustments necessary in light of changed conditions or changes in public policy. Procedures for making amendments to the Unified Development Ordinance text or Zoning Map are also set forth.

14.2 Amendment Initiation

(A) Any amendment may be initiated by the Town Board of Commissioners or Planning Board, by any owner of a legal or equitable interest in the property affected by the amendment, or by a local government agency of the Town, or by any other person living or owning property within the zoning jurisdiction of the Town of Forest City in accordance with the procedures set forth herein. No request for a map amendment that causes reduction in district intensity may be submitted by a third party. Such requests may only be initiated by the Town or the property owner.

(B) For Conditional Zoning district map amendments (rezonings), only an owner of a legal or equitable interest in the property may initiate the amendment.

14.3 Application Submittal

14.3.1 Applications for All Amendments

(A) An application form and fee shall be submitted by the applicant to the Administrator. The application shall include a description of the proposed change. The application form and fee shall be waived for any amendment request submitted by a Town official or agency acting on behalf of the Town of Forest City. Completed applications shall be forwarded by the Administrator to the Planning Board at their next regularly scheduled meeting provided that the application is submitted a minimum of 30 days prior to the meeting.

(B) The Administrator, before scheduling any application for amendment for consideration by the Planning Board, shall ensure that it contains all the required information as specified in this Ordinance and on the application form. Applications which are not complete, or otherwise do not comply with the provisions of this Ordinance shall not be scheduled by the Administrator, but shall be returned to the applicant with a notation of the deficiencies in the application.

(C) The Town Board of Commissioners shall set a fee payable to the Town of Forest City, North Carolina, to cover the necessary administrative costs and advertising of each application for a change or amendment. The set fee shall be posted in the Town Clerk's Office.

14.3.2 Text Amendments

(A) For text amendments, the application shall contain a reference to the specific section, subsection, paragraph or item proposed to be changed, as well as the wording of the proposed change, and the reasons therefore.

(B) Applications shall contain a statement regarding the consistency of the request with adopted Town plans.

14.3.3 Map Amendments (Rezonings)

(A) For all map amendments (rezonings), applications shall contain a statement regarding the consistency of the request with adopted Town plans and the surrounding area.

(B) For Conditional Zoning district map amendments (rezonings), the application shall be accompanied by a description of the use or uses proposed and any conditions being proposed by the applicant. The applicant shall also provide a statement of reasonableness regarding the request on the application. In addition to the application, the applicant shall submit a site- specific plan drawn to meet the requirements of Chapter 12, as applicable.

14.4 Text Amendment Process

14.4.1 Planning Board Action

(A) The Planning Board shall consider and make recommendations to the Board of Commissioners concerning each proposed Text Amendment.

(B) The Planning Board shall have 30 days from the initial referral of the request by the Administrator to either recommend approval or denial of the amendment by simple majority vote. If no recommendation is received from the Planning Board within 30 days after initial referral, the proposed amendment may be considered by the Town Board without such recommendation. The Planning Board shall include with its recommendation a written statement regarding the consistency of the request with adopted Town plans and policies.

14.4.2 Notice of Hearing

Notice of public hearing shall be given as required by NCGS 160D-601 once a week for two (2) consecutive weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the public hearing date

14.4.3 Town Board of Commissioners Action

(A) Before taking action, the Town Board shall consider the Planning Board's recommendation on each proposed Text Amendment.

(B) The Town Board of Commissioners shall conduct a legislative public hearing.

(C) In accordance with NCGS 160D-605, When adopting or rejecting any text amendment, the Town Board shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted Comprehensive Plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the Town Board that at the time of action on the amendment the Town Board was aware of and considered the Planning Board's recommendations and any relevant portions of an adopted Comprehensive Plan.

(D) In accordance with NCGS 160D-601 (c), development regulations shall be adopted by ordinance

14.5 Standard Rezoning Process

14.5.1 General Provisions

(A) When considering a standard rezoning request neither the Planning Board nor the Town Board of Commissioners shall evaluate the petition based on any specific proposal for the use or development of the affected property and the petitioner shall refrain from using any graphic materials or descriptions of the proposed use or development except for those which would apply to any use permitted in the requested district, provided, however, such information may be presented and considered when on an application for a map amendment for a Conditional Zoning District as outlined in Section 14.6.

(B) Upon approval of the map amendment, the Administrator shall oversee the updating of the Zoning Map to reflect the approved changes.

14.5.2 Planning Board Action

(A) The Planning Board shall consider and make recommendations to the Board of Commissioners concerning each proposed zoning map amendment.

(B) The Planning Board shall have 30 days from the initial referral of the request by the Administrator to either recommend approval or denial of the amendment by simple majority vote. If no written recommendation is received from the Planning Board within 30 days after initial referral, the proposed amendment may be considered by the Town Board without such recommendation.

(C) Pursuant to NCGS 160D-604, the Planning Board shall include with its recommendation a written statement regarding the consistency of the request with the adopted Comprehensive Plan and any other officially adopted plan that is applicable and any other matters as deemed appropriate by the Planning Board. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602 (b), the planning board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the recommendation made.

14.5.3 Notice of Hearing

Notice of the public hearing shall be given in accordance with NCGS 160D-602, as follows:

(A) A notice shall be published in a newspaper having general circulation in the Town once a week for two (2) consecutive weeks provided that the first notice is published not less than 10 days nor more than 25 days prior to the date established for the public hearing. The expanded published notice option for rezonings (map amendments) noted in Subsection (2) below shall consist of a notice not less than one-half (1/2) of the newspaper page in size.

(B) A notice of the public hearing shall also be sent by first class mail by the Administrator or designee to the affected property and to all adjacent property owners, including properties separated by a street, railroad, or other transportation corridor. The mail notice shall not be required if a Rezoning (map amendment) directly affects more than 50 properties owned by a total of at least 50 different property owners. Instead the Town may elect to use expanded published notice as noted above in Subsection (1). However, property owners whose addresses are not within the general circulation area of the newspaper shall still receive a notice of public hearing by first class mail.

(C) The Town shall conspicuously post a notice of public hearing at the site proposed for rezoning at least 10 days prior to the public hearing. When multiple parcels are included within a proposed map amendment, a posting on each individual parcel is not required, but the Town shall post sufficient notices to provide reasonable notice to interested persons. The notice shall be removed only after the public hearing has been held.

(D) For map amendments initiated by a third party, property owner(s) who are not signatories of the application for zoning map amendment must be notified through personal delivery or registered, certified, or delivery receipt mail. Such

notice shall state the existing zoning classification and the classification requested by the third party and the date, time and location of the public hearing. The notice shall be written by the Administrator, yet the burden for making this actual notice is on the third party requesting the rezoning, the proof of which shall be provided to the Administrator prior to the public hearing. This requirement shall not apply if a map amendment is initiated by the Town.

14.5.4 Town Board of Commissioners Action

(A) In accordance with NCGS 160D-604, before taking action, the Town Board shall consider the Planning Board's recommendation on each proposed zoning map amendment. The Town Board is not bound by the recommendation of the Planning Board. A comment by the Planning Board that the proposed amendment is inconsistent with the Comprehensive Plan shall not preclude consideration or approval of the proposed amendment by the Town Board.

(B) The Town Board of Commissioners shall conduct a legislative public hearing.

(C) In accordance with NCGS 160D-605, when adopting or rejecting any zoning map amendment, the Town Board shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted Comprehensive Plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the Town Board that at the time of action on the amendment the Town Board was aware of and considered the Planning Board's recommendations and any relevant portions of an adopted Comprehensive Plan. If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment shall be required. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency statement is not subject to judicial review. If a zoning map amendment qualifies as a "large-scale rezoning" under NCGS 160D-602(b), the governing board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken.

(D) When adopting or rejecting any petition for a zoning map amendment, a statement analyzing the reasonableness of the proposed rezoning shall be approved by the governing board. This statement of reasonableness may consider, among other factors, (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the

proposed amendment; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the governing board statement on reasonableness may address the overall rezoning. The statement of reasonableness and the plan consistency statement required by this section may be approved as a single statement.

14.6 Conditional Zoning Process

14.6.1 General Provisions

(A) The Conditional Zoning (CZ) approval process is established to address those situations when a particular use may be acceptable but the general zoning district(s) that would allow that use would not be acceptable. Rezoning of property to any CZ district is a voluntary procedure on the part of the property owner and is intended for firm development proposals. It is not intended or suited for securing early zoning for a tentative proposal that may be undertaken at some unknown time in the future. Such zones may be approved or changed only by the Town Board of Commissioners in accordance with the regulations contained herein.

(B) The applicant initiating a CZ Rezoning shall provide at a minimum the drawings and information required for a Site Plan or Subdivision as outlined in Chapter 12.

(C) When considering a petition for a rezoning to a CZ District, the Planning Board and the Town Board of Commissioners shall evaluate the petition based on specific proposal for the use or development of the affected property and the petitioner shall provide materials and descriptions of the proposed use and development.

(D) Any use permitted under this process must also, as a minimum, conform to the development regulations for the corresponding zoning district that is requested.

(E) In approving a CZ Rezoning, the Town Board of Commissioners may impose such additional restrictions and requirements upon approval as it may deem necessary in order that the purpose and intent of this Ordinance are served, public welfare secured and substantial justice done.

(F) Any request to materially change the conditions specified within a CZ District once it has been rezoned shall be subject to the entire approval process again.

14.6.2 Notice of Hearing

Notice of hearing shall be given in the same manner as prescribed for standard rezonings set forth in Section 14.5.3.

14.6.3 Action by Boards

(A) The actions required by the Planning Board and Town Board as outlined in Section 14.5.3 and 14.5.4 shall also apply to Conditional Zoning districts.

(B) In approving a CZ Rezoning, the Town Board of Commissioners may impose such additional conditions upon approval as it may deem necessary in order that the purpose and intent of this Ordinance are served, public welfare secured and substantial justice done. The applicant shall provide written consent to conditions to ensure enforceability.

14.6.4 Effect of Approval and Minor Modifications

Approval of the plan is subject to the NCGS 160D-108 and Section 1.7 of this Ordinance. Minor modifications to the approval may be considered subject to Section 11.5.

14.7 Resubmission of Request

(A) If the Town Board of Commissioners has denied an application for the rezoning of a piece of property or has approved a rezoning to a general zoning district which is more restrictive than that which was originally requested, the Planning Board shall not review any applications for the same changes affecting the same property or any portion thereof until the expiration of one (1) year from the date of such previous denial except as provided below.

(B) The Administrator may allow re-submission of such petition within said one (1) year period if he determines that, since the date of action on the prior petition:

(1) There has been a significant change in the zoning district classification of an adjacent piece of property; or

(2) The Town Board of Commissioners has adopted a plan that changes public policy regarding how the property affected by the amendment should be developed; or

(3) Construction or expansion of a street, water line, sewer line, or other such facilities has occurred to serve the property and can comfortably accommodate the intensity of development allowed under the proposed classification; or

(4) There has been some other extraordinary change in conditions or circumstances, outside the control of the petitioner, which justifies waiver of the one-year restriction on a new petition; this, however, shall not include a change in the ownership of the subject property.

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CHAPTER 15
ADMINISTRATION

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15.1 Purpose

The purpose of this Chapter is to set forth the powers and duties of the Administrator, Board of Adjustment, Planning Board and Town Board of Commissioners as they relate to this Ordinance. This Chapter also establishes the penalties for violation of the UDO.

15.2 Administrator

15.2.1 Appointment of Administrator

(A) The Town Manager shall appoint a Unified Development Ordinance Administrator to enforce the provisions of this Ordinance. The assistance of such other persons may be provided as the Town Manager directs.

(B) Throughout this Ordinance, the Administrator may be referred to as "Administrator", "Subdivision Administrator", "Floodplain Administrator", or "Planning Director".

15.2.2 Duties of Administrator

(A) The various provisions of this Unified Development Ordinance shall be administered by the Administrator and designated staff. It shall be the duty of the Administrator to carry out and enforce this Ordinance, remedy violations of this Ordinance, follow the development approval processes of this Ordinance and issue permits in compliance with this Ordinance.

(B) The Administrator shall maintain a record of all Zoning Permits, development approvals, Special Use Permits, Variances, Text Amendments, Map Amendments (rezonings) on file at his office, and copies shall be made available on request to interested parties.

(C) The Administrator shall issue Zoning Permits and Certificates of Zoning Compliance as prescribed herein.

(D) The Administrator shall maintain in paper and/or digital format the official Zoning Map and any state or federal maps incorporated by reference into the Zoning Map, in accordance with NCGS 160D-105.

(E) The Administrator shall serve as clerk to the Board of Adjustment and Planning Board.

(F) If the Administrator finds that any of the provisions of this Ordinance are being

violated, he or she shall follow the procedures set forth in Section 15.7.

(G) The Administrator shall make determinations regarding the development regulations of this Ordinance. The Administrator shall give written notice to the owner of the property that is the subject of the determination and to the party who sought the determination, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail. The notice shall be delivered to the last address listed for the owner of the affected property on the county tax abstract and to the address provided in the application or request for a determination if the party seeking the determination is different from the owner.

(H) In accordance with NCGS 160D-109 ©, no staff member shall make a final decision on an administrative decision required by this Chapter if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship.

15.3 Board of Planning and Adjustment

15.3.1 Establishment

A Board of Planning and Adjustment is hereby established. Said Board shall consist of nine (9) members. Six (6) members shall be residents of the Town and shall be appointed by the Town Board of Commissioners and members, who shall be residents of the Extraterritorial Jurisdiction (ETJ), shall be appointed by the Rutherford County Board of Commissioners upon recommendation by the Town Board of Commissioners. All members shall serve terms of three (3) years, except for the initial appointments where three (3) members shall be appointed for one (1) year term, three (3) members shall be appointed for two (2) year terms and one (1) members shall be appointed for a three (3) year term. Vacancies shall be filled for the unexpired portions of the terms in the same manner as the initial appointment. The term for each appointed member shall begin on the effective date of the adoption of this Ordinance. Members may be appointed for any number of successive terms. All members shall vote on all matters except as otherwise provided for in this Chapter.

15.3.2 Election of Officers

The Board shall meet within 30 days after appointment and elect a Chairman and Vice-Chairman and create and fill such offices, as it may deem necessary. The term of the offices of Chairman and Vice-Chairman shall be one (1) year, with eligibility for re-election. The Board may adopt rules of procedure not in conflict with this and any other town ordinances or policies. The Board shall keep a record of its member's attendance and of its actions, which record shall be a public record. Such records shall be submitted to the Town Manager and shall be on file at the Town offices for public inspection.

15.3.3 Attendance

Regular attendance and interest shall be considered prerequisites of membership on the Board of Planning and Adjustment. Failure to attend three (3) consecutive meetings or four (4) meetings in any 12 month period shall be considered as a resignation from the Board unless the Board determines by majority vote that good and sufficient reason has been given for the member's absence.

15.3.4 Duties

The Board of Planning and Adjustment is created to carry out the powers and duties of the Planning Agency as provided for in NCGS 160D-301 and the Board of Adjustment as provided for in NCGS 160D-302 and to carry out the powers and duties of the Planning Board and the Board of Adjustment as provided for the this Ordinance and any other Ordinances or policies of the Town. In carrying out its function as a Board of Adjustment, the Board of Planning and Adjustment shall be bound by its rules of procedure and Section 15.4. In carrying out its function as a Planning Board, the Board of Planning and Adjustment shall be bound by its rules of procedure and by Section 15.5.

15.3.5 Oath of Office

Members of the Board of Planning and Adjustment, exercising duties as the Board of Adjustment and Planning Board, shall take an oath of office as set forth in NCGS 160D-309 and 160A-61.

15.4 Board of Adjustment

15.4.1 Board of Adjustment Composition

When acting as a Board of Adjustment the Board shall consist of five (5) regular members and four (4) alternate members. The Chairman and Vice-Chairman of the Board of Planning and Adjustment shall serve as regular members of the Board of Adjustment and serve as Chairman and Vice-Chairman respectively, of the Board of Adjustment. The Chairman shall appoint three (3) additional members from the remaining members of the Board of Planning and Adjustment to serve as regular members and the remaining four (4) members shall serve as alternate members. At all times, however, at least two (2) ETJ members shall serve as regular members of the Board of Adjustment.

15.4.2 Rules of Conduct

Members of the Board may be removed by the Board of Commissioners for cause, including violation of the rules stated below:

(A) In accordance with NCGS 160D-109 (d), a member of any board exercising quasi-judicial functions pursuant to this Chapter shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.

(B) No Board member shall discuss any case with any parties thereto prior to the public hearing on that case; provided, however, that members may receive and/or seek hearing on that case from the Administrator or any other member of the Board, its secretary or clerk prior to the hearing.

(C) Members of the Board shall not express individual opinions on the proper judgment of any case prior to its determination on that case.

15.4.3 Proceedings of the Board of Adjustment

(A) Pursuant to NCGS 160D-308, the Board shall adopt rules of procedure in accordance with the provisions of this Ordinance and of Chapter 160D of the General Statutes of North Carolina. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. The Chairman, or in his absence, the Vice-Chairman, may administer oaths and compel the attendance of witnesses by subpoena. All meetings of the Board shall be open to the public and minutes shall be kept of the proceedings.

(B) The Chairman of the Board of Adjustment, or in his absence the Vice-Chairman, may appoint alternates to sit for any regular members in case of the absence or disqualification of any regular members. In such case the alternate members shall have the same powers and duties of the regular members they are replacing during such time. In no case, however, shall more than five (5) regular members or combination of regular members and the alternate members be empowered to make motions or to vote on any matter that comes before the Board involving this Ordinance.

(C) The concurring vote of four-fifths (4/5) of the members of the Board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the Board for calculation of the requisite

majority if there are no qualified alternates to take the place of such members.

(D) In other Board business, such as procedural and by-law matters, a simple majority of those present and voting shall be required to pass on any matter. A quorum of four (4) of the total seven (7) regular members or alternate members shall be required to act on general Board business whereas a quorum of four (4) of the five (5) regular members, or any combination of four (4) regular members or alternate members sitting as regular members, shall be required to act on any matter involving this Ordinance.

(E) Although alternate members who are not replacing a regular member on a particular Ordinance matter are not empowered to make motions and vote on such matters, such alternate members in attendance, and who are not otherwise disqualified, may fully participate in the discussion of such matters to the same extent as any other member sitting as one (1) of the five (5) regular voting members.

(F) Board of Adjustment members shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

15.4.4 Powers and Duties of the Board of Adjustment

The Board of Adjustment shall have the following powers and duties, pursuant to NCGS 160D-302 and subject to quasi-judicial procedures set forth in NCGS 160D-405, 160D-406, and 160D-705:

(A) Appeals

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 NCGS 160D-405 outlined below:

(1) Standing

Any person who has standing under G.S. 160D-1402(c) or the Town may appeal an administrative decision to the board. An appeal is taken by filing a notice of appeal with the Town clerk or such other Town official as designated by ordinance. The notice of appeal shall state the grounds for the appeal.

(2) Time to Appeal

The owner or other party has 30 days from receipt of the written notice of the determination within which to file an appeal. Any other person with standing to appeal has 30 days from receipt from any source of actual or constructive notice of the determination within which to file an appeal. In the absence of evidence to the contrary, notice given pursuant to NCGS 160D-403(b) by first-class mail is deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.

(3) Record of Decision

The official who made the decision shall transmit to the board all documents and exhibits constituting the record upon which the decision 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.

(4) Stays

An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from and accrual of any fines assessed during the pendency of the appeal to the board of adjustment and any subsequent appeal in accordance with G.S. 160D-1402 or during the pendency of any civil proceeding authorized by law or appeals therefrom, unless the official who made the decision certifies to the board 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 development regulation. In that case, enforcement proceedings are not 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 shall meet to hear the appeal within 15 days after the request is filed. Notwithstanding any other provision of this section, appeals of decisions granting a development approval or otherwise affirming that a proposed use of property is consistent with the development regulation does not stay the further review of an application for development approvals to use the property; in these situations, the appellant or Town may request and the board may grant a stay of a final decision of development approval applications, including building permits affected by the issue being appealed.

(5) Alternative Dispute Resolution

The parties to an appeal that has been made under this section may agree to mediation or other forms of alternative dispute resolution. The development regulation may set standards and procedures to facilitate and manage such voluntary alternative dispute resolution.

(6) No Estoppel

NCGS 160D-1403.2, limiting a Town's use of the defense of estoppel, applies to proceedings under this section.

(B) Variances

(1) 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, in accordance with NCGS 160D-705 (d):

(a) 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.

(b) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

(c) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

(d) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

(2) 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.

(C) Special Use Permits

Subject to NCGS 160D-705 (c), upon application, the Board of Adjustment may grant in particular cases and subject to the appropriate conditions and safeguards, permits for special uses as authorized by this Ordinance and set forth as special uses in the Permitted Uses Table in Chapter 3. A Conditional Use Permit may be granted by the Board of Adjustment in accordance with the requirements of Section 11.4.

(D) Alternative Design Plans

Alternative design plans may be approved by the Board of Adjustment as set forth in Section 5.5.

(E) Certificate of Nonconformity Adjustment

A Certificate of Nonconformity Adjustment may be granted by the Board of Adjustment in accordance with the requirements of Section 13.11.

15.4.5 Hearing Process

(A) Notice of Hearing

Notice of evidentiary 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.

(B) Administrative Materials

The Administrator shall transmit to the Board all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the Board prior to the hearing if at the same time they are distributed to the board a copy is also provided to the appellant or applicant and to the landowner if that person is not the appellant or applicant. The administrative materials shall become a part of the hearing record. The administrative materials may be provided in written or electronic form. Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the Board at the hearing.

(C) Presentation of Evidence

The applicant, the Town, and any person who would have standing to appeal the decision under G.S. 160D-1402(c) shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the Board. Objections regarding jurisdictional and evidentiary issues, including, but not limited to, the timeliness of an appeal or the standing of a party, may be made to the board. The board chair shall rule on any objections, and the chair's rulings may be appealed to the full board. These rulings are also subject to judicial review pursuant to G.S.

160D-1402. Objections based on jurisdictional issues may be raised for the first time on judicial review.

(D) Oaths

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.

(E) Subpoenas

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 NCGS 160D-1402 (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.

(F) Appeals in the Nature of Certiorari

When hearing an appeal pursuant to G.S. 160D-947(e) or any other appeal in the nature of certiorari, the hearing shall be based on the record below, and the scope of review shall be as provided in G.S. 160D-1402(j).

(G) Voting

The concurring vote of four-fifths (4/5) of the Board shall be necessary to grant a Variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter under G.S. 160D-109(d) shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

(H) Decisions

The Board shall determine contested facts and make its decision within a reasonable time. When hearing an appeal, the board 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 powers of the official who made the decision. 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.

(I) Judicial Review

Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to NCGS 160D-947 (e). Appeals shall be filed within the times specified in NCGS 160D-1405 (d).

15.4.6 Application Fees

The Town Board of Commissioners shall set a fee, payable to the Town of Forest City, North Carolina, to cover the necessary administrative costs and advertising of each application for the proceeding. The set fee shall be posted in the Town Clerk's office.

15.5 Planning Board

15.5.1 Planning Board Composition

When acting as a Planning Board, five (5) of the nine (9) members of the Board of Planning and Adjustment shall constitute a quorum and a simple majority of those voting shall be required to act favorably on any matter that comes before the Planning Board.

15.5.2 Power and Duties of the Planning Board

(A) The Planning Board shall serve in an advisory capacity to the Town Board and shall provide recommendations to the board including recommendations pertaining to zoning amendments and other matters as designated in NCGS 160D-301 including:

(1) To prepare, review, maintain, monitor, and periodically update and recommend to the governing board a Comprehensive Plan, and such other plans as deemed appropriate, and conduct ongoing related research, data collection, mapping, and analysis;

(2) To facilitate and coordinate citizen engagement and participation in the planning process;

(3) To develop and recommend to the Town Board of Commissioners policies, ordinances, development regulations, administrative procedures and other means for carrying out plans in a coordinated and efficient manner;

(4) To advise the Town Board of Commissioners concerning the use and amendment of means for implementation of plans;

(5) To exercise such functions in the administration and enforcement of various means for carrying out plans as may be assigned by this article or other ordinances of the Town; and

(6) To perform other related duties as may be assigned by this article or other ordinances.

15.5.3 Proceedings of the Planning Board

(A) Pursuant to NCGS 160D-308, the Board shall adopt rules of procedure in accordance with the provisions of this Ordinance and of Chapter 160D of the General Statutes of North Carolina. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. The Chairman, of in his absence, the Vice-Chairman, may administer oaths and compel the attendance of witnesses by subpoena. All meetings of the Board shall be open to the public and minutes shall be kept of the proceedings.

(B) In accordance with NCGS 160D-109 (b), members of the Planning Board shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

15.6 Cultural Resources and Historic Preservation Commission

15.6.1 Commission Composition

(A) The Commission shall consist of nine (9) members to be appointed from time to time by the Town Board of Commissioners. The Town Board may choose to appoint the Board of Planning and Adjustment to also serve as the Historic Preservation Commission.

15.6.2 Powers and Duties.

The Commission may, within the planning and development regulation jurisdiction of the local government, do any of the following:

(A) Undertake an inventory of properties of historical, prehistorical, architectural,

and/or cultural significance.

(B) Recommend to the governing board areas to be designated by ordinance as "Historic Districts" and individual structures, buildings, sites, areas, or objects to be designated by ordinance as "Landmarks," subject to NCGS 160D-944 and 160D-945.

(C) Acquire by any lawful means the fee or any lesser included interest, including options to purchase, to properties within established districts or to any such properties designated as landmarks to hold, manage, preserve, restore, and improve such properties, and to exchange or dispose of the property by public or private sale, lease or otherwise, subject to covenants or other legally binding restrictions that will secure appropriate rights of public access and promote the preservation of the property.

(D) Restore, preserve, and operate historic properties.

(E) Recommend to the governing board that designation of any area as a historic district or part thereof, or designation of any building, structure, site, area, or object as a landmark, be revoked or removed for cause.

(F) Conduct an educational program regarding historic properties and districts within its jurisdiction.

(G) Cooperate with the State, federal, and local governments in pursuance of the purposes of this Part. The governing board or the commission, when authorized by the governing board, may contract with the State, or the United States of America, or any agency of either, or with any other organization provided the terms are not inconsistent with State or federal law.

(H) Enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee, or agent of the commission may enter any private building or structure without the express consent of the owner or occupant thereof.

(I) Prepare and recommend the official adoption of a preservation element as part of the local government's comprehensive plan.

(J) Review and act upon proposals for Certificates of Appropriateness for alterations, demolitions, or new construction within historic districts, or for the alteration or demolition of designated landmarks, in accordance with NCGS 160D-947.

(K) Negotiate at any time with the owner of a building, structure, site, area, or object for its acquisition or its preservation, when such action is reasonably necessary or appropriate.

15.6.3 Proceedings of the Cultural Resources and Historic Preservation Commission.

(A) The commission shall adopt rules of procedure for the conduct of business.

(B) The commission shall establish a meeting time, and shall meet at least annually and more often as it shall determine and require. All meetings of the Commission shall be open to the public and reasonable notice of the time and place thereof shall be given to the public. All meetings shall conform to the North Carolina Open Meetings Law, NCGS 143-33B.

(C) Any member of the Commission who misses more then three (3) consecutive regular meetings or more than half the regular meetings in a calendar year shall lose his status as a member of the Commission and shall be replaced or reappointed by the board of commissioners. Absence due to sickness, out of town business, or other emergencies of like nature shall be recognized as approved absences and shall not affect the member's status on the commission.

(D) As a part of its deliberations and review procedure, the Commission may seek the advice of the State Department of Cultural Resources or such other expert advice as it may deem necessary under the circumstances.

(E) The Administrator shall serve as staff support for the Commission.

(F) In accordance with NCGS 160D-109(b), members of the Cultural Resources and Historic Preservation Commission shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

15.6.4 Certificates of Appropriateness.

(A) Exterior Features.

(1) After the designation of a landmark or a historic district, no exterior portion of any building or other structure, including masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features, nor above-ground utility structure nor any type of outdoor advertising sign shall be erected, altered, restored, moved, or demolished on the landmark or within the district until after an application for a certificate of appropriateness as to exterior features has been submitted to and approved by the preservation commission. The local government shall require such a certificate to be issued by the commission prior to the issuance of a building permit granted for the purposes of constructing, altering, moving, or demolishing structures, which certificate may be issued subject to reasonable conditions necessary to carry out the purposes of this Part. A certificate of appropriateness is required whether or not a building or other permit is required.

(2) For purposes of this Part, "exterior features" include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant fixtures. In the case of outdoor advertising signs, "exterior features" mean the style, material, size, and location of all such signs. Such "exterior features" may, in the discretion of the local governing board, include historic signs, color, and significant landscape, archaeological, and natural features of the area.

(3) The Commission shall take no action under this section except to prevent the construction, reconstruction, alteration, restoration, moving, or demolition of buildings, structures, appurtenant fixtures, outdoor advertising signs, or other significant features in the district that would be incongruous with the special character of the landmark or district.

(4) Nothing in this Ordinance shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in a historic district or of a landmark that does not involve a change in design, material, or appearance thereof, nor to prevent the construction, reconstruction, alteration, restoration, moving, or demolition of any such feature which the building inspector or similar official shall certify is required by the public safety because of an unsafe or dangerous condition. Nothing in this Ordinance shall be construed to prevent a property owner from making any use of his or her property that is not prohibited by other law. Nothing in this Ordinance shall be construed to prevent the maintenance or, in the event of an emergency, the immediate restoration of any existing above-ground utility structure without approval by the Commission.

(B) Interior Features.

Jurisdiction of the Commission over interior spaces is limited to specific interior features of architectural, artistic, or historical significance in publicly owned landmarks and of privately owned historic landmarks for which consent for interior review has been given by the owner. The consent of an owner for interior review binds future owners and/or successors in if the consent has been filed in the office of the register of deeds of the county in which the property is located and indexed according to the name of the owner of the property in the grantee and grantor indexes. The landmark designation shall specify the interior features to be reviewed and the specific nature of the Commission's jurisdiction over the interior.

(C) Design Standards.

The Town of Forest City hereby adopts the "Secretary of Interior's Standards for Rehabilitation" as the principles to guide the commission in determining congruity with the special character of the landmark or district for new construction, alterations, additions, moving, and demolition.

(D) Procedures.

(1) Commission decisions on Certificates of Appropriateness are quasi-judicial and shall follow the procedures of NCGS 160D-406.

(2) All applications for certificates of appropriateness shall be reviewed and acted upon within a reasonable time, not to exceed one hundred eighty (180) days from the date the application for a certificate of appropriateness is filed, as defined by the regulation or the Commission's rules of procedure. As part of its review procedure, the Commission may view the premises and seek the advice of the Division of Archives and History or such other expert advice as it may deem necessary under the circumstances.

15.6.5 Appeals.

(A) All decisions of the Commission in granting or denying a certificate of appropriateness may, be appealed to the Town Board of Commissioners, acting as a Board of Adjustment in the nature of certiorari within times prescribed for appeals of administrative decisions in NCGS 160D-405(d). To the extent applicable, the provisions of NCGS 160D-1402 apply to appeals in the nature of certiorari to the Town Board of Commissioners, acting as a Board of Adjustment.

(B) Appeals from the Town Board of Commissioners acting as a Board of Adjustment may be made pursuant to NCGS 160D-1402.

(C) If the regulation does not provide for an appeal to the board of adjustment, appeals of decisions on certificates of appropriateness may be made to the superior court as provided in NCGS 160D-1402.

(D) Petitions for judicial review shall be taken within times prescribed for appeal of quasi-judicial decisions in NCGS 160D-1405. Appeals in any such case shall be heard by the superior court of the county in which the local government is located.

15.7 Town Board of Commissioners

15.7.1 The Town Board of Commissioners shall hold the following powers and duties related to this Ordinance:

(A) To review, hold public hearings and make decisions for Text Amendments and Map Amendments (Standard and Conditional Zoning requests).

(B) To make decisions on all issues related to the Unified Development Ordinance, Zoning Map, Comprehensive Land Use Plan and other land use plans which may be adopted from time to time.

(C) To review and approve Preliminary Plats for Major Subdivisions.

(D) To act as the Board of Adjustment on appeals from administrative decisions by the Planning Board of alternate design plans set forth in Section 5.5.

The duties of the Town Board in connection with this Ordinance shall not include the hearing and passing upon of disputed questions that may arise in connection with the enforcement thereof, but the procedure for determining such questions shall be as prescribed in this Ordinance.

15.7.2 Conflict of Interest

In accordance with NCGS 160D-109 (a), a governing board member shall not vote on any legislative decision regarding a development regulation where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A governing board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

15.8 Enforcement

Enforcement of this Ordinance shall be in accordance with NCGS 160D-404 and as outlines in this Section.

15.8.1 Violations

Any of the following shall be a violation of this Ordinance and shall be subject to the enforcement remedies and penalties provided by this Section and by State law.

(A) Development Without Permit

To engage in any development, use, construction, remodeling, or other activity of any nature upon land or improvements thereon subject to the jurisdiction of this Ordinance without all required permits, certificates, or other forms of authorization as set forth in this Ordinance.

(B) Development Inconsistent With Permit

To engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with any approved plan, permit, certificate, or other form or authorization granted for such activity.

(C) Violation by Act or Omission

To violate, by act or omission, any term, variance, modification, condition, or qualification placed by the Town Board or its agent boards upon any required permit, certificate, or other form of authorization for the use, development, or other activity upon land or improvements thereon.

(D) Use in Violation

To erect, construct, reconstruct, alter, repair, convert, maintain, or use any building or structure or to use any land in violation or contravention of this Ordinance or any other regulation made under the authority conferred thereby.

(E) Continue a Violation

Each day's continuance of any of the above violations is a separate and distinct offense.

15.8.2 Inspection and Investigation

Administrative staff may inspect work undertaken pursuant to a development approval to assure that the work is being done in accordance with applicable State and local laws and of the terms of the approval. In exercising this power, staff are authorized to enter any premises within the jurisdiction of the Town at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials; provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.

15.8.3 Enforcement Procedure

(A) Notice of Violation

When the Administrator determines work or activity has been undertaken in violation of a development regulation adopted pursuant to NCGS Chapter 160D or other local development regulation or any State law delegated to the Town for enforcement purposes in lieu of the State or in violation of the terms of a development approval, a written notice of violation may be issued. The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first-class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation may be posted on the property. The person providing the notice of violation shall certify to the Town that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud. Except as provided by G.S. 160D-1123 or G.S. 160D-1206 or otherwise provided by law, a notice of violation may be appealed to the board of adjustment pursuant to G.S. 160D-405. The notice shall include the following information:

(1) That the land, building, structure, sign, or use is in violation of this Ordinance;

(2) The nature of the violation and citation of the Section(s) of this Ordinance violated; and

(3) The measures necessary to remedy the violation.

(4) The time period to correct the violation and penalties that may be incurred as set forth in Section 15.7.5 and 15.7.6.

(B) Appeal

Any owner or occupant who has received a Notice of Violation may appeal in writing the decision of the Administrator to the Board of Adjustment within 30 days following the date of the Notice of Violation, in accordance with NCGS 160D-405 and Section 15.4 of this Ordinance. In the absence of an appeal, the decision of the Administrator shall be final.

15.8.4 Failure to Comply with Notice

If the owner or occupant of a property fails to comply with a Notice of Violation from which no appeal has been taken, or a final decision by the Board of Adjustment following an appeal, the owner or occupant shall be subject to the penalties and remedies as set forth in Section 15.7.5 or to such remedies and penalties as may be provided by the State law.

15.8.5 Remedies

Subject to the provisions of the development regulation, any development regulation adopted pursuant to authority conferred by NCGS Chapter 160D may be enforced by any remedy provided by NCGS 160A-175. If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used or developed in violation of this Chapter or of any development regulation or other regulation made under authority of this Chapter, the Town, in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, use, or development; to restrain, correct or abate the violation; to prevent occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about the premises. Any or all of the following procedures may be used to enforce the provisions of this Ordinance.

(A) Injunction and Order of Abatement

The Ordinance may be enforced by injunction and order of abatement, and the General Court of Justice shall have jurisdiction to issue such orders. When a violation of such an ordinance occurs the Town may apply to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular. In addition to an injunction, the court may enter an order of abatement as a part of the judgment in the cause. An order of abatement may direct that buildings or other structures on the property be closed, demolished, or removed; that fixtures, furniture, or other movable property be removed from buildings on the property; that grass and weeds be cut; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with the ordinance. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he or she may be cited for contempt, and the Town may execute the order of abatement. The Town shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and materialman's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the Clerk of Superior Court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

(B) Criminal and Civil Penalties

Any person who violates any provision of this Ordinance shall be subject to the assessment of a civil penalty under the procedures provided in Section 15.7.6.

(C) Equitable Remedy

The Ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. In such case, the General Court of Justice shall have jurisdiction to issue such orders as may be appropriate, and it shall not be a defense to the application of the city for equitable relief that there is an adequate remedy at law.

(D) Stop Work Orders

Whenever any work or activity subject to regulation pursuant to this Chapter or other applicable local development regulation or any State law delegated to the Town for enforcement purposes in lieu of the State is undertaken in substantial violation of any State or local law, or in a manner that endangers life or property, staff may order the specific part of the work or activity that is in violation or presents such a hazard to be immediately stopped. The order shall be in writing, directed to the person doing the work or activity, and shall state the specific work or activity to be stopped, the reasons therefor, and the conditions under which the work or activity may be resumed. A copy of the order shall be delivered to the holder of the development approval and to the owner of the property involved (if that person is not the holder of the development approval) by personal delivery, electronic delivery, or first-class mail. The person or persons delivering the stop work order shall certify to the Town that the order was delivered and that certificate shall be deemed conclusive in the absence of fraud. Except as provided by G.S. 160D-1112 and G.S. 160D-1208, a stop work order may be appealed pursuant to G.S. 160D-405. No further work or activity shall take place in violation of a stop work order pending a ruling on the appeal. Violation of a stop work order shall constitute a Class 1 misdemeanor.

(E) Revocation of Permits or Certificates

Development approvals may be revoked by the Town by notifying the holder in writing stating the reason for the revocation. The Town shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval. Development approvals shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable local development regulation or any State law delegated to the Town for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in securing the approval. Any development approval mistakenly issued in violation of an applicable State or local law may also be revoked. The revocation of a development approval by a staff member may be appealed pursuant to NCGS 160D-405. If an appeal is filed regarding a development regulation adopted by a Town pursuant to this Chapter, the provisions of NCGS 160D-405(e) regarding stays apply.

(F) Cumulative Remedies

The provision of this Ordinance may be enforced by one (1), all or a combination of the remedies authorized and prescribed by this section.

15.8.6 Penalty

(A) Violations of this Ordinance shall constitute either a misdemeanor, as provided by NCGS 14-4, or, at the election of the Town, shall subject the offender to a civil penalty upon the issuance of a citation for said violations as hereinafter provided. The civil penalty, if not paid to the Town within 15 days of the issuance of a citation, may be recovered by the Town in a civil action in the nature of debt. Said civil penalties shall be in the amounts shown below for each violation and each day any single violation continues shall be a separate violation.

Citation	Civil Penalty
Warning	Correct Violation within 10 days
First	$50.00
Second	$100.00
Third and Subsequent	$200.00

(B) Where the Administration determines that the period of time stated in the original warning citation is not sufficient for abatement based upon the work required or Consent Agreement, the Administrator may amend the warning citation to provide additional time. The warning citation shall specify that a second citation shall incur civil penalty, together with costs and attorney fees.

APPENDIX A
DEFINITIONS

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APPENDIX A– DEFINITIONS

A.1 Purpose

For the purpose of interpreting this Ordinance, certain words, concepts and ideas are defined herein. Except as defined herein, all other words used in this Ordinance shall have their everyday meaning as determined by their dictionary definition.

A.2 Interpretation

(A) Words used in the present tense include the future tense.

(B) Words used in the singular number include the plural, and words used in the plural number include the singular.

(C) Any word denoting gender includes the female and the male.

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

(E) The word "lot" includes the word "plot" or "parcel" or "tract".

(F) The word "shall" is always mandatory and not merely directory.

(G) The word "structure" shall include the word "building."

(H) The term "street" shall include the word "road".

(I) The term "Zoning Map," shall mean the Official Zoning Map of Forest City, North Carolina.

(J) The term "Town Board" shall mean the "Town Board of Commissioners of the Town of Forest City, North Carolina."

(K) The term "Planning Board" shall mean the "Planning Board of the Town of Forest City, North Carolina."

(L) The term 'Board of Adjustment' shall mean the "Board of Adjustment of the Town of Forest City'.

(M) The term 'Board of Planning and Adjustment' shall mean the body of appointed members that serve as both the 'Planning Board' and the 'Board of Adjustment' of the Town of Forest City.

(N) The term "Administrator" shall mean the "Administrator, Subdivision Administrator, Floodplain Administrator, or Unified Development Ordinance Administrator of the Town of Forest City, North Carolina."

(O) The terms "Planning Department" and “Planning Staff” shall mean the "Planning Department of the Town of Forest City, North Carolina."

(P) The terms “Ordinance”, “Code” and “Unified Development Ordinance” shall be synonymous and refer to the “Town of Forest City Unified Development Ordinance.”

A.3 Acronyms and Abbreviations

Below is a list of acronyms and abrreviations (other than zoning districts) and their meanings found throughout the Ordinance:

- ADA: Americans with Disabilities Act
- BFE: Base Flood Elevation
- DUA: Dwelling Units per Acre
- ETJ: Extraterritorial Jurisdiction
- FEMA: Federal Emergency Management Agency
- FIRM: Flood Insurance Rate Maps
- HOA: Homeowners Association
- UDO: Unified Development Ordinance
- NC: North Carolina
- NCDENR: North Carolina Department of Environment and Natural Resources
- NCDOT or DOT: North Carolina Department of Transportation
- NCGS or GS: North Carolina General Statute
- ROW: Right-of-way
- RPO: Rural Planning Organization
- SR: Secondary Road in the North Carolina Secondary Road system
- TND: Traditional Neighborhood Development
- US: United States of America

A.4 Definitions

Abandonment

A use shall be deemed to be abandoned when:

(1) The use is discontinued (other than in association with the settlement of an estate or for any use which is seasonal in nature); or

(2) The premises are devoted to another use; or

(3) When the characteristic equipment and furnishings of a non-conforming nonresidential use have been removed from the premises and have not been replaced by the same or similar equipment within 180 days; or
(4) Failure to take all positive action to resume the non-conforming use with reasonable dispatch, including the failure to advertise the property for sale or for lease.

Accessory Dwelling
A single-family residential unit that is subordinate to the principal dwelling located on the same property and is used as a rental unit, guest house, or as the residence of an immediate family member of the owner and occupant of the principal dwelling.

Accessory Structure
A structure that is subordinate to and serves a principal use or structure; is clearly subordinate in area, extent, or purpose to the principal use or structure served; and is located on the same lot as the principal use or structure. In no event shall "accessory structure" be construed to authorize a principal use or structure not otherwise permitted in the district in which the use is located. Accessory structures include but are not limited to detached garages, storage buildings, pools and pool houses. Manufactured homes, trailers, recreational vehicles, PODs, or similar items, or parts thereof, are not accessory structures.

Accessory Use
A use customarily incidental and subordinate to the principal use or structure and located on the same lot with such principal use or structure.

Addition
An extension or increase in the footprint or floor area of building or structure.

Adjacent
Having common property boundaries or lot lines which are not separated by a street or alley or body of water.

Administrator
The appointed Town staff member that administers this Ordinance.

Adult Oriented Business
An adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, sexual encounter center (including adult massage parlor and adult health club), sexually orientated device business or any combination of the foregoing or any similar business. As used in this Ordinance the following definitions shall apply:

Adult Arcade (also known as “Peep Show”)
Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to persons in booths or viewing

rooms where the images so displayed depict or describe "specific sexual activities" or "specified anatomical areas."

Adult Bookstore or Adult Video Store

A commercial establishment, which is in the business of offering for sale or rental any form of consideration any one (1) of more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videocassettes or video reproductions, slides, or other visual representation that depicts or describes "specific sexual activities" or "specified anatomical area"; or instruments, devices or paraphernalia that are designed for use in connection with "specified sexual activities."

Adult Cabaret

A nightclub, bar, restaurant, or other commercial establishment that regularly features, exhibits or displays as one (1) of the principal business purposes:

(1) Persons who appear nude or semi-nude; or
(2) Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
(3) Films, motion pictures, videocassettes, slides, or other photographic reproductions, which depict or describe "specific sexual activities" or "specified anatomical areas."

Adult Motel

A hotel, motel or similar commercial establishment that:

(1) Offers accommodations to the public for any form of consideration which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that depict or describe "specified sexual activities" or "specified anatomical areas" as one (1) of its principal purposes; or
(2) Offers a sleeping room for rent for a period of time that is less than 10 hours;
(3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 10 hours.

Adult Motion Picture Theater

A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown as one of its principal business purposes that depict or describe "specified sexual activities" or "specified anatomical areas."

Adult Theater

A theater, concert hall, auditorium, or similar commercial establishment which regularly features exhibits or displays, as one of its principal business purposes, persons who appear in a state of nudity or semi-nude, or live performances that expose or depict "specified anatomical areas" or "specified sexual activities."

Escort

A person who, for any tips or any other form of consideration, agrees or offers to act as date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

Nude Model Studio

Any place where a person who appears nude or semi-nude, or who displays "specified anatomical areas", is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money in any form of consideration. Nude Model Studio shall not include a proprietary school licensed by the State of North Carolina or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operated educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:

(1) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and
(2) Where in order to participate in a class a student must enroll at least three (3) days in advance of the class; and
(3) Where no more than one (1) nude or semi-nude model is on the premises at any one (1) time.

Nude or A State of Nudity

(1) The appearance of a human anus, male genitals or female genitals; or
(2) A state of dress, which fails to opaquely cover a human anus, male genitals or female genitals.

Semi-Nude

A state of dress in which clothing covers no more than the genitals, pubic region and areola of the female breasts, as well as portions of the body covered by supporting straps or devices.

Sexual Encounter Center

A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration physical contact in the form of wrestling or tumbling (including sexually oriented massaging) between persons of the opposite sex, or similar activities between male and female persons and/or between persons of the same sex when one (1) or more of the persons is in a state of nudity or semi-nude.

Sexually Oriented Devices

Any artificial or simulated specified anatomical area or other device or paraphernalia that is designed principally for specified sexual activities but shall not mean any contraceptive device.

Specified Anatomical Areas

Human genitals in a state of sexual arousal.

Specified Sexual Activities

Is and includes any of the following:

(1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; or
(2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, sodomy; or
(3) Masturbation, actual or simulated; or
(4) Excretory functions as part of or in connection with any of the activities set forth in 1. through 3. above.

Alley
A public or private way which affords only a secondary means of access to abutting property and is not intended for general traffic circulation.

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

Amendment, Text
A change to any text of the Forest City Unified Development Ordinance.

Amendment, Zoning Map (Rezoning)
A change of the zoning designation of a property or properties on the Forest City Zoning Map.

Animal Services
A public or private facility for medical or surgical treatment, grooming, breeding, selling, or boarding of animals. Unless outdoor kennels are specifically allowed, all facilities associated with animal services shall be located indoors.

Apartment building
A multi-family residential building or portion thereof which provides three (3) or more dwelling units which share means of egress and other essential facilities. (Source: NC State Building Code, Vol. 1, Section 202)

Appeal
A request by an applicant for the Board of Adjustment to review a decision or interpretation by the Administrator.

Artist, craftsman
A professional who creates a low volume of unique works of art, sculpture, pottery, furniture, jewelry, or similar items. This does not include the on-site retail sales of items. Higher volume and mass-produced items shall be considered manufacturing.

Auditorium, assembly hall
Places of gathering for sporting events, performing arts events, or similar events.

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 to include a canopy.

Bar
A commercial establishment in which the primary activity is the consumption of alcoholic beverages and the primary source of income is from the sale of alcoholic beverages.

Bedroom
A fully enclosed interior room with a closet, door, and window for egress.

Bed and Breakfast Inn
A use, that takes place within a building that prior to such an establishment was a single family dwelling, which consists of renting one (1) or more rooms on a daily basis to tourists, vacationers and business people, where provision of meals is limited to the breakfast meal, available only to guests.

Best Management Practices (BMP)
A structural or nonstructural management-based practice used singularly or in combination to reduce non-point source inputs to receiving waters in order to achieve water quality protection goals.

Billiard Parlor
Any room where one or more billiard tables or pool tables are kept, or any place where any person can play the game of billiards or pool by the payment of a fee or charge or by purchase, possession, or presentation of a ticket or token; where a charge is made, direct or indirect, for caring for clothing or other property or for any service rendered; or where any person may gain admission by the payment of dues or subscription of membership in any society, club, or organization. Notwithstanding the foregoing definition, a billiard parlor shall not include a location having no more than three (3) pool and billiard tables when an additional separate and distinct business or function is being operated at the same location by the owner of the tables at the same times that the tables are being used, and the pool and/or billiard tables are not necessary for the continued operation, profitability or existence of the business or function being conducted at the same location as the tables. Billiard parlors are subject to the requirements of Chapter 5, Article 4 of the Town of Forest City Code of Ordinances.

Block
A unit of land bounded by streets or by a combination of streets and public land, waterways, or any other barrier to the continuity of development.

Boarding House
A building or portion thereof which contains not more than five (5) rooms designed or intended to be used for residential occupancy for compensation. It may also serve meals for compensation to the boarders.

Bona Fide Farm and Agricultural Uses
In accordance with NCGS 106-581.1, For purposes of this Ordinance, the terms, “bona fide farm” "agriculture", "agricultural" and "farming" refer to all of the following:

(1) The cultivation of soil for production and harvesting of crops, including but not limited to fruits, vegetables, sod, flowers and ornamental plants.
(2) The planting and production of trees and timber.
(3) Dairying and the raising, management, care and training of livestock, including horses, bees, poultry and other animals for individual and public use, consumption and marketing.
(4) Aquaculture as defined in NCGS 106-758.

(5) The operation, management, conservation, improvement and maintenance of a farm and the structures and buildings on the farm, including building and structure repair, replacement, expansion and construction incident to the farming operation.

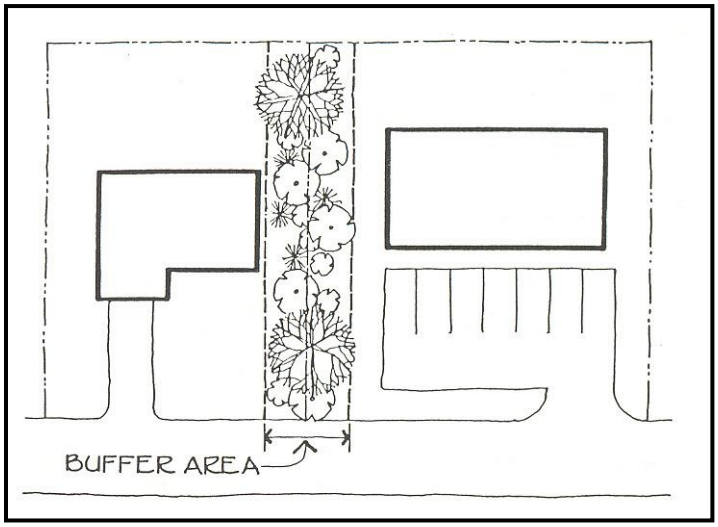
(6) When performed on the farm, "agriculture", "agricultural" and "farming" also include the marketing and selling of agricultural products, agritourism, the storage and use of materials for agricultural purposes, packing, treating, processing, sorting, storage and other activities performed to add value to crops, livestock and agricultural items produced on the farm and similar activities incident to the operation of a farm.

Uses which shall not be deemed as "agricultural uses", for the purposes of this Ordinance, include zoos, kennels, equestrian facilities, commercial slaughtering.

Buffer

A strip of land with natural or planted vegetation located between a structure and a side or rear property line intended to separate and partially obstruct the view of two (2) adjacent land uses or properties from one another. A buffer area may include any required screening for the site.

FIG. A.1: BUFFER



Buffer, Vegetative (Undisturbed 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 buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

Buildable Area

The area of a lot remaining after the minimum yard and open space requirements of this Ordinance have been met.

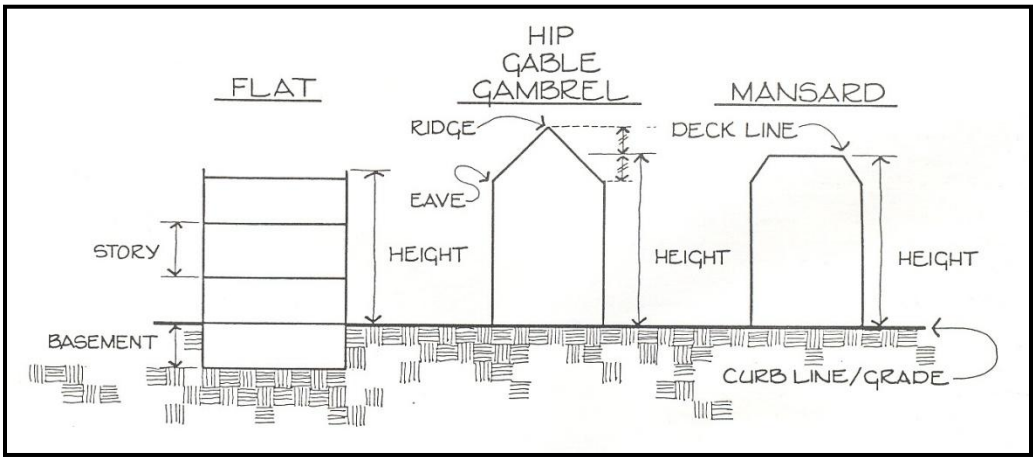
Building
A temporary or permanent structure having a roof supported by exterior walls or constructed columns and which can be used for residence, business, industry, or other public or private purposes or accessory thereto. The term "building" shall be construed as if followed by the words "or parts thereof".

Building Envelope
The three-dimensional (3-D) space within which a structure is permitted to be built on a lot and that is defined by maximum height regulations, and minimum yard setbacks or build-to lines, buffers, easements, or other applicable regulations.

Building Footprint
The land area on which a building is located or proposed for location.

Building Height
The vertical distance from the mean grade elevation taken at the fronting street side of a structure to the parapet or roofline of a flat roof, the eaves of a pitched roof, or the deck line of a mansard roof. Towers, spires, steeples and enclosed rooftop mechanical equipment are not counted in height measurements.

FIG. A.2: HEIGHT FOR DIFFERENT ROOF TYPES



Building Line
The line formed by the facades of buildings which creates a frame defining the public realm. Respecting building lines means to place walls or landscaping in such a manner as to continue the frame where there is an absence of buildings.

Building Permit
A permit obtained from the Town of Forest City Building, Zoning and Planning Department which sets the inspection schedule and construction techniques for a project subject to NC Building Code.

Build Out
The completed construction of all phases of a development as allowed by all Ordinances which regulate an area. The scale of build out can be from a single lot to the entire Town's jurisdiction.

Build-to Line
The line at which construction of a building is to occur on a lot. A build to line runs parallel to the front property line and is established to create an even building facade line on a street.

Built-upon Area
Built-upon areas shall include that portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel roads, recreation facilities (e.g., tennis courts), etc. (**Note:** Wooden slatted decks and the water area of a swimming pool are considered pervious).

Caliper
The size of tree's trunk diameter as measured six (6) inches above the ground for trees four (4) inches or less, and as measured 12 inches above the ground for trees larger than four (4) inches.

Campgrounds
Land containing two (2) or more campsites which are located, established, or maintained for occupancy by people in temporary living quarters, such as tents, recreation vehicles, or travel trailers which are used for recreation or vacation purposes. A manufactured home park shall not be deemed a campground.

Campsite
Any plot of ground within a campground intended for the exclusive occupancy by a cabin, recreation vehicle, or tent.

Canopy
A permanent structure other than an awning attached or unattached to a building for the purpose of providing shelter to patrons or automobiles, or as a decorative feature on a building wall. A canopy is not a completely enclosed structure.

Caretaker's Residence
An accessory dwelling unit to be used exclusively as living quarters for the caretaker(s) of that property or a specific use or operation taking place on the property.

Carrying Capacity
The amount of traffic which can be accommodated on a street without reducing the service level of the street as defined by the North Carolina Department of Transportation or street design standards of this Ordinance. Carrying capacity is determined by the amount of traffic per land per hour.

Cemetery
Property used for the interment of the dead, which use may include the commercial sale and location of burial lots, crypts, or vaults for use exclusively on the subject property. A cemetery shall not be used for the preparation or embalming of bodies or the cremation of bodies. Setback for cemeteries shall be measured from the nearest structure or gravesite. This definition shall be construed to include bona fide pet cemeteries.

Certificate of Occupancy (CO)
A certificate allowing the occupancy or use of a building and certifying that the structure or use has been constructed or will be used in compliance with this Ordinance and all other applicable regulations.

Change of Use
Any use of a building or land that significantly differs from the previous use. Significant change of use shall mean a change from one land use category to another in the Permitted Uses Table, a large increase in the required parking for a use, or a use that requires a Special Use Permit.

Church
See "Religious Institution".

Civic Uses
Uses intended to serve as public gathering places. Such uses include governmental offices, churches or other places of worship, schools, post offices and non-profit or charitable clubs and organizations.

Commercial Use
All retail sales establishments, office uses (i.e.: medical and financial), service industry uses (i.e.: restaurants, hotels/motels/inns), wholesale businesses and general business (i.e.: mini-storage, automotive repair).

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

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

Communications offices
Newspaper, internet, telephone and similar communications businesses with no retail sales or visible towers or transmission equipment.

Conditional Zoning District
A district created through the approval of a zoning map amendment with a site specific plan in which the uses are limited to those in the base zoning district and are subject to conditions imposed by the Town Board of Commissioners.

Condominium
The ownership of single units in a multi-unit structure with common areas and facilities, real estate portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners. (Sources: Unit Ownership Act {NCGS 47A-3} and NC Condominium Act NCGS 47C-1-103)

Construction Trailer
A structure standing on wheels towed or hauled by another vehicle and used for neither overnight nor year-round occupancy at the construction site on a temporary basis for office purposes.

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

Correctional Facility
A facility operated by Rutherford County or the State of North Carolina (or a private contractor thereof) used for the temporary incarceration of persons after arrest or pending hearing or trial or for the incarceration and or housing of persons serving sentences or incarceration or housing of persons serving criminal sentences.

Country Club
A private recreational facility open to members and their guests. Uses at a country club frequently include golf courses, swimming pools (outdoors) and club-houses. Meal service may be available, but is generally limited to members and their guests. A country club may be developed as a free-standing entity or as part of a residential community or planned residential development.

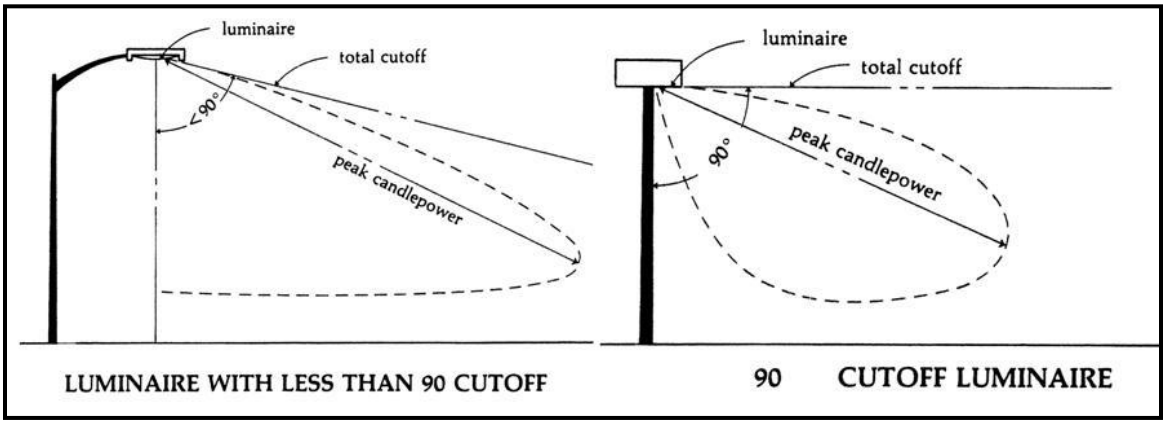
Cul-De-Sac
The turn around at the end of a dead-end street.

Cut-off**.** The point at which all rays emitted by a lamp, light source, or luminaire are completely eliminated (cut-off) at a specific angle above the ground.

Cut-off Angle**.** The angle formed by a line drawn from the direction of light rays at the light source and a line perpendicular to the ground from the light source, above which no light is emitted

Cut-off Light (Fixture)**.**
A light with elements such as shields, reflectors, or refractor panels that direct and cut off light at a cut-off angle that is less than 90^{o}.

FIG A.3: CUT-OFF LIGHT (FIXTURE)



Daycare Center
A place where daytime care is provided to more than five (5) children, handicapped persons, or senior citizens unrelated by blood or marriage to, and not the legal wards or foster children of the attendant adult within an occupied residence. Persons who are related by blood or marriage to the attendant adult shall not be counted as patrons of the daycare center.

Dedication
A gift by the owner of a portion of his property to another party without any compensation being given for the transfer. Dedication typically refers to right-of-way for streets and utilities or open space dedication for parks, playgrounds, etc. The dedication is made by written instrument on a plat and is completed with an acceptance by the other party, typically a government body.

Density
A ratio expressed as the number of dwelling units per acre (DUA). The ratio is derived by dividing the total number of dwelling units by the total land area (in acres) used or proposed to be used for purposes such as buildings, roads, public facilities and open spaces.

Development
Any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.

Development, Existing
Those projects that are built or those projects that at a minimum have established a vested right under NCGS 160D-108 as of the effective date of this Ordinance based on at least one (1) of the following criteria:

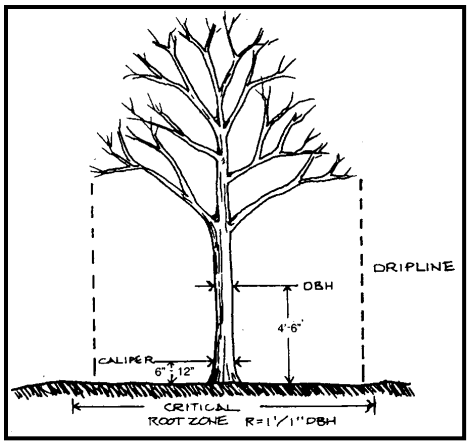
(1) substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project, or
(2) having an outstanding valid building permit as authorized by the General Statutes, or
(3) having an approved site specific or phased development plan

Distribution Use
A use in which products or goods are brought in or manufactured on-site and are trucked off-site.

Disturbed Ground
Any area of ground on a site which during construction is dug up, filled, graded, built on or used for storage or parking.

Drip Line
An imaginary vertical line extending from the outer most portion of the tree canopy to the ground.

FIG A.4: DRIPLINE



Drive-through use
A facility designed to enable a person to transact business while remaining in a motor vehicle. This includes drive-in facilities in which vehicles pull into a designated parking spot to transact business.

Dwelling
Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

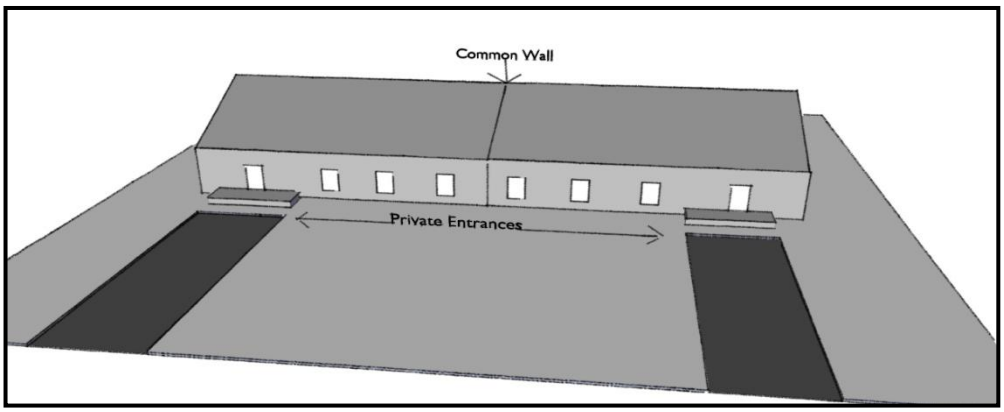
Dwelling Unit
A single unit providing complete, independent living facilities for one (1) or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Dwelling, Multi-family
The development of three (3) or more attached dwelling units. This includes townhomes, apartments, quadraplexes, triplexes and more than one (1) duplex (two-family dwelling).

Dwelling, Single-family (detached)
A separately owned residence for use by one (1) family as a housekeeping unit with space for eating, living, cooking and sanitation (Source: NCGS 87-15.5) where the dwelling unit is on a separate lot of record, no lot contains more than one (1) dwelling unit, no dwelling unit shares a wall with another dwelling unit, and each dwelling unit is surrounded on all sides by yard.

Dwelling, Two-Family Attached (Duplex)
A building, or portion thereof, arranged or designed to be occupied by two (2) families, the structure having only two (2) dwelling units located on the same lot of record and sharing a common wall.

FIG A.5: TWO-FAMILY DWELLING (DUPLEX)



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

Easement, access
A recorded right-of-way, made of crushed gravel or pavement, which is graded and cleared of brush so as to permit access by all vehicles.

Electronic Gaming Operation. Any business establishment which is engaged in providing electronic games of chance, skilled games, fish games, sweepstakes, or similar activity, whether as a principal or an accessory use, 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, by predetermined odds, or skill. The term also 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 or indoor recreational facilities that utilize vintage arcade and pinball machine for amusement.

Emergency Services
Police department, fire department, rescue squad, emergency medical technicians, ambulatory services, or similar services that respond in the event of an emergency.

Encroachment
The part of a structure which intrudes into an easement, dedicated right-of-way, or required setback.

Equestrian Facilities
Businesses that specialize in the boarding of horses, horse riding, riding lessons, equestrian competition, or similar equestrian uses.

Extraterritorial Jurisdiction (ETJ)
An area outside a municipality, extending up to one (1) mile from the municipal boundary, where, when established, the Town exercises planning, zoning and development regulations, subject to NCGS 160D-202.

Façade
The vertical surface of a building which is set along a Building Line. The elevation of a facade is the vertical surface area. Facades are subject to visual definition by building height, setback lines, recess lines (a line prescribed for the full width of the facade above which the facade sets back. The location of a recess line is determined by the desired height to width ratio of the enfronting space or by a desired compatibility with existing buildings), and transition lines (a line prescribed for the full width of the facade expressed by a variation of material or by a limited projection such as a cornice or balcony).

Family
Any number of persons related by blood, adoption or marriage or no more than four (4) persons not related by blood, adoption or marriage, living together as a single housekeeping unit sharing the same domestic facilities. It does not include congregate residential care facilities; family care and group care facilities; foster homes for children; homes for the aged and infirmed; family-care homes for the aged and infirmed; day care facilities; day care centers; and family day care homes; shelter homes for children and/or families including foster shelter homes and group shelter homes; adult day care centers; day nurseries; preschool centers; hospitals; nursing homes; sanitariums; and dormitories, fraternal organizations, or other organized social or institutional residential situations.

Family Care Home for the Handicapped
A home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six (6) resident handicapped persons, as defined by NCGS 168-21(2). This does not include adult care homes, group homes, residential care homes, child or adolescent care homes and health care homes that do not care for handicapped persons.

Family Members, Direct
Direct lineal descendents (children, grandchildren and great grandchildren) and direct lineal ascendants (father, mother, grandfather and grandmother); and brothers, sisters, nieces and nephews.

Farmers' Market
An outdoor market open to vendors at which locally grown fruits and vegetables are sold on a retail basis.

Flag
A piece of durable fabric of distinctive design attached to a permanent pole that is used as a symbol, decorative feature, or advertisement.

Flat Roof

The silhouette formed by a roof line that is typically less than 2:1 slope. This is separate from the roof line which can be stepped or flat in appearance through architectural elements such a cornices, mansards and parapets; or pitched as with residential homes.

Flood Damage Prevention Definitions

Accessory Structure (Appurtenant Structure) means a structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

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

Appeal means a request for a review of the Floodplain Administrator's interpretation of any provision of the FDP-O.

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

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

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

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

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

Building see Structure.

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

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

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

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

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

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

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

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

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

Flood Insurance means the insurance coverage provided under the National Flood Insurance Program.

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

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

Flood Prone Area see Floodplain

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

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

Floodplain Administrator is the individual appointed to administer and enforce the floodplain management regulations.

Floodplain Development Permit means any type of permit that is required in conformance with the provisions of the FDP-O, prior to the commencement of any development activity.

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

Floodplain Management Regulations means the FDP-O and other zoning overlays, development regulations, building codes, health regulations, special purpose overlays and other applications of police power. This term describes Federal, State or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

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

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

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

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

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

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

Historic Structure means any structure that is:

- listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
- certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- individually listed on a local inventory of historic landmarks in communities with a Certified Local Government (CLG) Program; or
- certified as contributing to the historical significance of a historic district designated by a community with a Certified Local Government (CLG) Program. Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

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

Lowest Floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of the FDP-O.

Manufactured Home means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term manufactured home does not include a recreational vehicle.

Manufactured Home Park or Development means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

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

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

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

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

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

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

Principally Above Ground means that at least 51 percent of the actual cash value of the structure is above ground.

Recreational Vehicle (RV) means a vehicle, which is:

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

Reference Level is the top of the lowest floor for structures within Special Flood Hazard Areas designated as Zone A1-A30, AE, A, A99 or AO.

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

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

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

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

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

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

Special Flood Hazard Area (SFHA) means the land in the floodplain subject to a one percent (1 %) or greater chance of being flooded in any given year.

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

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

Substantial Damage means damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of substantial improvement. Substantial damage also means flood-related damage sustained by a structure on two (2) separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred

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

- any correction of existing violations of State or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and

which are the minimum necessary to assure safe living conditions; or

- any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

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

Variance is a grant of relief from the requirements of the FDP-O.

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

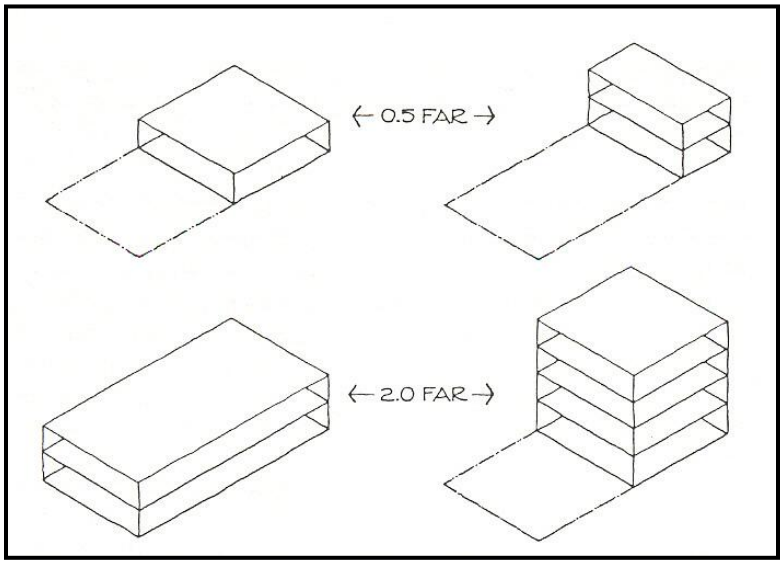
Water Surface Elevation (WSE) means the height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

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

Floor Area Ratio

The gross floor area of all buildings and structures on a lot divided by the lot area. When computing this figure, the gross floor area of all enclosed parking deck buildings shall be excluded.

FIG A.6: FLOOR AREA RATIO



Footcandle
A unit measuring the luminance from a light source. Originally the footcandle was the luminance at one (1) foot from a standard candle. It was then defined as the luminance produced by one (1) lumen of luminous flux evenly distributed over a square foot. Though not an SI unit, footcandles are widely used to set lighting levels.

Frontage
The lot boundary along a public street.

Gated Community
A residential development that is entirely surrounded by a wall or fence with restricted access at entrance gates.

Golf Course
A tract of land for playing golf, improved with tees, fairways, hazards and which may include clubhouses and shelters.

Government Buildings
A structure or group of structures intended to carry out the necessary day-to-day functions of federal, state, county, or local government including government offices and public works facilities. This shall not include emergency services, animal control with outdoor kennels, park-related structures, colleges and universities, schools, utility facilities, correctional institutions, landfills or related structures, or hazardous material storage as these uses are defined separately herein.

Grade of Street
The height of the top of the curb, or if no curb exists, the height of the edge of pavement in the lane of travel adjacent to the side of the street at which grade is being measured.

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

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

Group Home
See *Residential Care Home.*

Handicapped
A person with a temporary or permanent physical, emotional, or mental disability including but not limited to mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances and orthopedic impairments but not including mentally ill persons who are dangerous to others as defined in G.S. 122C-3(11)b.

Hazardous Material
Any substance listed as such in: SARA Section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 of CWA (oil and hazardous substances).

Home Occupation, Child Care
A type of home occupation in which the occupant of a home cares for not more than five (5) children in addition to his or her own children during daytime hours. Persons who are related by blood or marriage to the attendant adult shall not be counted as patrons of the daycare.

Home Occupation, Customary
Any use conducted for gain entirely within the dwelling and carried on by the occupants thereof, which use is clearly incidental and subordinate to the residential use and which does not change the character thereof and in connection with which there is no display. When observed from beyond the lot on which it is located, the home occupation does not give visual, audible, sensory, or physical evidence that the property is used for any nonresidential purpose.

Home Occupation, Rural
A use conducted for gain within an accessory structure on a residential lot in the R-1 district that may include office and service uses inside a fully enclosed building.

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

Hotel/Motel
A facility offering transient lodging accommodations to the general public and which may provide additional services such as restaurants, meeting rooms and recreation facilities.

Impervious Surface
Any material which reduces and prevents absorption of storm water into previously undeveloped land. This includes but is not limited to, buildings, roads, pavement, gravel surfaces, etc. Items not considered to be impervious include the water area of a swimming pool and wooden slatted decks.

Impervious Surface Ratio
The gross area of all impervious surfaces on a lot divided by the lot area.

Industrial Development
Any non-residential development that requires an NPDES permit for an industrial discharge and/or requires the use or storage of any hazardous material for the purpose of manufacturing, assembling, finishing, cleaning or developing any product or commodity.

Infill
The development of new buildings on vacant sites in a primarily built-up area.

Institutional Use
A use of a semi-public nature that typically serve community needs including but not limited to daycares, colleges, private schools, hospitals, research facilities, museums, residential care facilities and other long-term medical care facilities.

Instructional School
A private business that instructs students on skills that may include but are not limited to dance, gymnastics, martial arts, art and music.

Junkyard
Any land or land and structure in combination in which structures are incidental to the operation of the principal activity, used for the storage, baling, packing, sorting, handling, disassembling, purchase or sale of any materials which are used, salvaged, scrapped or reclaimed, but are capable of being reused in some form, including but not limited to metals, bones, rags, fibers, paper, cloth, rubber, rope, bottles machinery, tools, appliances, fixtures, utensils, lumber, boxes, crates, pipe, pipe fittings, tires, motor vehicles and motor vehicle parts.

Kennel
An establishment wherein any person engages in business or practice, for fee, of boarding, breeding, grooming, letting for hire, or training of more than three (3) domesticated animals at any one (1) time; or an establishment wherein any person engages in the business or practice, for a fee, of selling more than one (1) litter of domesticated animals at any one (1) time or the selling of any three (3) individual domesticated animals (not defined as litter herein) at any one (1) time. Domesticated animals, for the purpose of this Ordinance, shall be defined as dogs, cats and other generally acceptable household pets. Litter, for the purpose of this Ordinance, shall be defined as the progeny resulting from the breeding of two (2) domesticated animals. The following shall not constitute the operation of a kennel as defined above and in no way shall this provision regulate the following:

- The ownership of domesticated animals as household pets.
- The ownership of domesticated animals for hunting or tracking purposes;
- The ownership of domesticated animals for the purpose of exhibiting at shows, obedience or field trials; and
- The ownership of domesticated animals for the purpose of protecting or guarding of residences or commercial establishments.

Kennel, outdoor
A commercial enterprise that involves the containment or boarding of animals outside a permanently constructed building for an extended period of time. This does not include fenced areas for brief animal exercise.

Landowner

Any owner of a legal or equitable interest in real property, including the heirs, devise, successors, assigns and personal representative of such owner. The owner may allow a person holding a valid option to purchase, to act as his agent or representative for purposes of submitting proposed site specific development plan in the manner allowed by this Ordinance.

Loading Space, Off-Street

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

Lot

A parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or a recorded map and which is recognized as a separate legal entity for purposes of transfer of title.

Lot Area

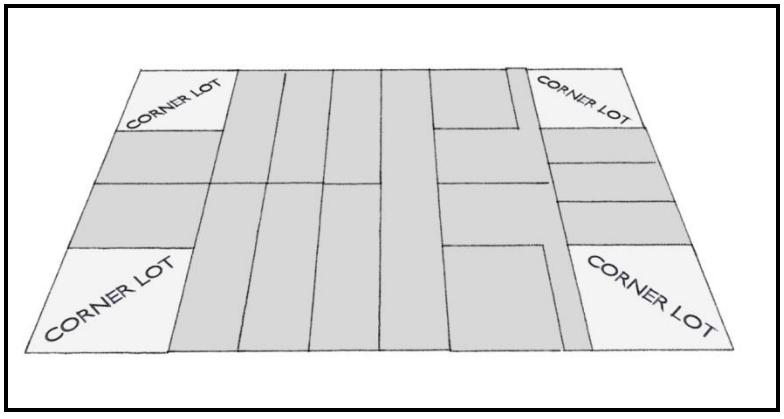
The total area circumscribed by the boundaries of a lot, except that when the legal instrument creating a lot shows the boundary of the lot extending into a public street right-of-way, then the lot boundary for purposes of computing the lot area shall be the street right-of-way line, or if the right-of-way line cannot be determined, a line running parallel to and 30 feet from the center of the traveled portion of the street.

Lot Types

Corner Lot

A lot located at the intersection of two (2) or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lines to the lot meet at an interior angle of less than 135°.

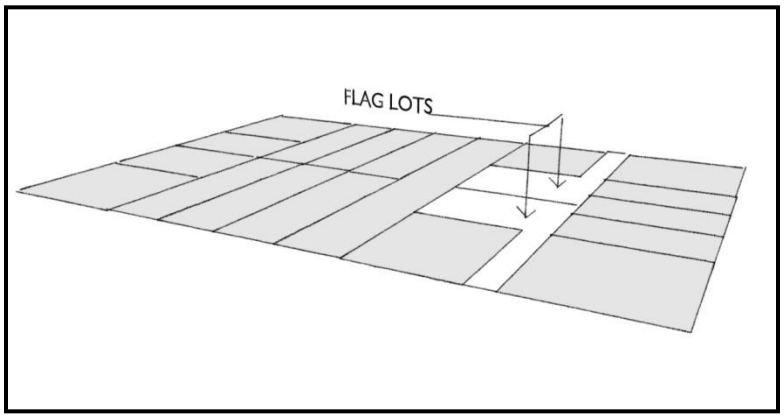
FIG. A.7: CORNER LOT



Double Frontage Lot
See *Through Lot.*

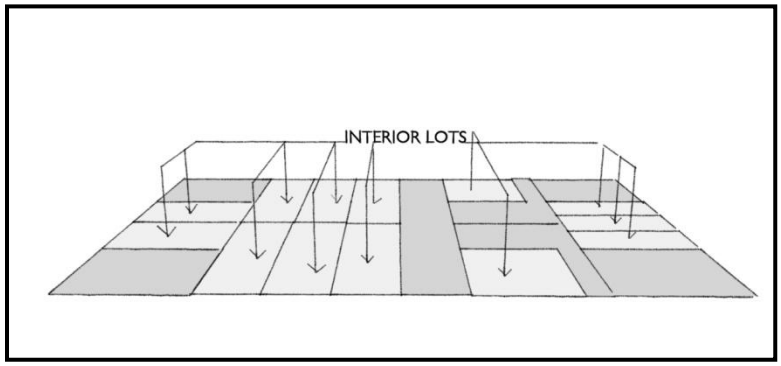
Flag Lot
An irregularly shaped lot where the building portion of the lot is connected to its street frontage by an arm or pole of the lot. The pole portion does not meet the minimum lot width of the district, but the building portion of the lot does.

FIG. A.8: FLAG LOT



Interior Lot
A lot other than a corner lot with frontage on only one (1) street.

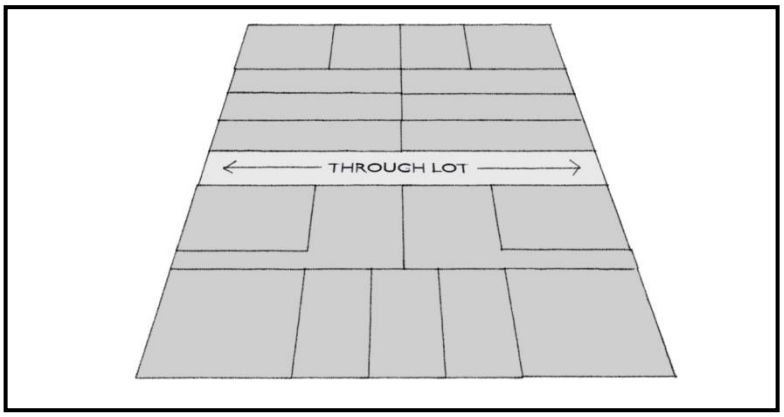
FIG. A.9: INTERIOR LOT



Through Lot

A lot other than a corner lot with frontage on more than one (1) street. Through lots abutting two (2) streets may be referred to as double frontage or reverse frontage lots.

FIG. A.10: THROUGH LOT



Reverse Frontage Lot

A lot on which the frontage is at right angles or approximate right angles (interior angles less than 135 degrees) to the general pattern in the area). A reverse frontage lot may also be a corner lot, an interior lot or a through lot.

Single-tier Lot

A lot that backs upon a limited access highway, a railroad, a physical barrier, or another type of land use, and to which access from the rear is usually prohibited.

Lot Depth

The average horizontal distance between the front and rear lot lines.

Lot, Irregularly Shaped

Lots located at corners or intersections, which create shapes with three (3) sides or with more than four (4) sides and contain corner angles greater or less than 90 degrees. The front yard of such lots shall be determined with respect to adjacent homes and the maintenance of street vistas.

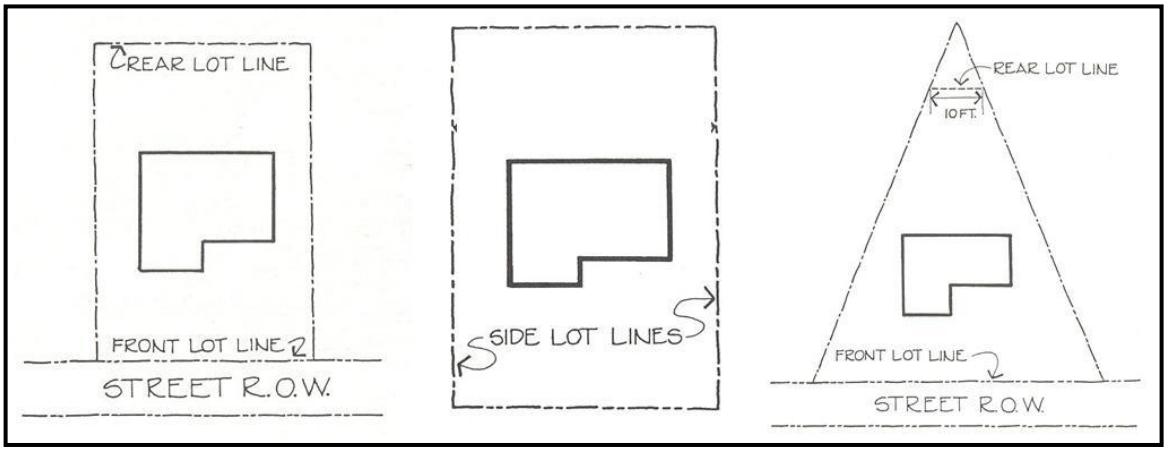
***Lot Line*.** A line bounding a lot that divides one lot from another or from a street or any other public or private space.

***Lot Line, Front*.** In the case of an interior lot, the lot line separating said lot from the street; in the case of a corner lot or through lot, the lot line separating said lot from the street that is designated as the front street in the request for a permit.

***Lot Line, Rear*.** A lot line which is opposite and most distant from the front lot line, and in the case of an irregular or triangular-shaped lot, a line 10 feet in length within the lot parallel to and at the maximum distance from the front lot line.

***Lot Line, Side*.** Any lot line that is not a front lot line or rear lot line; a lot line separating a lot from a side street is an exterior lot line, while a lot line separating a lot from another lot, or lots, is an interior lot line.

FIG A.11: LOT LINES



Lot of Record
Any lot for which a plat has been recorded in the Register of Deeds Office of Rutherford County, or described by metes and bounds, the description of which has been so recorded.

Lot, substandard
A parcel of land held in separate ownership, occupied or intended to be occupied by a principal building or structure together with accessory buildings, and uses, having insufficient size to meet the lot width, lot area, yard, off-street parking areas, or other open space provisions of this Ordinance.

Lot Width
The distance from side lot line to side lot line measured at the required minimum front yard setback parallel to the front property line. For flag lots, the front setback shall be set at the location where the minimum lot width is first met.

Manufactured Home
A dwelling unit that (i) is not constructed in accordance with the standards set forth in the North Carolina State Building Code, and (ii) meets or exceeds the construction standards promulgated by the US Department of Housing and Urban Development that were in effect at the time of construction.

Manufactured Home Park
Any premises where two (2) or more manufactured homes are parked for living and sleeping purposes, or any premises used or set apart for the purpose of supplying to the public parking space for two (2) or more manufactured homes for living and sleeping purposes, and which include any buildings, structures, vehicles or enclosures used or intended for use as part of such manufactured home park.

Manufactured Home Space

Any premises within a manufactured home park used or intended to be used or occupied by one (1) manufactured home, together with automobile parking space, utility structures, and other required facilities incidental thereto.

Manufacturing, processing, and assembly

The assembly, fabrication, production or processing of goods and materials. This shall not include uses designated as small-scale manufacturing, resource extraction and recycling and salvage operations.

Manufacturing, Small Scale

The assembly, packaging, processing, production or fabrication of goods in a manner that does not create a noticeable amount of noise, dust, odor, smoke, glare or vibration outside of the property on which the activity takes place. Small scale manufacturing occurs entirely in an enclosed building, generally does not require outdoor storage of good or materials, and does not generate high amounts of truck traffic.

Massing

The shape and form buildings assume through architectural design. There are 10 architectural design elements which create urban space. A specific project may not need to incorporate all 10 elements.

(1) Building Silhouette - similar pitch and scale to a roof line.
(2) Spacing between building facades - setbacks or notches between primary facades which frame the structure.
(3) Setback from property line - building setback and/or primary facade setback from property line.
(4) Proportion of windows, bays, and doorways - vertical or horizontal elements tied together in bands across facade lengths.
(5) Proportion of primary facade - size of facades similar in area and height to width ratios.
(6) Location and treatment of entryways - important visual commonality between structures.
(7) Exterior materials used - similar materials and treatment add to detail and monumentality of a building.
(8) Building Scale - similarity of building height and configuration.
(9) Landscaping - ties together buildings and defines space.
(10) Shadow patterns form decorative features - the light and dark surfaces from materials used and projections from window bays and setbacks create visual breaks.

Microbrewery/Microdistillery/Microwinery

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. Associated tasting rooms, brewpubs, or restaurants for the consumption of on-site produced beer, wine, or distilled products are permitted on the premises. In general, a microbrewery produces less than 15,000 barrels of beer annually according to the American Brewers Association, and a microdistllery produces less than 50,000 proof gallons of spirits per year according to the American Distilling Institute. Microwineries primarily source fruit from local farms but do not farm fruit on site.

Mini-Warehouse

A structure containing separate storage spaces of varying sizes leased or rented on an individual basis

that does not include outdoor storage.

Mixed-use Building
A minimum of a two (2) story building in which the ground floor contains a commercial enterprise and at least one (1) of the floors above contains residential units.

Manufactured home
See *Manufactured Home.*

Mobile Food/Beverage Vendor
Mobile Food/Beverage Vendors ("Food Trucks") are defined as a mobile food service establishment that prepares and serves food and/or beverages for sale to the general public from a truck, or vehicle-mounted or vehicle-towed piece of equipment designed to be readily moved.

Modular Home
A dwelling unit constructed in accordance with the standards set forth in the North Carolina State Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a modular home may consist of two or more sections transported to the site in a manner similar to a manufactured home (except that the modular home meets the North Carolina State Building Code), or a series of panels or room sections transported on a truck and erected or joined together on the site.

Modular Home, Off-frame
A dwelling unit which is constructed in compliance with the North Carolina Building Code and is brought to the site and set in place on a permanent foundation by a crane. A steel frame is not used for the support of the structure.

Modular Home, On-frame
A dwelling unit which is constructed in compliance with North Carolina Building Code on a steel frame and is brought to the site on steel frames and the axles are removed. The steel frame is used to support the structure on top of a permanent foundation.

Motor Vehicle Services
Any building, premises, and land, in which or upon the primary use of land is a business which involves the maintenance, servicing or sale of new or used automobiles or similar vehicles including any vehicle leasing, rental, parking service, preparation or repair work conducted. This definition includes but is not limited to auto body shops, auto service stations, car washes, gas stations, and oil/lube servicing. This does not include the sale of parts or related products (i.e. auto parts store).

Mural
A mural is a hand-painted visual image on the exterior wall of a building that is a one-of-a-kind piece of original artwork, and that does not contain text, lettering, or trademarked symbols. A mural shall not be considered a sign for the purposes of this Ordinance.

Nightclub

An establishment that is either public or private in which people gather for dancing and/or listening to taped or live music and there is the sale and consumption of alcoholic beverages on premises.

Nonconforming Lot
Any lot of record which does not meet the minimum yard or area requirements established in these regulations at the time of this Ordinance's adoption or any amendment thereto.

Nonconforming Sign
A sign that, on the effective date of this Ordinance or the date of any subsequent amendment thereto, does not conform to one (1) or more of the regulations set forth in this Ordinance.

Nonconforming Structure
Any structure lawfully existing on the effective date of these regulations, or any amendment to it rendering such structure nonconforming, which does not comply with all of the standards and regulations of these regulations or any amendment thereto.

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

Nonprofit Organization
An organization that does not distribute its surplus funds to owners or shareholders, but instead uses them to help pursue its goals.

Nursery
A commercial enterprise conducted on land where flowers, shrubs and similar horticultural products are raised and sold to general public. Nurseries may include the use of greenhouses for growing purposes.

Office Use
Professional occupations within a building or buildings which do not generally involve the on-site sale of goods to customers.

Open Space
Any area which does not consist of buildings, streets, right of ways, parking, or easements, and serves as a passive or active recreational area, as conservation land for important vistas and topographic features, or as pervious area for watershed requirements. This area provides, or has the potential to provide, environmental, social and/or economic benefits to the community whether direct or indirect. Open space is categorized by type and includes playgrounds, plazas, squares, parks, greens, greenways, greenbelts, and nature preserves.

Outdoor Storage

The storage of goods, products, or vehicles as an ancillary use by their owner or on a commercial basis outside of a permanently constructed building.

Outparcel
A parcel of land associated with and located within a shopping center or multi-tenant non-residential development, which is designated on an approved site plan as a location for a structure with an intended use.

Overlay District
A set of regulations which add an additional layer of design provisions to an underlying regulating district.

Package Treatment Plant
A small self-contained sewage treatment facility built to serve developed areas which lie beyond the service area of sanitary sewers.

Parapet
That portion of a building wall that extends above the roof line.

Park
Areas developed either for passive or active recreational activities. Parks may include, but shall not be limited to walkways, benches, open fields, multi-use courts, playgrounds, swimming and wading pools, amphitheaters, etc. The term park shall not include zoos, travel trailer parks, amusement parks, or vehicle, equestrian or dog racing facilities.

Parking Bay
A parking module consisting of one (1) or more sets of one (1) or two (2) rows of parking spaces and the aisle from which motor vehicles enter and leave.

Parking Space, Off-Street
An area located outside of any street right-of-way which is designed to accommodate the parking of vehicles which meets all area requirements contained in Chapter 8 of this Ordinance.

Pedestrian-Oriented Development
Development 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 or choice of not having to use a car to accomplish certain trips, and will provide a variety of interesting and detailed streetscapes which balance the need of the pedestrian and car equally.

Perennial Stream
A watercourse shown on a USGS map as a solid blue line that flows in a well-defined channel a majority of the year.

Personal Service Uses
Services provided by licensed professional stylists, aestheticians, and therapists including but not limited to hair care, nail care, waxing, massage therapy, and similar spa services.

Photometric
Data regarding the luminous intensity of light sources on a particular site.

Pitch, Roof
The slope of a roof expressed as rise over run. (i.e. for a roof that rises four (4) inches vertically for every 12 inches it runs horizontally the pitch is 4:12)

Plan, Existing Features
A plan submitted with the Sketch Plan that shows the existing features of a site including but not limited to topography, watercourses, stands of trees, significant trees, rock outcroppings, and environmentally sensitive areas.

Plan, Improvement
A plan that shows how a developer will install, bond, or guarantee improvements for a development (i.e. roads, turn lanes, water, sewer, etc.).

Plan, Phased Master
A plan which has been submitted to the Administrator by a landowner for phased development which shows the type and intensity of use for a specific parcel or parcels with a lesser degree of certainty than the plan determined by the Administrator to be a site specific development plan.

Plan, Site-Specific
A plan which has been submitted to the Administrator by a landowner describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property.

Plan, Sketch
An informal plan, indicating major features of a tract, its surroundings and the general layout of a proposed development.

Plat, Final
A map of all or a portion of a development that is the legal instrument for recordation. Final plats shall be consistent with the approved Preliminary Plat and be reviewed and recorded following the installation or guarantee of improvements.

Plat, Preliminary
A development plan indicating the proposed layout of a development and engineering documents prior to the installation of improvements.

Planned Development
An area planned as a single entity containing one (1) or more residential, commercial, and mixed-use clusters located on tracts or lots.

Premises
A parcel of real property with a separate and distinct number or designation shown on a recorded plat, record of survey, parcel map or development map. When a lot is used together with one (1) or more

contiguous lots for a single use or planned development, all of the lots so used, including any lots used for off-street parking, shall be considered a single premises for purposes of these regulations.

Principal Structure
A building in which is conducted the principal use on the lot on which said building is situated. In any residential zoning district, any structure containing a dwelling unit shall be deemed to be the principal building on the lot where it is located.

Principal Use
The primary or predominant use of any lot.

Private Club
A for-profit establishment as defined by NCGS 18B-1000(5) which holds an ABC permit from the State of North Carolina.

Produce Stand
The sale of any form of agricultural or horticultural products at a retail stand located on the same site where the products are grown. Off-site produce stands shall be considered temporary uses and shall meet the requirements of such.

Quasi-judicial
The process by which the Board of Adjustment reviews requests for Special Use Permits, Variances, Appeals and other matters requiring evidentiary hearings as set forth in this Ordinance. Sworn testimony is given during the public hearing and an evidentiary record is kept and voted upon based on specified findings of fact.

Recreation Facility, Associated with a residential development
Facilities not open to the general public including swimming pools, ball courts, playgrounds, clubhouses, parks, picnic areas, and similar uses associated with a residential development for the use of the residents of the development and their guests.

Recreation Facility, Fitness
Commercial establishments engaged in providing indoor recreation services related to fitness including but not limited to exercise clubs, ball courts, swimming pools, YMCA, or similar uses which are operated on a fee or membership basis primarily for persons that do not reside on the same lot with the recreational use. Fitness facilities 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.

Recreation Facility, Indoor
Commercial establishments engaged in providing indoor recreation services such as bowling, skating, vintage arcades, trampoline parks, and similar facilities.

Recreation Facility, Outdoor

Commercial establishments engaged in providing outdoor recreation services including golf driving ranges, miniature golf, skateboard parks, water slides, batting cages & similar uses.

Recreation Facility, Public
An area or facility designed to meet the demand for active recreation, including ball fields, parks, playgrounds, golf courses, tennis courts, swimming pools, tot lots, recreation centers, and similar uses, available to the public and under the management or control of a public agency.

Recreation Vehicle
A vehicular-type unit without a permanent foundation, which can be towed, hauled or driven and primarily designed as temporary living accommodation for recreational, camping and travel use and including but not limited to travel trailers, truck campers, camping trailers and self-propelled motor homes. A recreation vehicle shall not be considered as being a single-family dwelling.

Religious Institution
A building or structure, or group of buildings or structures, which by design and construction are primarily intended for conducting organized religious services whose site may include an accessory area for the interment of the dead. Daycare centers (which have enrollment capacities in excess of 25 enrollees) and/or schools operated by the church on the facilities of the church shall be considered separate principal uses.

Repair Services (indoor)
The repair of any item that takes place entirely within an enclosed structure with no outdoor storage.

***Residential Care Facility*.** An institutional facility maintained for the purpose of providing skilled rehabilitative, nursing care, medical care, or other supervisory care at a lower level than that available in a hospital.

Residential Development
Buildings for residence such as detached single-family dwellings, two-family dwellings (duplexes), multi-family dwellings (apartments, condominiums, townhouses) their associated accessory structures, and home occupations.

Restaurant
A commercial establishment where food and drink are prepared, served, and consumed primarily within the principal building.

Retail Uses
Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

Rezoning
See *Amendment, Zoning Map.*

Roof Line
The highest point of a flat roof and mansard roof and the lowest point of a pitched roof, excluding any

cupolas, chimneys or other minor projections.

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

Service Uses
Uses that include the provision of work that does not typically result in ownership of physical goods and that create benefits by facilitating a change in customers, a change in their physical possessions, or a change in their intangible assets. (i.e. beauty shops, dry cleaning, appliance repair, check cashing, etc.) This does not include motor vehicle services.

Setback
A distance measured inward from a property line which shall remain unoccupied by structures and parking areas except as permitted by this Ordinance.

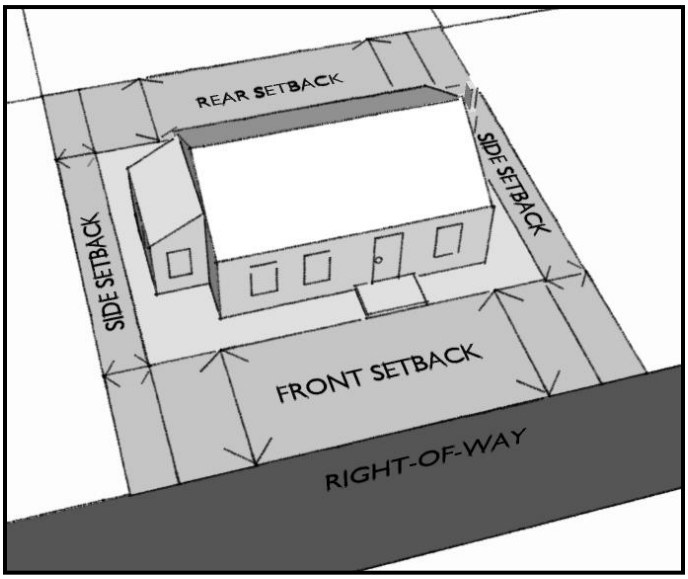
Setback, Front
The required distance from the fronting or primary street right-of-way to a structure or parking area. Driveways may be located in this area unless otherwise specified by this Ordinance.

Setback, Rear
The required distance from the rear property line to a structure or parking area. Driveways may be located in this area unless otherwise specified by this Ordinance.

Setback, Side
The required distance from the side property line to a structure or parking area. Driveways may be located in this area unless otherwise specified by this Ordinance.

Setback, Side Corner
The required distance from the non-fronting or non-primary street right of way to a structure or parking area. Driveways may be located in this area unless otherwise specified by this Ordinance.

A.12: SETBACKS



Setback, Sign
The required distance from the property line or right-of-way to the nearest point of the sign or its supporting member.

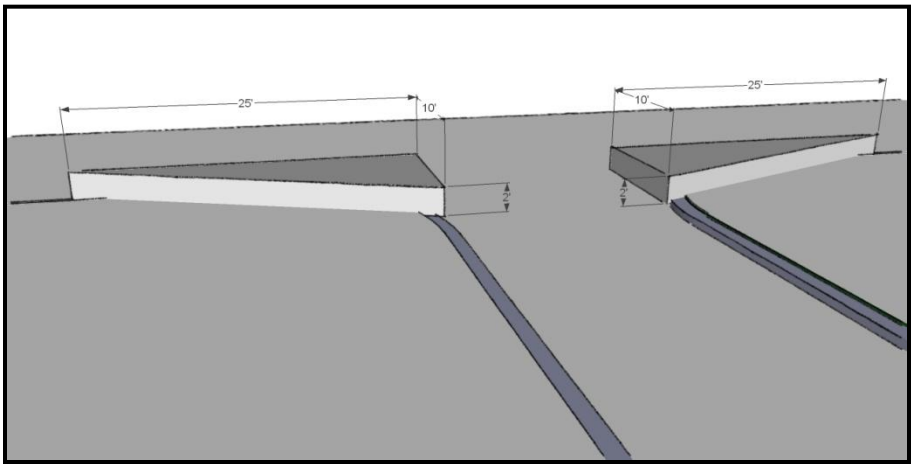
Sewer, Public
An approved sewage disposal system serving 10 or more connections, including municipal and sanitary district sewerage systems as well as "package" plants constructed in a location and to specifications approved by the County Sanitarian in consultation with the with the NC Division of Health Services.

Shopfront
A business or retail use. The facade of a shopfront is aligned directly on the building line with the entrance at grade. This is typical for sidewalk retail. Shopfronts often have awnings or a colonnade.

Shopping Center
A group of three (3) or more retail establishments comprising more than 15,000 square feet of gross floor area that is constructed and developed in one (1) or more phases with customer and employee parking and merchandise and other loading facilities provided on-site. A shopping center may be located and developed on one (1) or more lots and may include one (1) or more principal buildings.

Sight Triangle
The triangular area formed by a diagonal line connecting two (2) points located on intersecting property lines (or a property line and the curb or a driveway) within which no planting, structure, sign, fence, wall, or obstruction shall be placed or maintained.

FIG. A-13: SIGHT TRIANGLE



Sign (see Chapter 6 for sign type pictures and illustrations)
Any object, device, fixture, display or structure, or part thereof, situated outdoors, 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. This definition shall not include murals for the purposes of this Ordinance.

Sign Area
The entire face of a sign including the advertising surface and any framing, trim, or molding, but not including the supporting structure. In computing area, only one (1) side of a double-faced sign shall be considered.

Signs, Canopy and Awning
Signs attached to or painted or printed onto a canopy or awning. For the purposes of the Ordinance, the permitted size of a canopy or awning sign will be calculated on the basis of the size of the building wall to which the canopy is attached. It will, for measuring purposes, be considered a wall sign.

Signs, Flashing
Signs that use an intermittent or flashing light source or windblown and/or mechanical moved reflective material to attract attention.

Signs, Freestanding
Signs that are not affixed to a building and is securely and permanently mounted in the ground.

Signs, Government
Signs posted or authorized by various local, state, and federal agencies in the performance of their duties including providing community information and facilitating economic development. Such signs include regulatory signs, traffic signs, welcome signs, bulletin boards, and wayfinding signs.

Signs, Historic
A sign within the C-1 zoning district and National Register Historic District originally established prior to January 1, 1967.

Signs, Illuminated
Signs lit from either internal or external light sources.

Signs, Incidental
Signs used in conjunction with equipment or other functional elements for a use or operation that cannot be read from the street right-of-way which inform or instruct customers or visitors on-site (i.e. drive-through menu boards, gas pump signs, bulletin boards, signs within sports stadiums).

Signs, Legal and Warning
Signs erected to warn of danger or hazardous conditions such as signs erected by public utility companies or construction companies; signs required for or specifically authorized for a public purpose by any law, statute or ordinance.

Signs, Monument
Free-standing permanent ground signs in which the bottom of the signs are no than three (3) feet from the ground.

Signs, Off-Premises
Signs that draw attention to or communicate information about entities at locations other than the premises where the signs are located. This includes billboards.

Signs, On-Premises
Signs that draw attention to entities on the premises where the signs are located.

Sign, Pole
A detached sign erected and maintained on a free-standing frame, mast, or pole and not attached to any building but not including ground-mounted or monument signs. The bottom of such sign is more than three (3) feet from the ground.

Sign, Portable
Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels or signs that stick in the ground on metal frames.

Sign, Principal Use
A sign which constitutes the sole and/or principal use of land.

Sign, Projecting
Any sign other than a wall, awning, canopy, or marquee sign, which is affixed to a building and is supported only by the wall on which the sign is mounted and has two (2) sign faces perpendicular or close to perpendicular to the wall face.

Sign, Roof
A sign erected or maintained in whole or in part upon or over the roof or parapet of a building.

Sign, Temporary

A sign not permanently attached to the ground or to a building that is made out of plastic, vinyl, canvas, plywood or other non-permanent material.

Sign, Wall
Any sign directly attached to an exterior wall of a building or dependent upon a building for its support and is parallel to the wall face. Signs directly painted on walls shall be considered wall signs.

Signs, Window (temporary)
Signs temporarily attached or temporarily painted to a window or door, announcing sale or special features.

Site Specific Development Plan
A plan, which has been submitted to the Town by a landowner describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property.

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

Smoke Shops & Tobacco Shops
Any premise dedicated to the display, sale, distribution, delivery, offering, furnishing, or marketing of tobacco products, or paraphernalia; provided, however, that any grocery store, supermarket, convenience store or similar retail use that only sells conventional cigars, cigarettes, or tobacco as an ancillary sale shall not be defined as a Smoke Shop & Tobacco Shop.

Solar power generation (individual use)
Solar panels used for electric power generation for an individual use as a primary or supplemental power source for that use only.

Solar Farm
A collection of solar panels used for surplus electric power generation that is sold for use by off-site uses.

Stormwater Runoff
Rain which falls onto impervious surfaces and is not absorbed into the ground immediately. Stormwater runoff carries pollutants from paved surfaces into streams and rivers and causes flooding by speeding up the rate of water flow into streams and rivers.

Street, Private
Any right-of-way used for purposes of motor vehicle travel which has not been accepted for maintenance or ownership purposes by a public entity.

Street, Public
A public right-of-way set aside for public travel and either which has been accepted for maintenance

by NCDOT or the Town, has been established as a public road prior to the date of adoption of this Ordinance, or which has been dedicated to the NCDOT or the Town for public travel by the recording of a plat of a development with the County Register of Deeds Office.

(1) Highway: A traffic artery designed primarily to carry heavy volumes of through vehicular traffic.
(2) Major Street: A street designed primarily to carry heavy volumes of local vehicular traffic.
(3) Collector Street: A street designed to carry medium volumes of vehicular traffic, provide access to major street system and collect the vehicular traffic from the intersecting minor streets.
(4) Minor Street: A street, the principal purpose of which is to provide vehicular access to the properties abutting it.
(5) Cul-de-Sac: A street permanently terminated by a turn-around.
(6) Marginal Access Street: A minor (service) street which parallels and is immediately adjacent to a major street or highway; and which provides access to abutting property.

Street Orientation
The direction of the architectural front facade of a building in relation to the street.

Street Right-of-Way
An area of land occupied or intended to be occupied by a public street, for such purpose, areas claimed by a municipality or the State of North Carolina for such purposes, or actually used for such purposes.

Structure
A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water. Anything constructed or erected, the use of which requires more or less permanent location on the ground or which is attached to something having a more or less permanent location on the ground.

Subdivision
For the purpose of this Ordinance, "Subdivision" shall mean all divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations of this Section:

(1) The combination or recombination of portions of previously subdivided and recorded Lots where the total number of Lots is not increased and the resultant Lots are equal to or exceed the standards of this Ordinance;

(2) The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved;

(3) The public acquisition by purchase of strips of land for the widening or opening of streets;

(4) The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant Lots are equal to or exceed the standards of this Ordinance;

(5) The division of land into burial plots where no street right-of-way dedication is involved; and,

(6) The division of land by will. (Note: Although the division of land by will is exempt from the requirements of this Ordinance, the resultant lots may not be eligible for a Zoning Permit if the lots do not meet the dimensional standards and requirements of this Ordinance.)

Subdivision Administrator
See *Administrator*.

Subdivision, Major
Major Subdivisions are those subdivisions which involve more than five (5) lots or more than 10 acres, those Subdivisions which involve the dedication of new street segments (but not simply widening), those Subdivisions where special developments are involved as permitted by this Ordinance, and those Subdivisions that involve dedication or reservation of land for open space, school sites and other public purposes.

Subdivision, Minor
Minor Subdivisions include all other subdivisions that meet the definition of subdivision but do not meet the definition of a major subdivision.

Temporary Emergency Residence
A temporary dwelling unit used following the destruction or severe damage of a permanent dwelling unit following fire or other natural disaster while the permanent dwelling is being repaired or rebuilt.

Temporary Structures
Buildings placed on a lot for a specific purpose which are to be removed within a specified time period. Examples of temporary structures include monitoring stations, mobile classrooms or office space, construction trailers and guard houses, manufactured housing placed on a lot for temporary housing while principle home renovations are being done, and produce stands. The duration permitted for a temporary structure is established by this Ordinance.

Theater, drive-in
An establishment for the viewing of movies or performing arts primarily from parked motor vehicles.

Theater, indoor
An establishment for the viewing of movies or performing arts that is inside a fully-enclosed building.

Theater, open-air
An establishment for the viewing of movies or performing arts that is not inside a fully-enclosed building, including amphitheaters.

Townhome (Townhouse)
An individual dwelling unit constructed in a series of attached units separated by property lines that comprise a multi-family dwelling building. (Source: NC Building Code, Vol. 1, Section 201.3)

Tree, Large (canopy)
A tree, either single or multi-stemmed (i.e., in clump form) which has a height of at least eight (8) feet

and is of a species which, at maturity, can be expected to reach a height of more than 35 feet under normal growing conditions in the local climate. If the tree is single-stemmed, it shall have a caliper of at least two and a half (2-1/2) inches at the time of planting measured six (6) inches up from the highest root of the tree. Also known as a canopy tree.

Tree, Small (ornamental)
A tree, either single or multi-stemmed (i.e., in clump form) which has a height of at least eight (8) feet and is of a species which at maturity, can be expected to reach a height less than 35 feet under normal growing conditions in the local climate. If the tree is single-stemmed, it shall have a caliper at the time of planting of at least two and one-half (2-1/2) inches measured six (6) inches up from the highest root of the tree. Also known as an ornamental or understory tree.

Utility facilities
Publicly or privately owned facilities or systems for the generation or distribution of gas, electricity, or water; the collection and disposal of sewage or refuse; the transmission of communications; or similar functions necessary for the provision of public services.

Variance
Permission granted on the basis of proof of physical hardship by the Board of Adjustment following quasi-judicial proceedings to depart from or relax the literal requirements of this Ordinance relating to dimensional requirements such as setbacks, side yards, street frontage, and lot size that, if applied to a specific lot, would significantly interfere with the use of the property.

Vehicle Storage
The outdoor storage of vehicles for an automobile service use. This does not include inoperable vehicles (junk vehicles) which would constitute a junkyard.

Vested Right
The right to undertake and complete a development or use of property under the terms and conditions of an approved Site Specific Plan currently in effect or as otherwise allowed by law.

Vocational School
A center for higher education that teaches specific job skills.

Warehouse Use
A building or group of buildings for the storage of goods or wares belonging either to the owner of the facility or to one (1) or more lessees of space in the facility or both, with access to contents only through management personnel. This does not include mini-warehousing or mini-storage.

Wholesale
A place of business primarily engaged in selling merchandise to retailers, to industrial, commercial, institutional or professional business users, or to other wholesalers. The majority of all sales of such businesses shall be for resale purposes. Wholesale clubs and similar membership warehouses, where membership is easily available to the consuming public, and similar businesses shall not be deemed wholesale sales operations.

Wind Energy Facility
An electric generating facility, whose main purpose is to supply electricity, consisting of one (1) or more Wind Turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities. For the purpose of this Ordinance, the term does not apply to roof-mounted or building integrated roof mounting systems.

Wind Energy Facility (individual)
A single system designed to supplement other electricity sources as an accessory use to existing buildings or facilities, wherein the power generated is used primarily for on-site consumption. A small wind energy conversion system consists of a single wind turbine, a tower, and associated control or conversion electronics, which has a total rated capacity of 10 kW or less.

Wind farm
A wind energy conversion system consisting of more than one (1) wind turbine, tower, and associated control or conversion electronics, which has a total rated capacity of more than 10 kW.

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. A winery may include associated retail outlets, tasting rooms, and restaurants.

Wireless Telecommunication Tower
A tower supporting licensed or unlicensed wireless telecommunication facilities including cellular, digital cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), commercial or private paging services, or similar services marketed or provided to the general public. This definition does not include services by noncommercial entities in the Amateur Radio Service, Public Safety Radio Service, or licenses assigned to non-profit organizations, such as the Red Cross, Civil Air Patrol, Military Affiliated Radio Service (MARS) that are licenses by the Federal Communications Commission.

Yard
An open space located on the same lot with a building, unoccupied and unobstructed from the ground upward, except by trees, shrubbery or as otherwise provided herein. A yard is the area created by the setback.

Yard, Front
A yard extending across the full width of the lot and extending from the closest front wall of the building to the property line or established edge of a right-of-way, whichever is closer.

Yard, Rear
A yard extending across the full width of the lot and extending from the closest rear wall of the main building to the rear of the property.

Yard, Side

A yard which extends from the closest side wall of a building to the nearest side property line or the established edge of the street right-of-way, whichever is closer, if the lot is a corner lot.

Zoning Permit

A permit issued by the Town conferring the right to undertake and complete the development and use of property.