

Chapter 21: ZONING

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ARTICLE I. IN GENERAL

Sec. 21-1. Title.

This chapter shall be known and may be cited as the Zoning Ordinance of Rowan County, North Carolina and may be referred to as the "zoning ordinance" or "this chapter."

(Ord. of 1-19-98, § I)

Sec. 21-2. Purpose.

The purpose of this chapter is to establish planning and zoning requirements and procedures for zoning in the unincorporated areas of the county outside the zoning jurisdiction of municipalities. This chapter is adopted to promote the health, safety and general welfare of the public. In accomplishing this, guidelines for the development and land use are presented. These guidelines will provide for economic, social, and aesthetic advantages resulting from the orderly planned use of land resources. This chapter recognizes that much of the county has developed with smaller businesses and industries located in rural areas along with residential uses and that such businesses, developed appropriately, are not detrimental to the health, safety and general welfare of these areas. This chapter also recognizes that other residential areas in the county desire more separation of residential uses from business and industrial uses. Certain areas in the county are appropriate for concentrations of commercial, business and institutional uses and are provided. Economic development is a recognized goal of the county and provisions are made to allow timely location of industries that will advance the general welfare of the county's citizens, while insuring that residential areas are protected from adverse impacts of this type of development.

(Ord. of 1-19-98, § I)

Sec. 21-3. Authority.

This article is adopted under the authority of G.S. Ch. 153A, Art. 18, Pt. 3 (planning and regulation of development).

(Ord. of 1-19-98, § I)

Sec. 21-4. Definitions.

Unless otherwise expressly provided, or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this chapter. For

any word that is not defined in this section, the common dictionary definition applies.

A-weighted sound level means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated as dB(A).

Abandon means to cease the regular use or maintenance of a lot, building or structure.

Abandoned motor vehicle means one that is left:

- (1) On public grounds or county owned property in violation of a law or ordinance prohibiting parking; or
- (2) For longer than twenty-four (24) hours on property owned or operated by the county; or
- (3) For longer than seven (7) days on public grounds.

Accessory structure means a structure detached from the principal structure and is customarily incidental and subordinate to that structure.

Adult arcade means 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 are characterized as depicting or describing "specified sexual activities" or "specified anatomical areas", as herein defined.

Adult bookstore, adult novelty store, or adult video store means any establishment having:

1. Twenty-five (25) percent or more of its merchandise, inventory, stock-in-trade, or floor space devoted to adult product, or that derives twenty-five (25) percent or more of its gross sales from adult product, or that has twenty-five (25) percent of the dollar value of its merchandise in adult product from one or more establishments defined as an adult use including one or more of the following:
 - (a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations that are characterized by an emphasis on depiction or description of "specified sexual activities" or "specified anatomical areas"; or
 - (b) Instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities."
2. A preponderance (either in terms of the weight and importance of the material or in terms of greater volume of material) of its stock (for sale or rent) including one or more of the following:
 - (a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations that are characterized by an emphasis on depiction or description of "specified sexual activities" or "specified anatomical areas"; or
 - (b) Instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities."

Adult cabaret means a nightclub, bar, restaurant, or other commercial establishment that regularly features, exhibits or displays as one of its principal business purposes:

- (a) Persons who appear nude, semi-nude, or in lingerie; or
- (b) Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or

- (c) Persons who, for a tip, fee, wage, donation, or any other form of consideration engage in performances while wearing lingerie or in a nude or semi-nude condition, which may or may not include strip teasing, intended for the sexual interests of an audience or customer.

Adult motion picture theater means 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 means a theater, concert hall, auditorium, or similar establishment characterized by (activities featuring) the exposure of "specified anatomical areas" or by "specified sexual activities".

Adult use means an adult arcade, adult bookstore, adult cabaret, adult motion picture theater, adult theater, massage parlor, sexual encounter center, or a combination thereof as defined by these definitions. Notwithstanding any other provision of this ordinance, "adult use" shall be broadly defined to include any business that has a section devoted to adult product as defined by an adult bookstore or that holds itself out to the public, through advertising, signage, displays, or other activities, as a purveyor of adult products or services.

Agricultural use means the use of land or water for bona fide farm purposes; the use of waters for stock watering, irrigation, and other farm purposes.

Alternative tower structure means any structure in excess of forty (40) feet in height which is not primarily constructed for the purpose of holding antennas but on which one (1) or more antennas may be mounted that camouflage or conceal the presence of antennas or wireless facilities. Alternative tower structures include, but are not limited to, buildings, silos, water tanks, pole signs, lighting standards, steeples, billboards, electric transmission towers, clock towers, bell steeples, light-poles and similar alternative-design mounting structures.

Antenna means a communication device which transmits and or receives electromagnetic radio signals. Antennas may be directional, including panels and microwave dishes, and omnidirectional including satellite dishes, whips, dipoles, and parabolic types. An antenna does not include the tower or other supporting structure to which it is attached.

Apartment means an attached dwelling unit which is intended for rental purposes only.

Appeal means a request for a review by the board of adjustment of any administrator's decision regarding any provision of this article.

Applicant means any person or entity that requests any administrative action or approval as allowed under this chapter.

Approach surface means the surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of sixteen thousand (16,000) feet as provided for precision instrument runways. The approach surface extends from the primary surface along the extended runway centerline for a horizontal distance of ten thousand (10,000) feet at a slope of 50:1 with an additional forty thousand (40,000) feet at a slope of 40:1.

Archery means the art, sport, or skill of shooting with a bow and arrow.

Automobile repair facility means any building, premises, and land in which or upon which a business, service, or industry involving the maintenance, servicing, repair, or painting of vehicles is conducted or rendered.

Automobile salvage yard means any establishment selling wrecked, scrapped, ruined or

dismantled motor vehicles or motor vehicle parts; any establishment or place of business upon which six (6) or more unlicensed, used motor vehicles which cannot be operated under their own power are kept or stored for a period of fifteen (15) days or more unless otherwise specified by this chapter. Automobile salvage yard shall also mean "motor vehicle parts, used" (SIC 5015).

Balance of watershed means an area defined as the entire drainage basin upstream of an draining to a WS-II or WS-III watershed critical area where the risk of water supply pollution is greater than in surrounding areas.

Base course means that portion of the pavement structure of planned thickness placed immediately below the pavement or surface course.

Base station is a station at a specific site authorized to communicate with mobile stations, generally consisting of radio receivers, antennas, coaxial cables, power supplies, and other associated electronics.

Bed and breakfast inn means a lodging facility in which the operator resides and which is established for the purpose of providing temporary overnight accommodations for tourists, vacationers and other similar transients. The facility may have a dining room but only for the provision of food for the registered guests of the facility.

Berm means a mound of earth or the act of pushing earth into a mound.

Block means a piece of land bounded on one (1) or more sides by streets or roads.

Board of commissioners, the County Board of Commissioners, Rowan County, NC.

Body shop means found as term "automobile repair facility."

Broadcast tower is any freestanding or building mounted structure, including any base, tower or pole, antenna & appurtenances intended for transmitting radio or television signals.

Buffer means an area of natural or planted vegetation through which stormwater runoff flow is diffused in a manner so that runoff does not become channelized and 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.

Buffer strip means open space, landscaped area, fence, wall, berm, or any combination thereof used to physically separate or screen one (1) use or property from another so as to visually shield or block noise, lights, or other nuisances.

Building means a structure having a roof supported by columns or by walls, and intended for shelter, housing or enclosure of persons, animals or property. The connection of two (2) buildings by an open porch, breezeway, passageway, carport or other open structure, with or without a roof, shall not be thought of as making them one (1) building.

Building, principal means a building in which is conducted the main or principal use of the lot on which such building is located.

Building setback line--front means a line establishing minimum allowable distance between the wall of the principal building and the street or road rights-of-way line when measured perpendicularly from the rights-of-way. Covered porches, decks, uncovered porches or landings, etc., but not including steps whether covered or not, shall be considered as part of the

principal building and shall not project into the required yard except as expressly provided elsewhere in this chapter.

Building setback line--side or rear means a line establishing minimum allowable distance between the wall of the principal building and the side or rear property lines. Covered porches, decks, uncovered porches or landings, etc., but not including steps whether covered or not, shall

be considered as part of the principal building and shall not project into the required yard except as expressly provided elsewhere in this chapter.

Built-upon area means that portion of a development project that is covered by impervious or partially impervious cover, including buildings, pavement, gravel areas (e.g. roads, parking lots, and paths), recreation facilities (e.g. tennis courts), etc. This does not include slatted decks, the water area of a swimming pool, a surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least four inches thick over a geotextile fabric, and trails defined in G.S. 113A-85 that are either unpaved or paved as long as the pavement is porous with a hydraulic conductivity greater than 0.001 centimeters per second (1.41 inches per hour).

Cabin means a habitable structure used for overnight or temporary lodging of a recreational rental purpose regardless of whether said structure is subject to the NC Building Code. For purposes of this definition, the term does not include a dwelling unit, but is intended to include cottages, huts, treehouses, yurts and other similar structures.

Caliper means the diameter of a tree trunk.

Child care center means any child care arrangement which provides child care for between three (3) and twelve (12) preschool-age children in a residence or three (3) or more children in a building other than a residence on a regular basis of at least once per week for more than four (4) hours but less than twenty-four (24) hours per day, regardless of the time of day and regardless of whether the same or different children attend as defined by G.S. 110-86. The following are not included: public schools; non-public schools whether or not accredited by the state department of public instruction, which regularly and exclusively provide a course of grade school instruction to children who are school-age; specialized activities such as athletics, dance, music lessons, or Boy Scouts; summer day camps that operate less than four (4) consecutive months and do not participate in the child care subsidy program; summer camps having children in full-time residence; bible schools conducted during vacation periods; facilities licensed under G.S. Ch. 122C, Art. 2; and cooperative arrangements among parents to provide care for their own children as a convenience rather than for employment.

Church/synagogue means a tax exempt building used for nonprofit purposes by a recognized and legally established sect for the purpose of worship, including educational buildings and daycare facilities when operated by such church/synagogue.

Classic motor vehicle means any motor vehicle, twenty (20) years old or older, being of recognized and enduring interest, appeal and importance to the owner.

Cluster development shall refer to residential clustering for the purposes of this chapter.

Co-location means the placement or installation of additional antennas, antenna arrays or wireless facilities on an existing wireless support structure or broadcast tower, the sharing of an antenna or antenna array, or otherwise sharing a common location by two (2) or more FCC licensed providers of mobile broadband or wireless telecommunication services. Co-location does not include routine maintenance on wireless support structures and facilities, including in-kind replacement of wireless facilities. Routine maintenance includes activities associated with regular and general upkeep of transmission equipment, including the replacement of existing wireless facilities with facilities of the same size.

Combination use means a use consisting of a combination on one (1) lot of two (2) or more principal uses separately listed in the table of permissible uses in section 21-113.

Community water system means a public water supply approved by the state department of Environmental Quality Division of Water Resources, public water supply section, that serves at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year round residents which is owned and operated by a privately owned for profit

or nonprofit licensed water supply firm or corporation or a private individual.

Conditional use permit means a permit that authorizes that recipient to establish a specified conditional use.

Condominium means an estate in real property consisting of an undivided interest in common with other purchasers in a portion of real property, together with a separate interest in space in a building. A condominium may include, in addition, a separate interest in other portions of such real property.

Conical surface airport means a surface beginning at the periphery of the horizontal surface, extending outward and upward for a horizontal distance of four thousand (4,000) feet and increasing in height at a 20:1 slope.

County manager means the County Manager of Rowan County.

Courtesy hearing means a public hearing that provides an opportunity for the public to express their views and opinions on an agenda item under consideration by the Planning Board.

Covenant, restrictive means the private limitations or controls placed upon the use of land.

Critical area means the area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area is defined as extending either one-half (1/2) mile from the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed (whichever comes first); or one-half (1/2) mile upstream from the intake located directly in the stream or river (run-of-the-river), or the ridge line of the watershed (whichever comes first).

Dead storage means to accumulate or keep for an extended period.

Decibel (dB) means a unit for describing the amplitude of sound, equal to twenty (20) times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micronewtons per square meter.

Declaration of unit ownership means a duly recorded instrument by which property is submitted to the provisions of G.S. Ch. 47A.

Dedication means a gift, by the owner, of the right to use or possess land for a specified purpose or purposes. This transfer of property rights requires a written document stating dedication and is completed with an acceptance.

Deed restrictions. See term "covenant, restrictive."

Developed lot means a lot of record which at the effective date was occupied by structures used for residential, religious, governmental, business, commercial, industrial purposes or as a place of public assembly.

Developer means any person, firm, trust, partnership, association or corporation engaged in development, or proposed development activities.

Development means any land disturbing activity that 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.

Dimensional nonconformity means a nonconforming situation that occurs when the height, size, or minimum floor space of a structure or the relationship between an existing building or buildings and other building or lot lines does not conform to the regulations applicable to the district in which the property is located

Discontinue means to stop or cease the use of a property.

District. See term "zoning district."

Drinking Place means an establishment whose principal purpose is to derive income from the sale of alcoholic beverages that are served and consumed on premise. These establishments, commonly known as bars, pubs, saloons, and taverns, hold themselves out to the public through advertising, signage, or other activities as purveyors of alcoholic beverages served on premise. Drinking places may also provide limited food services but do not meet the definition of an eating place as defined herein. In determining whether a use meets this definition, the Zoning Administrator may also consider the percentage of income from alcoholic beverage sales, floor plans, and plans / permits from the Rowan County Building Inspections Department, Rowan County Environmental Health Division, and the North Carolina ABC Commission. Unless otherwise indicated, this definition does not include congressionally chartered veteran organizations or wine tasting rooms defined by G.S. 18B-1000 or this ordinance.

Driveway means a private travel way which provides access from a public or private road, street or easement.

Dwelling unit means a building, or portion thereof, providing complete and permanent living facilities for one (1) family.

Dwelling unit, attached means a dwelling unit that shares one (1) or more common walls with other similar units.

Dwelling unit, detached means any dwelling unit that is freestanding and shares no common walls with any other dwelling unit.

Easement means a grant by the property owner to the public, a corporation, or persons, of the right to use a specified portion of a lot or lots for a specified purpose.

Eating Place means an establishment principally engaged in preparing and serving food and beverages, which may or may not be consumed on premise, and in which the service of alcoholic beverages are accessory to the service of food and non-alcoholic beverages in terms of sales and square footage. In determining whether a use meets this definition, the Zoning Administrator may also consider the percentage of income from alcoholic beverage sales, floor plans, and plans / permits from the Rowan County Building Inspections Department, Rowan County Environmental Health Division, and the North Carolina ABC Commission.

Eligible facilities request means a request for modification of an existing wireless support structure or base station that involves co-location of new transmission equipment but does not include a substantial modification.

Equipment compound means an area surrounding or near the base of a wireless support structure within which a wireless facility is located.

Erosion means the wearing away of the earth's surface by water, wind, or other natural agents under natural environmental conditions undisturbed by man.

Existing development means a project that is built or those projects that at a minimum have an established right under state common law as of the effective date of this chapter 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 G.S. 153A-344.1.

Existing lot (lot of record) means a lot that is part of a subdivision, a plat of which has been recorded in the office of the register of deeds before the adoption of this chapter, or a lot described by metes and bounds, the description of which has been so recorded before the

adoption of this chapter.

Extraterritorial jurisdiction (ETJ) means that portion of a city or town planning jurisdiction that lies outside the corporate limits of the city or town within which municipal land use regulations apply.

Fall zone means an area in which a wireless support structure or broadcast tower may be expected to fall in the event of a structural failure, as measured by engineering standards.

Family care home means an adult care 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.

Family child care home means any child care program or child care arrangement wherein any person provides child care on a regular basis at least once per week for more than four (4) hours per day for five (5) or fewer preschool-age children and / or three (3) or fewer school-age children under thirteen (13) years of age, wherever operated, and whether or not operated for profit as defined by G.S. 110-86. The provider's own preschool-age children are included in the capacity totals but their school-age children are not. The four-hour limit applies regardless of the time of day and regardless of whether the same or different children attend. Cooperative arrangements among parents to provide care for their own children as a convenience rather than for employment are not included.

Family, Immediate means an individual's grandparents, step-grandparents, parents, step-parents, sibling (full, half, or step), children, step-children, grandchildren, and step-grandchildren, whether natural or legal.

Farm, bona fide means the production and activities relating or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture as defined in G.S. 106-581.1 subject to G.S. 153A-340 (b).

Fence means any artificially constructed barrier erected to enclose or screen areas of land used as a boundary or means of protection or confinement.

Firearm means a weapon, including pistols, rifles, and shotguns, capable of firing a projectile using an explosive charge as a propellant.

Firing line means a line parallel to a target from which firearms or arrows are discharged.

Frontage means the side(s) of a lot abutting a legally accessible public or private street rights-of-way.

G.S. refers to the North Carolina General Statutes.

Garage. See term "automobile repair facility."

Go kart means a miniature open wheeled four-wheeled racing vehicle having a maximum height of fifty (50) inches, a maximum length of eighty-eight (88) inches, a maximum wheel base of fifty-six (56) inches and a maximum engine displacement of 253 cc. This definition shall include but not be limited to quarter midget racecars sanctioned by the Quarter Midgets of America and go karts sanctioned by the World Karting Association.

Grade finished means the final grade elevation after grading for development.

Grade natural means the elevation of the ground in its natural state before construction, filling or excavation.

Gross floor area means the total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

Handicapped person means a person with a temporary or permanent physical, emotional, or mental disability including but not limited to mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances and orthopedic impairments but not including mentally ill persons who are dangerous to others as defined in G.S. 122C-3(11)b.

Hazardous material means any substance listed as such in SARA Section 302 (extremely hazardous substances), or Section 311 of CWA (oil and hazardous substances).

Health care facility means a facility of institution, whether public or private, principally engaged in providing services for health maintenance, diagnosis or treatment of human diseases, pain, injury, deformity, or physical conditions.

Health or safety nuisance of a motor vehicle may be declared a health or safety nuisance when it is found to be:

- (1) A breeding ground or harbor for mosquitoes or other insects, snakes, rats, or other pests;
- (2) A point of heavy growth of weeds or other non-toxic vegetation over eight (8) inches in height;
- (3) A point of concentration of gasoline, oil, or other flammable or explosive materials;
- (4) So located that there is a danger of the vehicles falling or turning over; or
- (5) A source of danger for children through entrapment in areas of confinement that cannot be opened from the inside or from exposed surfaces of metal, glass, or other rigid materials.

Home occupation means a business, profession, occupation, or trade for the economic gain or support of a resident of the dwelling, and which is incidental and secondary to the residential use of the lot, and which does not adversely affect the character of the lot or surrounding area.

Home occupation, rural means an accessory use subordinate to the primary residential use of the property operated by persons residing in the principal building on the same parcel of land upon which the home occupation is located. The use would not generate conspicuous traffic or nonresidential levels of odor, glare or dust. The use shall not exceed two thousand (2,000) square feet. Outside storage is sited to the rear of the building and is within the required setbacks. All parking must be provided off-street.

Homeowners association means a private, nonprofit corporation of homeowners formally constituted for the purpose of owning, operating, and maintaining common properties. Also known as a "declaration of unit ownership" in a condominium development.

Horizontal surface means a horizontal plane one hundred fifty (150) feet above the established airport elevation of seven hundred seventy-one (771) feet mean sea level, the perimeter of which is constructed by swinging arcs with a radius of ten thousand (10,000) feet from the center of each end of the primary surface of each end of the runway, including any planned extensions, and connecting the adjacent arcs by lines tangent to those arcs.

Instrument landing system (ILS) means a radio navigation system which provides aircraft with horizontal and vertical guidance prior to and during landing, and at certain fixed points, indicates the distance to the reference point of landing.

Junk means scrap, copper, brass, rope, rags, batteries, paper, trash, rubber or junked, dismantled or wrecked motor vehicles, or parts thereof, iron, steel and other old or scrap ferrous or nonferrous materials.

Junked motor vehicle means a vehicle that does not display a current license plate and:

- (1) Is partially dismantled or wrecked; and
- (2) Cannot be self-propelled or moved in the manner in which it originally was intended to move.

Junkyard means any establishment or place of business which is maintained, operated, or used for storing, keeping, building, or selling junk or for maintenance or operation of a motor vehicle graveyard. An establishment or place of business which stores or keeps for a period of fifteen (15) days or more material within the meaning of "junk" (as previously defined) which had been derived or created as a result of industrial activity shall be considered to be a junkyard within the meaning of this chapter.

Junkyard Control Act means G.S. Ch. 136, Art. 12, 136-141--136-155 which delegate to the state department of transportation the responsibility to regulate "junkyard" and "automobile graveyards" located on interstate and federal-aid primary system highways.

Kennel means a commercial operation that provides food, shelter, and care of dogs for purposes not primarily related to medical care or engages in the breeding of dogs for sale.

Land division. See term "subdivision."

Landfill means a facility for the disposal of solid waste on land in a sanitary manner in accordance with G.S. Ch. 130A, Art. 9. For the purpose of this chapter, this term does not include composting facilities.

Landowner means an owner of a legal or equitable interest in real property, including the heirs, devisees, successors, assigns, and personal representative of such owner. Also includes a person holding a valid option to purchase land to act as an agent or representative.

Livestock facility means any farm structure or improvement used for waste lagoons, animal waste storage areas, poultry houses or hog lots and similar uses.

Lot means a parcel of land or any combination of several parcels of land occupied or intended to be occupied by a principal use or structure, together with accessory structures or uses such as accessways, parking areas, yards, and open spaces required by this chapter.

Lot area means 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 rights-of-way, then the lot boundary shall be the street rights-of-way, or if the rights-of-way line cannot be determined, a line running parallel to and thirty (30) feet from the center of the traveled portion of the street.

Lot boundary line means a line that divides one lot from another or from a rights-of-way.

Lot, corner means a lot abutting on and at the intersection of two (2) or more streets. A lot abutting on a curved road or roads shall be considered a corner lot if straight lines drawn from the foremost point of the lot meet at an interior angle of less than one hundred thirty (130) degrees.

Lot, double frontage. See term "lot, through."

Lot, flag means a lot which has less than the required amount of frontage on a street and relies on a panhandle-shaped corridor for access to the bulk of the lot.

Lot, interior means a lot other than a corner lot with only one (1) frontage on a street.

Lot, panhandle means a lot other than one having access on a cul-de-sac, which contains a narrow strip providing street access.

Lot, reverse frontage means a through lot which is not accessible from one (1) of the parallel or

non-intersecting streets upon which it fronts.

Lot, single-tie means a lot which 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, through means a lot that has a pair of opposite lot lines along two (2) substantially parallel streets, and which is not a corner lot. Also known as a "double frontage lot."

Lot, zone means that portion of a parcel possessing a specific zoning designation. The zone lot may be the entire parcel.

Lot of record. See term "existing lot".

Lowest Floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

Manufactured home means, as defined in G.S. 143-145, a structure transportable in one (1) or more sections, which is eight (8) body feet or more in width, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities; and includes plumbing, heating and electrical systems contained therein. Travel trailers and campers shall not be considered manufactured homes. The term "manufactured home" is the same as a mobile home.

Manufactured home park means a single lot used or intended to be used, leased, or rented, for occupancy by two (2) or more manufactured homes as defined in this section, which are anchored in place by a foundation or other stationary support, to be used for living or commercial purposes of any kind, together with automobile parking space and incidental utility structure and facilities required and provided in connection therewith. This definition shall not include manufactured home sale lots on which unoccupied manufactured homes are parked for purpose of inspection and sales. This definition shall also not include the rental of manufactured home lots and/or spaces located outside the manufactured home park (MHP) district. Rental manufactured home lots and/or spaces shall be subject to all applicable development standards for the district they are located in, including but not limited to skirting requirements of this chapter.

Manufactured home park, family means a manufactured home park, consisting of two (2) or three (3) units in the RA district, or two (2) units in the RR district, occupied by the property owner and/or members of his / her immediate family: to wit, their lineal descendants or antecedents. A single manufactured home on a lot shall not constitute a manufactured home park.

Manufactured home space shall mean a plot of land within a manufactured home park designed for the accommodations of a single manufactured home in accordance with the requirements set forth in this section.

Manufactured home, type I means a manufactured home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and that satisfies each of the following additional criteria:

- (1) The home has a length not exceeding four (4) times its width;
- (2) The pitch of the home's roof has a minimum vertical rise of one (1) foot for each five (5) feet of horizontal run, and the roof is finished with a type of shingle or other roofing material that is commonly used in standard residential construction;

- (3) The exterior siding consists of wood, hardboard, aluminum (vinyl covered or painted) or vinyl comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction;
- (4) The tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the lot and before a certificate of occupancy is issued.

Manufactured home, type II means a manufactured home which meets all requirements of a manufactured home, type I, except for the length to width ratio.

Manufactured home, type III means a manufactured home that meets or exceeds the construction standards promulgated by the federal department of housing and urban development that were in effect at the time of construction but that does not satisfy the criteria necessary to qualify the house as a type I or type II manufactured home.

Manufactured home, type IV means any manufactured home which was built prior to July 1, 1976 or does not meet the criteria for a type I, II, or III manufactured home.

Massage parlor means an establishment or business wherein massage is practiced, including establishments commonly known as health clubs, physical culture studios, massage studios or massage parlors, where massage involves the manipulation of body muscle or tissue by rubbing, stroking, kneading, or tapping, by hand or mechanical device. Establishments meeting the ethical and educational certification requirements to become a member of the American Massage Therapy Association or equivalent state or national standard are not intended to be regulated as an adult use. In addition, this section is not intended to regulate professional physical therapists or other medical practitioners.

Minerals are soil, clay, coal, stone, gravel, sand, phosphate, rock, metallic ore, and any other solid material or substance of commercial value found in natural deposits on or in the earth.

Mining means the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; any activity or process constituting all or part of a process for the extraction or removal of mineral, ores, soils, and other solid matter from its original location; and/or the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use.

Model automobile means a small-scale vehicle replica (not including aircraft) having a maximum height of 9.85 inches, a maximum length of thirty-one (31) inches, a maximum wheel base of thirteen (13) inches, and a maximum engine displacement of 3.5 cc. These automobiles are typically powered by battery pack, gasoline, or similar means of movement and may be operated by a hand-held device. This definition does not intend to regulate personal use of these vehicles.

Modular home means sectional dwelling unit consisting of two (2) or more modules or sections which are factory fabricated and transported to the home site where they are put on a permanent foundation and joined to make a single-family dwelling. All such modular homes shall meet all single-family dwelling requirements of the state Uniform Residential Building Code.

Monopole means a single pole structure, usually self-supporting, used to support antennas.

Motor vehicle means a machine designed or intended to travel over land by self-propulsion or while attached to any self-propelled vehicle.

Multiconnection private water system means a water supply furnishing potable water to two (2) to fourteen (14) connections of residences or businesses, or any combination thereof, from one (1) well that is not owned and operated by a public entity.

Multifamily dwelling means two (2) or more attached, single living units under the same roof structure and connected by one (1) or more common walls. This includes, but is not limited to

apartments, duplexes, condominiums, triplexes, quadruplexes, or other similar buildings which are for sale or rent and intended for human habitation.

Multi-tenant development means a tract of land under common control planned and developed as an integral unit in a single development or planned phases of development. This type of development shall consist of two (2) or more allowed uses sharing common walls. This type of development typically has a unified or coordinated design of buildings and a coordinated organization of service areas and common open space area.

NCDOT means the North Carolina Department of Transportation.

Noise means any sound which annoys or disturbs humans, or which causes, or tends to cause, an adverse psychological or physiological effect on humans.

Nonconforming lot of record means a lot of record described by a plat or a deed that was recorded prior to the effective date of this chapter (or its amendments) that does not meet the minimum lot size or other development requirements of this chapter.

Nonconforming manufactured home park means a manufactured home park that on the effective date of this chapter or the date of any subsequent amendment thereto, does not conform to one or more regulations set forth in this chapter.

Nonconforming situation means a situation that occurs when, on the effective date of this chapter or as a result of a subsequent amendment, an existing lot or structure or use of an existing lot or structure does not conform to one (1) or more of the regulations applicable to the district in which the lot or structure is located.

Nonresidential development means all development other than residential development, agriculture, and silviculture.

Nudity or a state of nudity means any of the following:

- (a) The appearance of a human anus, male genitals, female genitals, or the female breast below a point immediately above the top of the areola.
- (b) State of dress, which fails to opaquely cover the human anus, male genitals, female genitals, or the female breast below a point immediately above the top of the areola.

Observed right-of-way. The area recognized in the Cabarrus-Rowan Metropolitan Planning Organization (CRMPO) 2002-2030 Long Range Transportation Plan and referenced in Appendix A that may be utilized for future transportation improvements.

Official maps or plans means any maps or plans officially adopted by the board of commissioners of the county.

Off-site means any area not contained within the boundaries of the site being developed, whether or not the developer owns such land.

Open space means an area of land and/or water which is generally unimproved and is reserved for recreation, resource protection, amenity, or buffer purposes; lacking in manmade structures and reserved for enjoyment in its unaltered state.

Operational area means the dedicated or utilized area necessary for a business function and is characterized by, but not limited to, buildings or warehouses, storage areas or stockpiles, parking and loading areas, sediment ponds and detention areas, etc.

Overlay zone means a special zoning district that covers a specified area and has unique requirements that supplement or supersede any requirements of the underlying, general purpose zoning districts.

Parcel. See term "tract."

Plan, comprehensive land use means the general plan of reference which outlines long-term goals, objectives, and policies for the entire planning territory of the county.

Plan, construction means the map and accompanying text, prepared and submitted under the prescribed conditions set forth in this chapter, which detail required improvements such as streets, fire hydrants, and street lighting.

Plan, erosion and sedimentation control means a plan that outlines the procedure designed to control accelerated erosion and sedimentation resulting from certain land disturbing activities.

Plan, functional means a specialized plan that addresses a single topic, such as a thoroughfare plan, a greenway plan or a capital improvement plan.

Plan, phased development means a plan which has been submitted to the county 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(s) determined by the county to be a site specific development plan. (G.S. 153A-344.1).

Plan, site means a plan which demonstrates the proposed use of land and / or structure(s) on a specific parcel(s) will comply with the specifications set forth in this chapter. A site plan may be necessary for the review of proposed installation of improvements and construction, changes of use, and for zoning approval.

Plan, site specific development means a plan meeting the requirements of G.S. 153A-344.1, as amended, for approval of a vesting right under that statute.

Plan, spill containment means a method that provides detailed instructions of the measures to be employed to contain and remove a hazardous spill.

Planning board means the County Planning Board of Rowan County, North Carolina.

Planning department is the planning division of the Rowan County Planning and Development Department.

Planning director means the director of the Rowan County Planning and Development Department who is authorized to perform the duties and responsibilities as delegated in section 21-314 of this chapter. The Planning Director may be commonly referred to as "county planner" in this chapter and other chapters with this Code.

Plat means a map or plan of a parcel of land which is to be or has been subdivided showing such subdivision.

Plat, final means a map of a land subdivision prepared in a suitable form for recording with the register of deeds which includes necessary affidavits, dedications, and acceptances as well as other information required by the county subdivision ordinance. Also known as a "map for record."

Plat, preliminary means a map of a proposed land subdivision which shows the layout of the parcel or lot, including lots, roads, and other features, in sufficient detail to allow the proposed subdivision to be properly evaluated.

Precision instrument runway means a runway having an existing instrument approach procedure utilizing an instrument landing system (ILS), or a precision approach radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated by an FAA approved airport layout plan; a military service approved military airport layout plan; any other FAA planning document, or military service military airport planning document.

Preferred sites. Public and semi-public locations are preferred sites as opposed to private

properties. For purposes of this definition, public sites are those owned or managed by the United States government, the state or the county that provide a governmental function, activity or service for public benefit. Semi-public sites are those facilities or locations owned by a nonprofit organization or group. These sites shall include but may not be limited to volunteer fire departments, schools, churches, civic organizations, etc. Preferred sites shall be subject to the same restrictions and standards of appropriateness as private properties.

Primary surface means a surface longitudinally centered on a runway. The primary surface extends two hundred (200) feet beyond each end of the runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is one thousand (1,000) feet as required for precision runway landings.

Private drive or driveways shall mean any street or road within the manufactured home park, not publicly maintained or publicly dedicated, but utilized as access by the residents of the manufactured home park, their guests, the public and private service vehicles. The term also includes internal drive or street.

Private individual sewage disposal system means a sewage disposal system serving one (1) connection which is usually owned and controlled by a private single entity.

Private individual water supply system means a water supply system whose water supply comes from a single source, usually limited to a well or spring.

Private road means a dedicated rights-of-way or ingress and egress easement to the public, forty-five (45) feet or greater in width containing a roadway which provides or is used primarily for vehicular circulation and is available for use by the general public or by residents of the development but is not maintained by NCDOT or any municipality in the county.

Protected area means the area of a watershed, beyond the critical area, as measured ten (10) miles upstream from an intake or to the ridge line, whichever is closer, and draining to the intake.

Public hearing means a meeting at which an appointed or elected board accepts public comment about matters relating to this chapter.

Public or private sewer system means a means of collecting, transporting and treatment of sewage by a public entity, (e.g. city, town, county, sewer district), or other public body created, pursuant to state, federal and local laws, or any combination thereof acting cooperatively or jointly, or a privately owned state licensed sewer system, for profit or nonprofit firm or corporation. A package treatment plant shall be considered part of a public sewer system if owned by a city, town, county, sewer district, etc., otherwise shall be considered as a private sewer system.

Public or private water system means the provision to the public of piped water by a system with fifteen (15) or more connections or twenty-five (25) or more year round residents owned and operated by a municipality, county or other public entity or a privately owned licensed water supply, for profit or not-profit firm or corporation. This includes the term "community water supply system."

Public road means a dedicated road rights-of-way meeting all minimum construction standards of NCDOT or is maintained by the NCDOT road maintenance program and available for use by the general public.

Public safety tower means a tower or wireless support structure with antennas or other similar devices providing either or both an 800 MHz trunked radio system or conventional 2-way paging systems.

Recreation area or park means an area of land or combination of land and water resources that

is developed for active and or passive recreation pursuits with various manmade features that accommodates such activities.

Residence means a home, manufactured home, an apartment, a group of homes, or single room occupied or intended for occupancy as separate living quarters for one (1) or more persons.

Residential development means buildings for residence such as attached and detached single-family dwellings, apartment complexes, condominiums, townhouses, cottages, etc. and their associated outbuildings such as garages, storage buildings, gazebos, etc. and customary home occupations.

Residential storage facility means an off-premises building classified as the principle structure on a lot, used for the storage of personal property and used in association with an owners residence or current tenant or lessee of the residence. This building is not intended for uses other than storage of personal vehicles, goods or materials.

Residuals means any solid or semi-solid waste generated from a wastewater treatment plant or air pollution control facility permitted under the authority of the environmental management commission.

Rezoning means the procedure whereby the zoning designation of a certain parcel or portion thereof is changed following the provisions set forth in this chapter.

Right-of-way means the base setback line either the line dividing the public rights-of-way currently or a line thirty (30) feet measured in a perpendicular distance and parallel to the centerline of the street pavement, superseded by the observed right-of-way or the area recognized in the Cabarrus-Rowan Metropolitan (CRMPO) 2002-2030 Long Range Transportation Plan and referenced in Appendix A that may be utilized for future transportation improvements.

Road means a dedicated public rights-of-way for vehicular traffic (or a private road when permitted by this chapter). The word "road" includes, but is not limited to, "street, freeway, highway, expressway, drive, avenue, court, way, place, circle, lane, boulevard, and thoroughfare."

(1) *Classifications of rural roads and urban streets:*

- a. *Principal arterial.* A rural link in a highway system serving travel, and having characteristics indicative of, substantial statewide or interstate travel and existing solely to serve traffic. This network would consist of interstate routes and other routes designated as principal arterials.
- b. *Minor arterial.* A rural roadway joining cities and larger towns and providing intrastate and innercounty service at relatively high overall travel speeds with minimum interference to through movement.
- c. *Major collector.* A road which serves major intracounty travel corridors and traffic generators and provides access to the arterial system.
- d. *Minor collector.* A road which provides service to small local communities and links locally important traffic generators with their rural hinterland.
- e. *Major thoroughfares.* Major thoroughfares consist of interstate, other freeway, expressway, or parkway roads, and major streets that provide for the expeditious movement of high volumes of traffic within and through urban areas.
- f. *Minor thoroughfares.* Minor thoroughfares perform the function of collecting traffic from local access streets and carrying it to the major thoroughfare system. Minor

thoroughfares may be used to supplement the major thoroughfare system by facilitating minor through-traffic movements and may also serve abutting property.

g. *Service road*. A road that runs parallel to a principal arterial or interstate and provides indirect access to and from properties or facilities abutting the interstate principle arterial via an interchange.

(2) *Specific types of roads:*

a. *Freeway, expressway or parkway*. Divided multilane roadways designed to carry large volumes of traffic at relatively high speeds. A "freeway" is a divided highway providing for continuous flow of vehicles with no direct access to abutting property or streets and with access to selected crossroads provided via connecting ramps. An "expressway" is a divided highway with full or partial control of access and with grade separations at major intersections. A "parkway" is a highway for noncommercial traffic, with full or partial control of access, and usually located within a park or a ribbon of park development.

b. *Residential collector road*. A local access street which serves as a connector street between local residential streets and the thoroughfare system. Residential collector streets typically collect traffic from one hundred (100) to four hundred (400) dwelling units.

c. *Local road*. A road which serves primarily to provide access to adjacent land over relatively short distances.

d. *Cul-de-sac*. A short street having but one (1) end open to traffic and the other end being permanently terminated and a vehicular turnaround provided.

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

f. *Alley*. A strip of land, owned publicly or privately, set aside primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

Safety fan means an area on a shooting range facility designed to contain all projectiles fired from a shooting range.

Sanitary sewage system means a complete system of sewage collection, treatment and disposal including privies, septic tank systems, connection to public or community sewage system, sewage reuse or recycle systems, mechanical or biological treatment system, or other such systems.

School means any public or private institution for the teaching of children under eighteen (18) years of age which is recognized and approved by the state board of education or other appropriate licensing board.

Search ring means the area within which a wireless support structure or wireless facility must be located in order to meet service objectives of the wireless service provider using the wireless facility or wireless support structure.

Septic tank system means a subsurface sanitary sewage system consisting of a septic tank and a subsurface disposal field.

Service station. See term "automobile repair facility."

Semi-nude or in a semi-nude condition means a state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices. This definition shall not include any portion of the cleavage of female breast, exhibited by a dress, blouse, leotard, bathing suit, or other wearing

apparel provided the areola is not exposed in whole or in part unless the individual exhibits activity defined in a sexual encounter center or section (c) of an adult cabaret.

Sewage means the wastewater, and its contents, kitchen, bathroom, toilet, lavatory and laundry of any residence, business establishment, industrial plant, institution or any public building.

Sexual encounter center means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

- (a) Physical contact in the form of wrestling or tumbling between persons of the opposite sex, or
- (b) Activities between male and female persons and/or persons of the same sex when one or more of the persons appear in a nude or semi-nude condition or in lingerie.

Shooting range means an area designed and improved to encompass shooting stations or firing lines, target areas, berms and baffles, and other related components.

Shooting range facility means a public or private facility, including individual shooting ranges, safety fans or shotfall zones, structures, parking areas, and other associated improvements, designed for the purpose of providing a place for the discharge of various types of firearms or the practice of archery. Does not include incidental target practice areas on private property, turkey shoots, government facilities, or occasional "sighting-in" of firearms.

Shooting station means a fixed point from which firearms or arrows are discharged.

Shotfall zone means an area within which the shot or pellets contained in a shotgun shell typically fall.

Shrub means a woody plant, smaller than a tree, consisting of several small stems from the ground or small branches near the ground; may be deciduous or evergreen.

Sight distance triangle means the area at the intersection of two (2) roads or streets that is designated as necessary for safe ingress and egress, and which must be kept clear of obstructions.

Sign means an object, display, or structure, or portion thereof, which is located outdoors and is used to advertise, identify, display, direct, or allot attention to an object, person, institution, organization, business, product, service, event, or location through the use of words, letters, figures, designs, symbols, colors, or illumination.

Sign face means the surface of a sign where copy, message, or advertisements are attached for display to the public, including any parts of the sign structure upon which such information is located.

Sign, incidental means any sign that is used for a purpose other than to identify or bring attention to a particular establishment. These may include, but are not limited to, entrance, exit and parking signs.

Sign, on-premises means a sign that directs attention to a business, commodity, service, or entertainment conducted, sold, or offered on the premises which the sign is located.

Sign, off-premises means a sign that directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a site other than the premises on which the sign is located.

Single-family dwelling means a detached dwelling unit constructed on-site (site built) or in modules or sections joined together on-site (modular) in compliance with the North Carolina State Building Code and designed for or occupied by one family.

Slow response means a measuring technique to obtain an average value when measuring a noise level that fluctuates over a range of four (4) dB or more. By way of illustration only, a sound level meter set on "slow response" would record a sound level between two (2) and six (6) decibels less than the reading for a steady signal of the same frequency and amplitude when a tone of one thousand (1,000) Hz and for a duration of 0.5 seconds is applied.

Solar Collector means a device that absorbs solar radiant energy for use as a source of energy. The surface area is identified as all portions that absorb solar energy excluding frames, supports, and mounting hardware.

Solar Energy means radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

Solar Energy System means any solar collector device or structural design feature of a building, except solar shingles, along with its ancillary equipment whose primary purpose is to provide for the collection, inversion, storage, and distribution of solar energy for space heating or cooling, water heating, or generation of electricity. This definition is not intended to include incidental systems that generate a minimal level of electricity typically used to power signs, wells, gates, fences, or similar ancillary uses.

Solid Waste and Recycling Convenience Center means a facility operated by Rowan County for the purpose of fulfilling its solid waste and recycling service responsibilities to the public defined in NCGS 130A-309.09A. Convenience centers typically include a structure(s) for administrative operations (personnel, storage, etc.) and an arrangement of mobile containers used to collect and store local solid waste and assorted recyclables until transported to an off-site location for disposal and / or processing. These facilities may also accommodate the temporary and incidental storage of collected bulky or oversized materials along with miscellaneous other materials outside of containers.

Sound level means the weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B or C as specified in American National Standards Institute specifications for sound level meters (ANSI S1.4-1983) or the latest approved version thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.

Sound level meter means an instrument which includes a microphone, amplifier, RMS detector, integrator or time average, output meter and weighting network used to measure sound pressure levels.

Specified anatomical areas means less than completely and opaquely covered human genitals, pubic region, buttock, or female breast below a point immediately above the top of the areola; or human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities means any of the following:

- (a) Human genitals in a state of sexual stimulation, arousal, or tumescence; or
- (b) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; or
- (c) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; or
- (d) Masturbation, actual or simulated; or
- (e) Masochism, erotic or sexually-oriented torture, beating or the infliction of pain; or
- (f) Erotic or lewd touching, fondling, or other contact with an animal by a human being; or

(g) Human excretion, urination, menstruation, vaginal or anal irrigation.

Stable, commercial means a commercial operation where horses are kept for purposes such as breeding, boarding, hire, or sale.

Stable, private means a structure in which horses are kept for private use.

Storm drainage facilities means the system of inlets, conduits, channels, ditches, and appurtenances which serve to collect and convey stormwater through and from a given drainage area.

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

Stormwater runoff means the direct runoff of water resulting from precipitation in any form.

Streambank-shoreline stabilization means the methods employed in order to assure streambank or shoreline stability for aesthetic, ecological or recreational purposes.

Street means a right-of-way or easement greater than thirty (30) feet in width containing a roadway which provides or is used primarily for vehicular circulation. This definition also includes but is not limited to the terms "road," "drive," "highway," "avenue," "way," "court," "place," "circle," and "land."

Street jog means the distance between the centerlines of two (2) streets which intersect on opposite sides of the same road.

Street, cul-de-sac means a permanent dead-end street which has one (1) end open to traffic and terminates in a circular turnaround.

Street, private means a street right-of-way serving lots dedicated for the use of the property owners and their guests and maintained, or intended to be maintained, by a homeowners association.

Street, public means a street right-of-way dedicated for public use and maintained or intended to be maintained by the NCDOT.

Street (road) means a right-of-way for vehicular traffic that affords the principal means of access to abutting properties.

Structure means anything constructed or erected, including but not limited to buildings, which requires location on the land or attachment to something having permanent location on the land.

Structure, accessory means a minor structure that is located on the same lot as a principal structure and is used incidentally to a principal structure or contains an accessory use.

Structure, principal means the primary structure on a lot or a structure that contains a principal use.

Subdivider means a person, firm or corporation who subdivides or develops any land deemed to be a subdivision as defined in this section.

Subdivision means all divisions of a lot or parcel of land into two (2) or more lots, building sites, or other divisions when any one (1) or more of those divisions are created for the purpose of sale or building development (whether immediate or future) and shall include all division of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations authorized by this ordinance:

- (1) The combination or recombination of portions of previously subdivided and recorded lots

where the resultant lots are equal to or exceed the standards of this chapter.

- (2) The division of land into parcels greater than ten (10) acres where no street rights-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 lot in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street rights-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of this chapter.
- (5) The division of a lot into plots or lots used as a cemetery.
- (6) Land divided by a will or the courts for the purpose of dividing up a deceased person's property.

Subdivision, family means a subdivision of not more than three (3) lots plus the residual lot conveyed by the property owner to members of his / her immediate family as defined in this ordinance.

Subdivision, major means a major subdivision and defined as a subdivision where:

- (1) New roads are proposed or rights-of-way are dedicated; or
- (2) More than eight (8) lots are created after the subdivision is completed.

Subdivision, minor means a minor subdivision and defined as a subdivision where:

- (1) No new roads are proposed, or road rights-of-way dedicated; and
- (2) Where eight (8) or fewer lots will result after the subdivision is completed.

Subgrade means that portion of the roadbed prepared as a foundation for the pavement structure.

Substantial modification means the mounting of a proposed wireless facility on a wireless support structure that substantially changes the physical dimensions of the support structure. A mounting is presumed to be a substantial modification if it meets any one or more of the criteria listed below. The burden is on the local government to demonstrate that a mounting that does not meet the listed criteria constitutes a substantial change to the physical dimensions of the wireless support structure.

- a. Increasing the existing vertical height of the structure by the greater of (i) more than ten percent (10%) or (ii) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.
- b. Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure the greater of (i) more than 20 feet or (ii) more than the width of the wireless support structure at the level of the appurtenance.
- c. Increasing the square footage of the existing equipment compound by more than 2,500 square feet.

Temporary family health care structure means a transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the State Building Code, G.S. 143-139.1(b), and G.S. 160A-383.5.

Tower means any structure whose primary function is to support an antenna. As its use relates to supporting wireless facilities, the term 'tower' is synonymous with the term 'wireless support structure'.

Tract means a lot or parcel of land or a contiguous combination of two (2) or more parcels of land in one (1) ownership.

Transitional surface means the surfaces extend outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of 7:1 from the sides of the primary surface and from the sides of the approach surfaces. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of five thousand (5,000) feet measured horizontally from the edge of the approach surface and at right angles to the runway centerline.

Tower means any structure whose primary function is to support an antenna. As its use relates to supporting wireless facilities, the term 'tower' is synonymous with the term 'wireless support structure'.

Tower height means the vertical distance measured from the tower base to the highest point on a telecommunications or broadcast tower, including any antennas or other equipment affixed thereto, but excluding any lighting protection rods extending above the tower and attached equipment.

Townhome means a subdivision of individual, attached dwelling units in conjunction with land division.

Turkey shoots means shotgun shooting competitions open, for a fee, to the public in which prizes, typically a frozen turkey or other food items are given to winners as a prize.

Use means the activity or function that actually takes place or is intended to take place on a zone lot.

Use, accessory means a use that is incidental to the primary use which is conducted on the zone lot.

Use, conditional means a use that has some special characteristics attendant to its operation or installation, such as potential danger or noise, which is only permitted in a district subject to a permit hearing and additional restrictions or conditions which are different from the usual requirements of the applicable zoning district.

Use, nonconforming means a situation that occurs when property is used for a purpose or in a manner made unlawful by the use regulations applicable to the district in which the property is located. The term also refers to the activity that constitutes the use made of the property.

Use permit means any use, as designated in this chapter, that is by right allowed to occur within a specific zoning district.

Use, primary means a use that is the major activity which is conducted on the zone lot.

Vacate means to leave unoccupied.

Variance, watershed means permission to develop or use property granted by the watershed review board relaxing or waiving a water supply watershed management requirement adopted by the environmental management commission that is incorporated into this chapter.

Variance, major watershed means a variance that results in one (1) or more of the following:

- a. The complete waiver of a management requirement; or
- b. The relaxation, by a factor of more than ten (10) percent, of any management

requirement that takes the form of a numerical standard; or

- c. The relaxation of any management requirement that applies a development proposal intended to qualify under the high density option.

Variance, minor watershed means a variance that does not qualify as a major variance.

Vectors means any organisms that carry disease-causing micro-organisms from one (1) host to another (e.g. rats, mosquitoes, etc.).

Vested rights means those projects that are built or those projects that at a minimum have established a vested right under state law as of February 16, 1998, based on at least one (1) of the following criteria:

- (1) Having an outstanding valid building permit as authorized by G.S. 153A-344.1; or
- (2) Having expended substantial resources (time, labor, money) and having an approved site specific or phased development plan as authorized by G.S. 153A-344.1 and G.S. 160A-385.1.

Viewshed is the geographic area within a three hundred sixty-degree view from a defined observation point.

Violation means failure on the part of any person to comply with the provisions of this chapter.

Visible means capable of being seen without visual aid by a person of normal acuity.

Wall sign means a sign which is applied to the exterior of any building and projecting not more than twelve (12) inches from the wall.

Watercourse means any stream, river, brook, swamp, sound, bay, creek, run, branch, canal, waterway, estuary, or lake.

Water dependent structure means any structure for which the use requires access to, or proximity to, or citing within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not "water dependent structures."

Watershed means the entire land area contributing surface drainage to a specific point (e.g., the water supply intake).

Winery refers to a manufacturing facility or establishment engaged in the processing and bottling of grapes to produce wine or wine-like beverages as defined by the North Carolina General Statutes. The facility or establishment must be operated in association with an existing vineyard (bona fide farm) located on the same property or on adjacent properties under the same ownership.

Wine Tasting Room refers to a facility in which wine products grown or processed on the owner's property may be tasted and sold. This definition shall also include small-scale associated gift/retail sales, dining and catering facilities and a restaurant facility. The facility must be operated in association with an existing vineyard (bona fide farm) located on the same property or on adjacent properties under the same ownership.

Wireless facility means the set of equipment and network components, exclusive of the underlying wireless support structure or tower, including antennas, transmitters, receivers, receivers base stations, power supplies, cabling, and associated equipment necessary to provide wireless data and wireless telecommunications services to a discrete geographic area.

Wireless support structure means a new or existing structure, such as a monopole, lattice

tower, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole is not a wireless support structure.

Working days means days as applicable to the water supply watershed provisions of this chapter, exclusive of Saturday and Sunday, during which weather conditions or soil conditions permit land disturbing activity to be undertaken.

Yard means an open area which is unoccupied and unobstructed from the ground upward except as may be expressly provided in an ordinance.

Yard, front means an open, unoccupied space on the same lot with a principal building, extending the full width of the lot, and situated between the street and the front line of the building, projected to the side lines of the lot. For the purposes of determining required setbacks, "street" shall include all ingress / egress easements and right-of-ways.

Yard, rear means an open, unoccupied space on the same lot with a principal building, extending the full width of the lot, and situated between the rear property line and the rear line of the building, projected to the side lines of the lot.

Yard, side means an open, unoccupied space on the same lot with a principal building, situated between the front line and rear line of the building, projected to the side lines of the lot.

Yard, side street means an open, unoccupied space on the same lot with a principal building, extending the full width of the lot, and situated between the street and the side line of the building, projected to the front and rear lines of the lot. For the purposes of determining required setbacks, "street" shall include all ingress / egress easements and right-of-ways.

Zone lot means a parcel of land, or portion thereof, that is of sufficient size to meet minimum zoning requirements for area, coverage, and use, and that can provide such setbacks and other open spaces as required by the zoning regulations.

Zoning means the designation of a particular property or portion thereof using one (1) of the zoning designations contained in this chapter.

Zoning administrator means, except as otherwise expressly provided, the person or persons, and his (their) designee(s), who are primarily responsible for the administration and enforcement of this chapter. The term "staff" or "planning staff" or "administrator" is sometimes used interchangeably with the term "zoning administrator."

Zoning district means a mapped portion of the county to which a uniform set of regulations relating to use of land, premises, and buildings apply. Includes the term "zone."

Zoning permit means a permit issued by the zoning administrator which authorizes 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 is commenced within one (1) year of the date of issuance and provided that all other permits are obtained.

(Ord. of 1-19-98, § II; Ord. of 2-1-99(1); Ord. of 10-18-99(1); Ord. of 1-15-01; Ord. of 5-21-01(1); Ord. of 5-21-01(2); Ord. of 11-19-01(1); Ord. of 11-19-01(2); Ord. of 12-3-01; Ord. of 3-18-02(2); Ord. of 5-19-03; Ord. of 8-16-04; Ord. of 10-4-04; Ord. of 10-18-04; Ord. of 11-15-04; Amend. of 3-7-05; Amend. of 7-1-05; Amend. of 2-20-06(1); Amend. of 8-20-07; Amend. of 4-21-08; Amend. of 11-2-09; Amend. of 10-4-10; Amend. of 9-6-11; Amend. of 3-5-12; Amend. of 1-22-13; Amend. of 3-4-13; Amend. of 12-2-13; Amend. of 4-21-14; Amend. of 9-6-16; Amend. of 10-17-16; Amend. of 5-21-18)

Sec. 21-5. Jurisdiction.

This chapter governs the development and use of land within the area of the county as

shown in the Official Zoning Map of Rowan County (hereafter referred to as the "zoning map," as formally adopted by the county board of commissioners.) The official copy of the zoning map shall hereafter be located in the office of the county planning department. Such area may include any parcel of land not located within the zoning jurisdiction of any municipality. The zoning map shall be incorporated and made part of this chapter.

(Ord. of 1-19-98, § I)

Sec. 21-6. Bona fide farms exempt.

This chapter shall not apply to bona fide farms, except that nonfarm uses on farms may be regulated by this chapter.

(Ord. of 1-19-98, § I)

Sec. 21-7. Severability.

If any section or specific provision or standard of this chapter, or any zoning district boundary is found by a court to be invalid, the decision of the court shall not affect the validity of any other section, provision, standard, or district boundary of these regulations except the provision in question. The other portions of these regulations not affected by the decisions of the court shall remain in full force and effect.

(Ord. of 1-19-98, § I)

Sec. 21-8. Abrogation.

It is not intended that this chapter repeal, abrogate, annul, impair, or interfere with any existing provisions of any other ordinance or law except any ordinance which this chapter specifically replaces. It is not intended that these regulations shall interfere with any easement, covenants, or other agreements between parties. However, if the provisions of these regulations impose greater restrictions or higher standards for the use of a building or land, for yards, or for the size of structures than is called for by other ordinances, permits, easements, or agreements, then the provisions of this chapter shall govern.

(Ord. of 1-19-98, § I)

Sec. 21-9. Use or sale of land or buildings except in conformity with chapter provisions.

- (a) Use, occupancy or sale of any land or buildings; or authorization or permitting the use, occupancy or sale of land or buildings shall comply with all applicable provisions of this chapter, including article VI, Nonconforming Situations.
- (b) For the purpose of this article, "use" or "occupancy" of a building or land relates to anything and everything that is done to, on, or in that building or land.

(Ord. of 1-19-98, § I; Amend. of 3-7-05)

Sec. 21-10. Relationship to other ordinances.

If zoning districts are established for all land in the county located outside the established zoning jurisdiction of any municipality, the following ordinances shall be repealed: the county mobile home park ordinance, the county watershed protection ordinance and the county junked motor vehicle and automobile salvage yard ordinance. Unless specified in this section, it is not

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

(Ord. of 1-19-98, § I)

Sec. 21-11. Zoning vested rights.

(a) Pursuant to G.S. 153A-344.1, a vested right to undertake and complete the development and use of property under the documented terms, any associated conditions, and approved site plans may be established for any one (1) of the following:

- (1) Site plan approval by the board of commissioners;
- (2) Conditional or special use permits;
- (3) Conditional zoning district;
- (4) Multi-family or multi-unit development plans.

(b) The approved plans and associated conditions for these districts constitute, for purposes of G.S. 153A-344.1 (site specific development plans). A right which has been vested as provided in this section shall remain vested for a period of two (2) to five (5) years as determined by the board of commissioners. Approval of a vested right pursuant to this section shall require a public hearing as provided in G.S. 153A-344.1 subject to public notice requirements from section 21-315 (1) a - c. The approving authority in its sound discretion may establish a vesting period exceeding the two-year minimum, where the petitioner shows that extending the period is warranted by relevant circumstances, including but not limited to the size and phasing of the development or the level of investment. The need for the development modifications or amendments to a plan do not extend the vesting period unless expressly provided by the appropriate board when making the amendment. A vested right obtained under this section is not a personal right, but shall attach to and run with the subject property. The vested right shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed.

(Ord. of 1-19-98, § I; Amend. of 4-21-14; Amend. of 9-6-16)

Sec. 21-12. Fees.

Reasonable fees to cover the administration, inspection, publication of notice and similar matters may be charged to applicants for zoning permits, sign permits, conditional use permits, zoning amendments, variances and other administrative relief. The amount of fees charged shall be established by the board of commissioners. Fees shall be paid upon submission of a signed application or notice of appeal.

(Ord. of 1-19-98, § I)

Sec. 21-13. Enforcement.

(a) *Authority of zoning administrator.* The provisions of this chapter shall be enforced by the zoning administrator.

- (b) *Zoning administrator procedures.* It shall be the duty of the administrator to initiate proceedings for enforcement of these regulations. If the administrator discovers a violation of these regulations, the administrator shall notify the violator of the specific violation and give the violator a specific time to correct the violation. If the violation continues or is not corrected, or a request for an appeal or variance as provided in article XIII is not filed, the administrator shall initiate proceedings for enforcement as described in this article.

(Ord. of 1-19-98, § I; Amend. of 11-2-09)

Sec. 21-14. Violations and penalties.

(a) *Civil penalties.*

- (1) In addition to other remedies cited in this chapter for the enforcement of these provisions, this chapter may be enforced through the issuance of citations by the county. These citations shall be in the form of a civil penalty. The county may recover this penalty within seventy-two (72) hours after issuing a citation for a violation. In addition, failure to pay the civil penalty may subject the owner to civil action in the nature of debt if the penalty is not paid in the prescribed period of time.
- (2) The following civil penalties are established for violations under this chapter:
- a. Warning citation . . . No penalties
 - b. First citation . . . \$ 25.00
 - c. Second citation for the same offense . . . 50.00
 - d. Third and subsequent violations for the same offense . . . 100.00

Upon issuance of a warning citation, first citation or second citation, the owner or developer shall have seven (7) days to correct the violation or make satisfactory progress to correct the violation before additional penalties are assessed. Upon issuance of the third citation, each additional day's violation is a separate and distinct offense and shall incur an additional one-hundred-dollar fine.

- (b) *Misdemeanor citations.* Any person who knowingly or willfully violates this chapter, or who knowingly or willfully initiates unapproved actions shall be guilty of a misdemeanor punishable by imprisonment not to exceed thirty (30) days, or by a fine not to exceed fifty dollars (\$50.00).
- (c) *Injunctive relief.* Whenever the county attorney has reasonable cause to believe that any person is violating or threatening to violate this article or any term, condition, or provision of approval, the county attorney may, either before or after the institution of any other action or proceeding authorized by this chapter, institute a civil action in the name of the county for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the superior court of the county. Upon determination by a court that an alleged violation is occurring or is threatened, it shall enter such orders or judgments as are necessary to abate the violation or to prevent the threatened violation. The institution of an action for injunctive relief under this section shall not relieve any party to such proceedings from any civil or criminal penalty prescribed for violations of this chapter.

(Ord. of 1-19-98, § I)

Sec. 21-15. Effective date.

This chapter shall take effect and be in full force from and after February 16, 1998.

(Amend. of 3-7-05)

Sec. 21-16. Adoption.

Duly adopted by the Rowan County Board of Commissioners of Rowan County, North Carolina the nineteenth day of January 1998 and subsequent amendments.

(Amend. of 3-7-05; Amend. of 4-21-14)

Secs. 21-17--21-30. Reserved.

ARTICLE II. GENERAL AND OVERLAY DISTRICTS

Sec. 21-31. Zoning districts established.

(a) The county is hereby divided into a variety of general zoning districts. The purpose and minimum requirements of each zoning district are provided in the appropriate zoning district provisions and in article V. In addition, special overlay district regulations apply for specified areas. The applicability of all zoning districts to individual properties shall be shown on official zoning maps which shall be a part of the zoning ordinance. These maps shall be maintained for public inspection in the offices of the county planning department. Interpretation of zoning district uses and boundaries shall be as provided in article XII and article XIII.

(b) The following general use and overlay districts are established:

(1) *General zoning districts:*

- | | |
|---|-------------------------|
| a. Rural Agricultural (RA) | h. 85-ED-1 |
| b. Rural Residential (RR) | i. 85-ED-2 |
| c. Residential Suburban (RS) | j. 85-ED-3 |
| d. Multifamily Residential (MFR) | k. 85-ED-4 |
| e. Manufactured Home Park District (MHP) | l. Industrial (IND) |
| f. Neighborhood Business (NB) | m. Institutional (INST) |
| g. Commercial, Business, Industrial (CBI) | |

(2) *Overlay districts:*

- a. Water Supply Watershed (WS).
- b. Airport Height (AZO).
- c. Agricultural (AO).
- d. Manufactured Home Overlay (MHO).

(Ord. of 1-19-98, § III; Ord. of 6-7-99; Ord. of 4-21-03; Amend. of 3-7-05)

Sec. 21-32. General zoning districts defined; purpose and intent.

(a) *Rural Agricultural, RA.* This district is developed to provide for a minimum level of land use regulations appropriate for outlying areas of the county. These outlying areas typically consist of rural single-family housing, larger tracts of land used for agriculture or in fields and forest land, with some nonresidential uses intermingled. Multifamily uses are discouraged in this district. This district would provide for protection from the most intensive land uses while containing provisions for a variety of less intensive land uses. It is the intent of this district to

rely upon development standards to protect residences from potential adverse impacts of allowed nonresidential uses. The most intensive land uses would not be allowed in this district.

- (b) *Rural Residential, RR.* This zoning district is comprised of areas of the county in which moderate levels of single-family housing has occurred or is occurring. In this district, agricultural uses have been replaced to a significant degree with single-family housing. The regulations in this district are intended to provide a land owner with an opportunity to engage in limited business or commercial activities. Multifamily uses are not allowed.
- (c) *Residential Suburban, RS.* The purpose of this zoning district is to protect existing residential neighborhoods and promote the creation of more residential neighborhoods. These areas are typically near major thoroughfares and have or could be provided significant infrastructure. Commercial uses, business uses and multifamily uses are generally not allowed.
- (d) *Multifamily Residential, MFR.* This district is intended to allow for a wide range of residential uses and will be the primary location for multifamily development. This district will typically be located near arterials or collectors. The development of multifamily developments within this district cannot be predetermined and cannot be adequately controlled by general district standards. Therefore specific development proposals for multifamily developments in this district shall be reviewed and approved by the board of commissioners. Approval of the site plan may include the addition of reasonable and appropriate standards to the site plan. No other uses allowed in the MFR district shall require site plan approval by the board of commissioners unless expressly required by this chapter. Additional approval standards for multifamily residential developments are listed in article III. The requirements of this district shall not apply to duplexes on individual lots but shall apply to multiple duplexes on an individual lot.
- (e) *Manufactured Home Park, MHP.*
 - (1) This district is established in order to provide for the proper location and planning of manufactured home parks, excluding family manufactured home parks. Special requirements shall be applied to these parks which shall specify improvements to the park to ensure the public health, safety and welfare of the park inhabitants as well as the surrounding area. Designation of an area as being in the MHP district provides design and appearance criteria which are more appropriate for rental manufactured housing and/or spaces, including vinyl or similar skirting, clustering of units and reduced road construction standards. These standards are not applicable to manufactured homes and/or lots located outside a MHP district. This district requires site plan review for development of manufactured home parks by the board of commissioners. This review is required because the use may have particular impacts on the surrounding area and the county as a whole. Approval of the site plan may include the addition of reasonable and appropriate standards to the site plan. No other uses allowed in the MHP district shall require site plan approval by the board of commissioner unless expressly required by this chapter.
 - (2) Manufactured home parks, existing at the effective date of this chapter and registered as provided by the county mobile home park ordinance are zoned as conforming uses, even though they may not meet the development standards of this chapter. Expansions of the existing registered manufactured home parks or construction of new manufactured home parks, approved under the county mobile home park ordinance may be initiated or continue unless no work has begun within six (6) months of the date of issuance of a "permit to develop" under that ordinance, or work has ceased for a period of twelve (12) months.
 - (3) Other manufactured home parks, which meet the intent of this section by having

improvements similar to the requirements of this chapter may also be zoned as conforming uses. However, all expansions of any manufactured home park, existing at the effective date of this chapter shall meet all requirements of this chapter unless expressly provided otherwise. Development standards for a manufactured home park are listed in article III.

- (f) *Commercial, Business, Industrial, CBI*. This zone allows for a wide range of commercial, business and light industrial activities which provide goods and services. This district is typically for more densely developed suburban areas, major transportation corridors, and major cross-roads communities. However this district may also exist or be created in an area other than listed in this subsection if the existing or proposed development is compatible with the surrounding area and the overall public good is served.
- (g) *Industrial, IND*. This district is intended to provide for industrial activities involving extraction, manufacturing, processing, assembling, storage, and distribution of products. The district is also designed to accommodate other, more intense nonresidential uses which generate adverse side effects such as noise, odor or dust. The district is typically applied in areas with maximum accessibility to major highways, rail lines, and other significant transportation systems. However this district may also exist or be created in an area other than listed in this subsection if the existing or proposed development is compatible with the surrounding area and the overall public good is served.
- (h) *Neighborhood Business, NB*. This district is designed for retail, limited small manufacturing facilities and service oriented business centers which serve small trading areas. As a result the list of allowed uses is more limited than those in the CBI district. The development standards for these business areas are designed to promote sound, permanent business development and to protect abutting and surrounding residential areas from undesirable aspects of nearby commercial development. This district is also designed to provide opportunities for potential development within the NB district.

Areas zoned NB shall be so located as to conveniently serve the community population. The establishment and subsequent development of this district shall not create or expand problems associated with traffic volumes or circulation. As the district is established to provide for small neighborhood oriented business areas limitations on gross floor area is established. Limitations on total impervious surface are established to minimize the adverse impacts of this type of development on adjacent residential areas. Generally, the NB district shall be two (2) acres or larger. However a lot of record, smaller than two (2) acres may be considered for rezoning to NB if the owner of the lot does not own adjacent property which may be included in the rezoning request.

- (i) *Institutional, INST*. The purpose of the Institutional district is to recognize and permit the creation of defined areas for the unified and orderly development of major cultural, educational, medical, governmental, religious and other institutions in order to support and enhance their benefits to the community in a manner which protects adjacent residential uses. Trade school facilities teaching a trade, for example truck driving or welding, which have that activity on site, shall meet zoning requirements for that use.

(Ord. of 1-19-98, § III; Ord. of 2-1-99(1), §§ 2, 9; Ord. of 6-17-02; Ord. of 4-21-03; Amend. of 4-21-14)

Sec. 21-33. Overlay districts.

Overlay districts are zoning districts, which are applied only in conjunction with other zoning districts, and may grant additional use of development requirements upon the underlying zoning districts. The effect is to have both the overlay district and the underlying zoning controlling the

use and development of the lot. Overlay districts are applicable on an area wide basis to support specific public policy objectives and as such should be consistent with adopted land use plans. Overlay districts may be applied to conventional and conditional zoning districts. An overlay district may be initiated as an amendment by the board of commissioners, planning board or property owner.

- (1) *Airport Zone Overlay, AZO.* The zones and restrictions established in this subsection are designed to limit the height of structures surrounding the county airport's established elevation of seven hundred seventy-one (771) feet above mean sea level (msl) in order to prevent hazards to the lives and property of the users of the airport and the occupants of land in the vicinity.
 - a. *Uses allowed.* The use requirements of the underlying district apply to the AZO district. However, all uses must be in conformance with the provisions of this section.
 - b. *Establishment of zones.* To carry out the provisions of this section, there are hereby created and established certain civil airport imaginary surfaces which include all of the land lying beneath the approach surface, transitional surface, horizontal surface, conical surface and primary surface. These civil airport imaginary surfaces are established with relation to the Rowan County Airport runway and proposed extensions of thereof. Such imaginary surfaces are shown on the Official County Airport Zoning Map prepared by the Rowan County Planning Department and dated October 4, 2004, which is adopted and incorporated herein by reference. The size of each such imaginary surface is based on the categorization of this runway as a precision instrument runway. The slope and dimensions of the imaginary surfaces, applied to each end of a runway, are determined by the most precise approach existing or planned for the runway end. The surfaces are hereby established and defined as follows:
 1. *Horizontal surface.* A horizontal plane one hundred fifty (150) feet above the established airport elevation, the perimeter of which is constructed by swinging arcs with a radius of ten thousand (10,000) feet from the center of each end of the primary surface of each end of the runway, including any planned extensions, and connecting the adjacent arcs by lines tangent to those arcs.
 2. *Conical surface.* A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20:1 for a horizontal distance of four thousand (4,000) feet.
 3. *Primary surface.* A surface longitudinally centered on a runway. The primary surface extends two hundred (200) feet beyond each end of the runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is one thousand (1,000) feet as required for precision runway landings.
 4. *Approach surface.* A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface.
 - i. The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of sixteen thousand (16,000) feet as provided for precision instrument runways.
 - ii. The approach surface extends for a horizontal distance of ten thousand (10,000) feet at a slope of 50:1 with an additional forty thousand (40,000) feet at a slope of 40:1.

5. *Transitional surface.* These surfaces extend outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of 7:1 from the sides of the primary surface and from the sides of the approach surfaces. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of five thousand (5,000) feet measured horizontally from the edge of the approach surface and at right angles to the runway centerline.
 - c. *Height limitations.* Except as otherwise provided in this article, no structure shall be erected, altered or maintained, and no tree shall be allowed to grow within the AZO district extending or projecting into the lowest applicable imaginary surfaces defined herein.
- (2) *Water Supply Watershed Overlays, WSO.* The purpose of the watershed overlay is to provide for the protection of public water supplies as required by the Water Supply Watershed Classification and Protection Act (G.S. 143-214.5) and regulations promulgated therein. The watershed overlays may be an overlay in any conventional or conditional zoning district established in this chapter. The overlay districts supplement the uses or development requirements of the underlying zoning districts.
- a. *Uses allowed.* The use requirements of the underlying districts apply to the WS districts, unless otherwise provided in this section. However, all allowed uses must be in conformance with the provisions of this section.
 - b. *Expressly prohibited in critical areas.* The following uses are expressly prohibited:
 1. Landfills;
 2. Sites for land application of sludge/residuals or petroleum contaminated soils.
 - c. *Calculating built-upon area.* For the purpose of calculating built-upon area, total project area shall include total acreage in the lot on which the project is to be developed.
 - d. *Density and built-upon limits.* The following density and built-upon limits shall apply to development in the water supply watersheds unless expressly provided otherwise.

<i>Watershed</i>	<i>Single family Residential</i>	<i>Multi-family and Nonresidential Development</i>
<i>Watershed-II-Critical Area, WS-II-CA</i>	<i>80,000 sq. ft. minimum lot size or 6 percent built-upon area on a project by project basis</i>	<i>Development shall not exceed 6 percent on a project-by-project basis, unless otherwise provided in this section.</i>
<i>Watershed-II-Balance of Watershed, WS-II-BW</i>	<i>40,000 sq. ft. minimum lot size</i>	<i>Maximum 12 percent built-upon on a project by project basis</i>
<i>Watershed-III-Critical Area, WS-III-CA</i>	<i>40,000 sq. ft. minimum lot size</i>	<i>Maximum 12 percent built-upon on a project by project basis</i>
<i>Watershed-III-Balance of Watershed, WS-III-BW</i>	<i>20,000 sq. ft. minimum lot size</i>	<i>Maximum 24 percent built-upon on a project by project basis</i>
<i>Watershed-IV-Critical Area, WS-IV-CA*</i>	<i>20,000 sq. ft. minimum lot size</i>	<i>Maximum 24 percent built-upon on a project by project basis</i>
<i>Watershed-IV-Protected Area, WS-IV-PA*</i>	<i>20,000 sq. ft. minimum lot size</i>	<i>Maximum of 24 percent built-upon area with curb and gutter or 36 percent built-upon area without curb and gutter</i>

* Development activities which require an erosion/sedimentation control plan must meet these requirements.

- e. Special nonresidential intensity allocation (SNIA) permit.
 - 1. *Purpose.* The purpose is to provide a method for the board of commissioners to allow ten (10) percent of the county's portion of the balance of watershed area (excluding a critical area) to be granted an SNIA permit to be developed at up to seventy (70) percent built-upon surface area.
 - 2. *Application and review procedures.* Applications shall include a site plan as prescribed in section 21-52.
 - 3. *Review and approval.* The site plan shall be reviewed by the board of commissioners. Approval of the plan may include the addition of reasonable and appropriate conditions.
 - 4. *Applicable areas.* Areas in which SNIA permits may be approved are as follows:
 - i. WS-II-BW.
 - ii. WS-III-BW.
 - iii. WS-IV-PA.
 - 5. *Eligibility for an SNIA permit.* Non-residential uses subject to compliance with section 21-113 shall be eligible unless otherwise indicated in this chapter.

(3) *Agricultural Overlay, AO.* The purpose of the Agricultural Overlay District is to provide additional requirements to encourage the maintenance of viable agricultural areas. This district should be comprised primarily of open farm land used for extensive agricultural and livestock production. The district will provide guidelines to promote the maintenance of the general rural character of openness. Development in this district shall be subject to the criteria below.

a. *Uses allowed.* The following agricultural and related uses are allowed:

<i>Code</i>	<i>1987 U.S. SIC Description</i>
01	Agricultural production--crops
02	Agricultural production--livestock
515	Wholesale farm products and raw material part of a bona fide farm operation
5261	Retail nurseries, lawn and garden supply stores part of a bona fide farm operation
	Other similar agricultural uses such as feed and seeds part of a bona fide farm operation
	Family subdivisions of up to three (3) lots plus the remainder
	Family manufactured home parks of up to three (3) manufactured homes occupied by members of the immediate family of the property owner
	Rural home occupations
07	Agricultural services

b. *Development of property not part of a bona fide farm located in AO District.* Within the AO district setback of fifty (50) feet shall be provided from land in agricultural use.

(4) *Manufactured Home Overlay, MHO.*

a. *Purpose and intent.* The purpose of the Manufactured Home Overlay is to provide for the development of Type II and Type III manufactured homes in established residential zoning districts while maintaining the overall residential, rural or agricultural character of those districts. Because of the potential impacts of the establishment of this district, it has prescribed conditions contained in this subsection to ensure compatibility with the surrounding area.

- b. *Permitted districts.* The Manufactured Home Overlay supplements the range of uses and regulations in the underlying district. The overlay is allowed in the following districts permitting residential development; RA, RR, CBI and MFR. All other uses in the underlying district shall continue to remain in effect and subject to the regulations and conditions of approval of the underlying district.
- c. *Procedures for district designation.* The following procedures are required for MHO district designation:
 - 1. Designation as an MHO district shall require a rezoning as provided in article XIV of this chapter.
 - 2. Upon approval of an MHO district by the board of commissioners, the area so designated shall be labeled "MHO" on the zoning map.
- d. *Review.* The petitioner seeking to rezone property to this district must illustrate that the proposed development will comply with the evaluation criteria contained in section 21-59. A site plan is required as provided by section 21-52. In approving the district reasonable conditions may be included to protect the public health, safety and welfare and to meet the intent of this chapter.
- e. *Development standards.* The following standards shall apply for the location of type II and type III manufactured homes unless specifically provided otherwise in this chapter:
 - 1. Location of type II and type III manufactured homes on subdivisions of one (1) or more lots shall require establishment of an MHO zoning district.
 - 2. Upon establishment of an MHO district the following types of homes may be located in the following districts:
 - i. RA district: Type II and type III.
 - ii. RR district: Type II.
 - iii. CBI district: Type II and type III.
 - iv. MFR district: Type II and type III.
 - 3. Side & rear yard setbacks for the district's external boundary is 30 feet.

(Ord. of 1-19-98, § III; Ord. of 6-7-99; Ord. of 12-18-00(2); Ord. of 10-4-04; Amend. of 11-2-09; Amend. of 4-21-14; Amend. of 9-6-16)

Sec. 21-34. Economic development districts established for I-85.

- (a) The following district are hereby established to preserve, encourage and enhance the economic development opportunities in areas adjacent and near I-85 in accordance to plans adopted by the county board of commissioners. It is recognized that I-85 is uniquely important the future of the county because of the great potential for development of all types that exist along this corridor. Development within these districts shall be of types which maximize the economic benefits to the county while minimizing the potential impacts.
- (b) The district are designed to accommodate, as appropriate, uses such as manufacturing, distribution, retail, service industries, corporate parks. Certain individual uses may be allowed as uses by right in some districts, while other more intensive uses may require a higher level of review and approval by the county. The districts encourage and allow more creative design of land development than may be provided on other general zoning districts. This flexibility is

provided for planned unit developments.

- (c) The district are labeled as 85-ED 1 through 4. "85" represents the relationship to I-85. "ED" represents the economic development designation for the sites.

(1) *85-ED-1*. The purpose of the 85-ED-1 district is to encourage the location of "high capital investment/high wage/low employment/clean" industries. Certain industries shall be allowed as permitted uses standards provided to protect adjacent neighborhoods. Other heavy industries may be allowed as conditional uses. If part of a larger master plan limited accessory and ancillary retail and service uses may be allowed.

- a. In the 85-ED-1 district the following uses are permitted by right with a minimum lot size of five (5) acres:

Manufacturing group:

- Printing and publishing (SIC 27).
- Rubber and miscellaneous plastics products (SIC 30).
- Fabricated metal products (SIC 34), except:
 - Ammunition, except for small arms (SIC 3483).
 - Ordnance and accessories (SIC 3489).
- Industrial machinery and equipment (SIC 35).
- Electrical and electronic equipment (SIC 36), except:
 - Power distribution and specialty transformers (SIC 3612).
- Transportation equipment (SIC 37).
- Instruments and related products (SIC 38).
- Miscellaneous manufacturing industries (SIC 39).

Transportation, communication, and utilities group:

- Ground Mounted Solar Energy Systems 6,000 sq.ft. or less (SIC 491 pt).

- b. The following are allowed with the issuance of a conditional use permit:

Construction group:

- General Building Contractors (SIC 15)*
- Special Trade Contractors (SIC 17)*

Manufacturing group:

- Lumber and wood products (SIC 24).
- Furniture and fixtures (SIC 25).
- Plastic materials, synthetic resins, etc. (SIC 282).
- Drugs (SIC 283).
- Paper and allied products (SIC 26).
- Stone, clay, glass, and concrete products (SIC 32).

Primary metal industries (SIC 33).

Transportation, communication, and utilities group:

Communications and telecommunication towers (SIC 48 pt).

Services group:

Racing, including track operation (SIC 7948).

- c. Approval of a PUD with a minimum lot size of twenty (20) acres will allow the above uses in addition to accessory and ancillary uses on up to ten (10) percent of the total acreage.

Transportation, communication, and utilities group:

Local and interurban passenger transit (SIC 41).

Transportation services (SIC 47).

Retail trade group:

General merchandise stores (SIC 53).

Food stores (SIC 54).

Eating and drinking places (SIC 58).

Miscellaneous retail (SIC 59).

Finance, insurance, and real estate group:

Depository institutions (SIC 60).

Service industries group:

Hotels, rooming houses, camps, and other lodging places (SIC 70).

Personal services (SIC 72).

Business services (SIC 73).

Automotive repair, services, and parking (SIC 75).

- (2) 85-ED-2. In areas where existing conditions such as surrounding development, access etc. may make the area less marketable for uses listed exclusively in the 85-ED-1 district then the 85-ED-2 district may be appropriate. The primary additions to this district are distribution and wholesaling operations.

- a. Certain industries shall be allowed as permitted uses with standards provided to protect adjacent neighborhoods. Other heavy industries and distribution and wholesale operations may be allowed as conditional uses. If part of a larger master plan limited accessory and ancillary retail and service uses may be allowed.

Manufacturing group:

Printing and publishing (SIC 27).

Rubber and miscellaneous plastics products (SIC 30).

Fabricated metal products (SIC 34), except:

Ammunition, except for small arms (SIC 3483).

Ordnance and accessories (SIC 3489).

Industrial machinery and equipment (SIC 35).

Electrical and electronic equipment (SIC 36), except:

Power distribution and specialty transformers (SIC 3612).

Transportation equipment (SIC 37).

Instruments and related products (SIC 38).

Miscellaneous manufacturing industries (SIC 39).

Transportation, communication, and utilities group:

Ground Mounted Solar Energy Systems 6,000 sq.ft. or less (SIC 491 pt).

Service industries group:

Engineering and management services (SIC 87).

- b. The following are allowed with the issuance of a conditional use permit:

Construction group:

General Building Contractors (SIC 15)

Special Trade Contractors (SIC 17)

Manufacturing group:

Lumber and wood products (SIC 24).

Furniture and fixtures (SIC 25).

Plastic materials, synthetic resins, etc. (SIC 282).

Drugs (SIC 283).

Paper and allied products (SIC 26).

Stone, clay, glass, and concrete products (SIC 32).

Primary metal industries (SIC 33).

Transportation, communication, and utilities group:

Local and interurban passenger transit (SIC 41).

Motor freight transportation and warehousing (SIC 42).

Transportation services (SIC 47).

Communications and telecommunication towers (SIC 48 pt).

Wholesale trade group:

Wholesale trade--durable goods (SIC 50).

Wholesale trade--nondurable goods (SIC 51).

Services group:

Racing, including track operation (SIC 7948).

- c. Approval of a PUD with a minimum lot size of twenty (20) acres will allow the above uses in addition to accessory and ancillary uses on up to ten (10) percent of the total acreage.

Transportation, communication, and utilities group:

Local and interurban passenger transit (SIC 41).

Transportation services (SIC 47).

Retail trade group:

General merchandise stores (SIC 53).

Food stores (SIC 54).

Eating and drinking places (SIC 58).

Miscellaneous retail (SIC 59).

Finance, insurance, and real estate group:

Depository institutions (SIC 60).

Service industries group:

Hotels, rooming houses, camps, and other lodging places (SIC 70).

Personal services (SIC 72).

Business services (SIC 73).

Automotive repair, services, and parking (SIC 75).

- (3) *85-ED-3 Corporate Park District.* Some areas with good interstate visibility, good access and good surrounding environment may be suitable for high-end corporate headquarters. This may or may not include manufacturing. The purpose of the district is to provide for a high-quality mixture of employment uses of varying types in a single coordinated development. Minimum development size is twenty (20) acres and will require approval of a PUD.

a. Allowed primary uses are:

Manufacturing group:

Lumber and wood products (SIC 24).

Furniture and fixtures (SIC 25).

Paper and allied products (SIC 26).

Printing and publishing (SIC 27).

Plastic materials, synthetic resins, etc. (SIC 282).

Drugs (SIC 283).

Rubber and miscellaneous plastics products (SIC 30).

Stone, clay, glass, and concrete products (SIC 32).

Primary metal industries (SIC 33).

Fabricated metal products (SIC 34), except:

 Ammunition, except for small arms (SIC 3483).

 Ordnance and accessories (SIC 3489).

Industrial machinery and equipment (SIC 35).

Electrical and electronic equipment (SIC 36), except:

Power distribution and specialty transformers (SIC 3612).

Transportation equipment (SIC 37).

Instruments and related products (SIC 38).

Miscellaneous manufacturing industries (SIC 39).

Transportation, communication, and utilities group:

Local and interurban passenger transit (SIC 41).

Motor freight transportation and warehousing (SIC 42).

Transportation services (SIC 47).

Ground Mounted Solar Energy Systems 6,000 sq.ft. or less (SIC 491 pt).

Service industries group:

Hotels, rooming houses, camps, and other lodging places (SIC 70).

Personal services (SIC 72).

Business services (SIC 73).

Automotive repair, services, and parking (SIC 75).

Health services (SIC 80).

Legal services (SIC 81).

Educational services (SIC 82).

Membership organizations (SIC 86).

Engineering and management services (SIC 87).

- b. Allowed accessory and ancillary uses on up to twenty (20) percent of the total acreage:

Transportation, communication, and utilities group:

Local and interurban passenger transit (SIC 41).

Transportation services (SIC 47).

Wholesale trade group:

Wholesale trade--durable goods (SIC 50).

Wholesale trade--nondurable goods (SIC 51).

Retail trade group:

General merchandise stores (SIC 53).

Food stores (SIC 54).

Eating and drinking places (SIC 58).

Miscellaneous retail (SIC 59).

Finance, insurance, and real estate group:

Depository institutions (SIC 60).

Service industries group:

Hotels, rooming houses, camps, and other lodging places (SIC 70).

Personal services (SIC 72).

Business services (SIC 73).

- c. The following are allowed with the issuance of a conditional use permit:

Transportation, communication, and utilities group:

Communications and telecommunication towers (SIC 48 pt).

- (4) *85-ED-4 Retail Center.* Many areas near the interstate will draw interest from retailers. It is often appropriate or desirable to have a portion of an area zoned for larger retail development. This helps ensure availability of most retail and service needs in a location nearby and accessible to major employment and residential areas. Minimum development size is twenty (20) acres and will require approval of a PUD.

- a. Allowed primary and accessory uses are:

Transportation, communication, and utilities group:

Ground Mounted Solar Energy Systems 6,000 sq.ft. or less (SIC 491 pt).

Retail trade group:

Building materials, hardware, garden supply, and mobile (SIC 52).

General merchandise stores (SIC 53).

Food stores (SIC 54).

Automotive dealers and gasoline service stations (SIC 55).

Apparel and accessory stores (SIC 56).

Furniture, home furnishings and equipment stores (SIC 57).

Eating and drinking places (SIC 58).

Miscellaneous retail (SIC 59).

Finance, insurance, and real estate group:

Depository institutions (SIC 60).

Nondepository credit institutions (SIC 61).

Security, commodity brokers, and services (SIC 62).

Insurance carriers (SIC 63).

Insurance agents, brokers, and service (SIC 64).

Real estate (SIC 65).

Holding and other investment offices (SIC 67).

Service industries group:

Hotels, rooming houses, camps, and other lodging places (SIC 70).

Personal services (SIC 72).

Business services (SIC 73).

- Automotive repair, services, and parking (SIC 75).
- Miscellaneous repair services (SIC 76).
- Motion pictures (SIC 78).
- Amusement and recreational services (SIC 79).
- Health services (SIC 80).
- Legal services (SIC 81).
- Educational services (SIC 82).
- Social services (SIC 83).
- Museums, art galleries, botanical and zoological garden (SIC 84).
- Membership organizations (SIC 86).
- Engineering and management services (SIC 87).
- Miscellaneous services (SIC 89).

b. The following are allowed with the issuance of a conditional use permit:

Transportation, communication, and utilities group:

Communications and telecommunication towers (SIC 48 pt).

(5) *Approval process for PUDs.* All PUDs shall be reviewed and approved as required for conditional use permits in article III of this chapter. Uses included in PUDs which require conditional use approval as freestanding uses shall not require separate a separate conditional use permit approval if approved as part of a PUD.

(6) *Other zoning criteria.* Notwithstanding limits on reduction of setbacks in article XIII of this chapter, all standards are subject to modification in site plan approval process. However, in no situation shall the required buffer from project perimeter be reduced if adjacent to a residentially zoned area.

- a. *Buffers.* Forty (40) feet from project perimeter.
- b. *Screening.* In accordance with article IX, screening for a PUD shall be determined using the predominant use of the PUD or relevant portion thereof.
- c. *Street frontage.* Minimum of one hundred (100) feet for development.
- d. *Maximum lot coverage.* Eighty (80) percent of lot area.
- e. *Development size.* Development sizes are as permitted below. Permitted and conditional uses on lots five (5) acres or more but less than twenty (20) acres in size are only allowed on lots of record existing at the effective date of the ordinance from which this chapter derives, or on aggregations of lots existing at the effective date of the ordinance, creating a lot five (5) acres or larger in size.

1. *85-ED-1.*

- Permitted used 5 acres
- Conditional uses 5 acres
- PUDs 20 acres

2. *85-ED-2.*

- Permitted used 5 acres

Conditional uses 5 acres

PUDs 20 acres

3. 85-ED-3.

PUDs 20 acres

4. 85-ED-4.

PUDs 20 acres

- f. *Subdivision requirements.* All subdivisions of property must be approved as a PUD.
- g. *Maximum building height.* No maximum height.
- h. *Parking.* As required in zoning ordinance.
- i. *Signs.* As provided in zoning ordinance.
- j. *Circulation system.* Requires access to major or minor thoroughfare or interstate service road. No access to local streets is allowed. Interior streets are designed to connect to other adjoining property within a 85-ED district. This requirement may be waived if it is found that connection to adjoining property is not appropriate due to incompatibility of adjacent development.
- k. *Nuisance conditions.* The project shall no cause detrimental levels of noise, dust, odor etc. to nearby areas.
- l. *Loading, maintenance and outdoor storage areas.* All loading, maintenance and outdoor storage areas shall be located to the rear or side of the building, but shall not face a side street unless approved as such during the PUD process.
- m. *Open space.* Open space shall be suitably landscaped with grass and/or trees and shrubs. Within a PUD the open space shall be pedestrian oriented. Parking or vehicular access is not allowed.
- n. *Lighting.* Lighting shall be provided at intersections, along walkways and in parking lots. The maximum height of lighting is twenty-five (25) feet. Spacing of lighting shall be four (4) times the height.
- o. *Building character and style.* Building designs within a PUD shall strive to establish a distinctive style and maintain a high quality development standard. Buildings should include similar architectural styles but should not be identical throughout the development. The site plan shall at a minimum describe building materials colors and architectural features of the development.
- p. *Pedestrian facilities and design.* Within a PUD, the site plan shall provide for a unified and well-organized arrangement of buildings, service areas, parking, etc., to provide a high level of convenience and safety for pedestrians, employees, and visitors.
- q. *Landscaping.* Approval of PUD shall include at a minimum the following:
 - 1. Trees shall be planted on both sides of interior access streets used by the public. These trees shall be ten (10) feet tall at planting and a minimum of twenty (20) feet tall at maturation, and shall be of similar size and shape. The trees shall be planted no further than forty (40) feet apart.
 - 2. Entranceways and medians shall be landscaped with trees and/or shrubs as appropriate for the type of development.

(Ord. of 12-18-00(2); Amend. of 3-7-05; Amend. of 11-2-09; Amend. of 9-6-11; Amend. of 3-4-13;

Amend. of 8-19-13; Amend. of 4-21-14; Amend. of 10-17-16)

Secs. 21-35--21-50. Reserved.

ARTICLE III. SITE PLANS, SPECIAL REQUIREMENTS, CONDITIONAL USE PERMITS AND CONDITIONAL ZONING DISTRICTS

Sec. 21-51. Purpose.

This article provides regulations and conditions for selected uses which are unusual in their nature or complexity. These uses may require areas of unusual size, or are potentially incompatible with their surroundings unless special development standards are applied, or which depend on sound site planning and design to prevent them from becoming detrimental to the health, safety, or general welfare of the public or neighboring land uses.

(Ord. of 1-19-98, § IV)

Sec. 21-52. Site plan required.

Site plans are necessary to demonstrate the proposed use of land and / or structures will comply with the specifications set forth in this chapter prior to the issuance of a zoning permit. All non-residential uses shall submit a site plan containing the following information in addition to other standards required by this chapter:

- (1) Zone lot with dimensions and development setbacks;
- (2) Tax parcel number;
- (3) Property address;
- (4) Adjoining deeded properties and their uses;
- (5) Existing structures;
- (6) Proposed structure with size;
- (7) Proposed use;
- (8) Number of employees, if applicable;
- (9) Hours of operation, if applicable;
- (10) Off-street parking, loading and unloading, access to existing streets;
- (11) Easements and rights-of-way;
- (12) All pertinent development requirements of this chapter;
- (13) Any additional information required by the zoning administrator to assess the merits of the application, including but not limited to traffic impact analysis, environmental impact statements;
- (14) Floodplains;
- (15) Name, location and dimension of any proposed streets, drainage facilities, parking areas, recreation areas, required yards, required turnarounds as applicable;
- (16) Screening & Buffering, if applicable;
- (17) Zoning District;

- (18) Proposed phasing, if applicable;
- (19) This required site plan shall be in sufficient detail to allow the zoning administrator to reasonably understand the proposed development. The scale shall be one (1) inch equals one hundred (100) feet or greater for zone lots three (3) acres or less in size, or one (1) inch equals two hundred (200) feet for zone lots more than three (3) acres in size.

(Ord. of 1-19-98, § IV; Amend of 4-21-14)

Sec. 21-53. Permitted uses with special requirements.

All uses listed as SR (Special Requirements) in article III shall comply with the pertinent regulations listed in the following subsections. Site plan approval by the zoning administrator shall be required unless expressly provided otherwise prior to issuance of a zoning permit and such approval shall be given if all requirements herein are met. The plan shall become part of the building permit. The regulations for specific uses listed as SR in article III are located in sections 21-54--21-56.

The SR location standards required in Section 21-55(2) a. - c. do not apply to Family care home; Family manufactured home park; Common Sand Mining (SIC 1442); Co-location of wireless facilities, eligible facilities requests, alternative tower structures, and public safety tower (SIC 48 pt); Ground mounted solar energy systems 6,000 sq ft or less (SIC 491 pt); and Residential storage facilities .

(Ord. of 1-19-98, § IV; Amend. of 12-2-13; Amend. of 4-21-14; Amend. of 10-15-18)

Sec. 21-54. Maximum building size and setback requirements for certain uses listed as SR in the Rural Agricultural District.

Building size and maximum size for certain uses listed as "SR" in article III shall be as provided in this section.

- (1) *Applicable uses.* The requirements of this section apply to the following:
 - a. All construction uses listed as SR;
 - b. All manufacturing uses listed as SR except sawmills (SIC 242);
 - c. All wholesale trade uses listed as SR except farm supplies (SIC 5191);
 - d. All retail trade uses listed as SR;
 - e. All finance, insurance and real estate uses listed as SR; and
 - f. All services uses listed as SR except recreation facilities, membership and non-membership.
- (2) *Building size.* The maximum allowable building size for uses listed in subsection (1), above, shall not exceed ten (10) percent of the gross acreage of the lot, excluding right-of-way.
- (3) *Maximum size and buffering.* Maximum square footage and buffering requirements for the following uses shall be determined below.

<i>Building Square Footage</i>	<i>Setback, Front (in feet)</i>	<i>Setback, Side and Rear Yards (in feet)</i>
0--2,000	30	10
2,001--4,000	30	20
4,001--8,000	30	40

8,001--12,000	30	60
12,001--20,000	40	80
20,001 and over	50	100

(Ord. of 1-19-98, § IV; Ord. of 6-29-99; Amend. of 11-2-09; Amend. of 4-21-14)

Sec. 21-55. General criteria for uses listed as SR in article III.

Uses listed as SR in article III shall comply with the following criteria, as applicable:

- (1) *Site plan.* A site plan shall be provided showing the existing lot and all existing and proposed buildings.
- (2) *Location.* The facility must be located on property which meets the following criteria:
 - a. The property must be a lot with thirty-five (35) feet of state road frontage.
 - b. The property must be owned by the business owner.
 - c. The business must be on or adjacent to the residence of the business owner.
- (3) *Lighting.* The lighting shall be shielded to prevent light and glare spillover to adjacent residentially developed properties.
- (4) *Square footage.* The maximum square footage allowed for a use shall include all buildings used for retail sales of any type on that property.
- (5) *Parking.* Parking shall be as prescribed in article VII for that use.
- (6) *Signage.* Signage shall be as prescribed in article VIII for the underlying district.
- (7) *Noise.* Noise shall not exceed the levels prescribed in the county noise ordinance for residential districts.
- (8) *Outdoor storage.* All outside storage areas including dumpsters shall be:
 - a. Sited to the rear of the building;
 - b. Not within the required setbacks.
 - c. Outdoor storage shall be screened as provided in article IX for that use. However the requirements of article IX shall not apply to the business structure or outdoor display.
- (9) *Smoke, odors and dust.* The use will not create any smoke, odors, or dust at a level discernible at any of its lot lines.
- (10) *Required licenses and permits.* The applicant shall provide a copy of all required licenses and permits prior to issuance of a zoning permit.
- (11) *Handling waste and other by-products.* A description shall be provided of the method of collecting, handling, disposal and storage of all wastes, by-products, scraps, etc. which meets all applicable federal, state and local regulations and all other requirements of this chapter.
- (12) *Activities.* Manufacturing activities are confined to the building.
- (13) *Outdoor display.* Outdoor display shall be limited to two thousand five hundred (2,500) square feet unless otherwise provided.

(Ord. of 1-19-98, § IV; Ord. of 6-29-99)

Sec. 21-56. Specific criteria for uses listed as SR in section 21-113.

Uses listed as SR in section 21-113 shall meet the following requirements expressly provided below.

(1) *Additional standards applicable to specific uses listed as SR in the residential group.*

a. *Duplex, individual located in the RR district; minimum lot size.* The minimum lot size shall be one hundred fifty (150) percent of the lot size required for a single-family dwelling.

b. *Family care home.*

- 1. *Occupancy.* No more than six (6) handicapped persons may reside in a family care home.
- 2. *Separation.* No family care home shall be located within a four-hundred-foot radius of another family care home.

c. *Family manufactured home park.*

1. *Application.* The proposed park must be located on a lot of record existing prior to June 8, 1999. An application and site plan shall be completed by the applicant. Applications that do not meet the standards of this subsection may be considered under the family subdivision provisions of the Subdivision Ordinance.

2. *Setbacks within park.* Setbacks for spaces within parks, measured from edge of applicable street or property line:

Front	20 feet
Side	15 feet
Rear	20 feet

3. *Setbacks from external property lines.* Setbacks for manufactured homes from adjacent property lines and rights-of-ways are fifty (50) feet.

4. *Occupancy of homes.* Manufactured homes shall be occupied by members of the immediate family of the property owner.

5. *Number of units in park.* The maximum number of manufactured homes allowed under this subsection are subject to the lesser of the density standards in section 21-84 or the following:

- i. No more than three (3) manufactured homes are allowed in a family manufactured home park in the RA district.
- ii. No more than two (2) manufactured homes are allowed in a family manufactured home park in the RR district.

Single-family dwellings existing prior to the family manufactured home park application shall be included toward the number of homes permitted under this subsection.

6. *Type of manufactured homes allowed.* The manufactured homes shall meet the placement criteria for manufactured homes in section 21-284 (1) and the skirting requirements of subsection 21-276(b). While single-family dwellings are not eligible as new dwelling units under this provision, their existence prior to a family manufactured home park application would not preclude the application from consideration.

7. *Change of occupancy or ownership.* When occupancy or change of ownership of the family manufactured home park occurs which results in such park not meeting the original criteria for approval as a family manufactured home park, the manufactured homes shall become conforming with the underlying district.

(2) *Additional standards applicable to specific uses listed as SR in the agriculture, forestry and fishing in the rural district.*

a. *Veterinary services (SIC 074) and Animal Shelters, Boarding Kennels, Dog Pounds (SIC 0752 pt).*

1. *Site plan.* A site plan shall be provided showing the lot and all existing and proposed buildings as well as all runs and/or training facilities.
2. *Siting.* Kennels not wholly enclosed by a security fence at least six (6) feet in height; and all kennels not wholly enclosed within a building shall be located at least one hundred (100) feet from the lot line of any residentially developed lot.
3. *Runs.* No run area is allowed with the setback.

b. *Reserved.*

(3) *Additional standards applicable to specific uses listed as SR in the mining group.*

a. *Common sand mining special requirements.*

1. *Site plan.* A site plan shall be provided showing the existing lot and all existing and proposed buildings, quarries, pits, stock piles, and other relevant features of the quarrying operation.
2. *Access.* All access roads shall be at least twenty feet from any adjoining property line not part of the mining operation; constructed with a paved, gravel, or crushed stone surface; and maintained in a dust-free manner.
3. *Setbacks.* All land disturbing activities shall be located at least one hundred (100) feet from any zone lot line.
4. *Operation.* Hours of operation shall be limited to sunrise to sunset.
5. *Minimum lot size.* The minimum lot size is five (5) acres.
6. *Smoke, odors, dust.* Operations shall not create any smoke, odors, or dust at a level which creates a nuisance to any person or normal sensitivities at the zone lot line.

b. *Reserved.*

(4) *Additional standards applicable to specific uses listed as SR in the construction group.*

a. *Heavy construction and other building construction (SIC 16).*

1. *Minimum lot size.* The minimum lot size is one (1) acre.
2. *Storage.* All storage shall be a minimum of fifty (50) feet from adjoining residentially developed property lines.

b. *Reserved.*

(5) *Additional standards applicable to specific uses listed as SR in the manufacturing group.*

a. *Meat packing plants (SIC 201).*

1. *Location.* No building, structure, storage or animal holding area shall be located

within three hundred (300) feet of any lot line.

2. *Minimum lot size.* The minimum lot size is five (5) acres.

b. *Saw mills (SIC 242).*

1. *Location.* All mechanized sawing equipment must be located a minimum of five hundred (500) feet from lot boundary lines. Residential lots owned by the sawmill operator are exempt from this requirement.

2. *Reserved.*

(6) *Additional standards applicable to specific uses listed as SR in the transportation, communication, electric, gas and sanitary services group.*

a. *Trucking (SIC 421).*

1. *Minimum lot size.* The minimum lot size is three (3) acres.

2. *Buffer.* All operations shall be a minimum of fifty (50) feet from adjacent residentially developed property lines.

3. *Applicability.* The provisions of this subsection shall apply to trucking businesses with three (3) or more trucks.

b. *Dead storage of manufactured homes.*

1. Compliance with applicable standards of Chapter 14.5, Nuisance Ordinance.

2. Dead storage of more than one (1) manufactured home by an individual is not allowed in the RA, RR, and MFR district.

3. Dead storage of more than one (1) manufactured home is allowed in the CBI and IND district on property owned or leased by a licensed manufactured home dealer.

4. Dead storage of more than one (1) manufactured home is allowed in the MHP district in a manufactured home park.

5. Manufactured homes shall not be kept in dead storage for more than sixty (60) days in accordance with chapter 14.5 section 34 of the Nuisance Ordinance.

c. *Ground mounted solar energy systems 6,000 sq.ft. or less (SIC 491 pt.).* For the purposes of this subsection, the requirements of Sec. 21-54, 55, & 65 do not apply for RA or NB zoned properties.

1. *Size and Setbacks.* Solar collectors shall conform to the lesser of 6,000 sq.ft. or 10% of the lot size and maintain a ten (10) foot setback from all property lines.

d. *Co-location of Wireless and Eligible Facilities Requests (SIC 48 part).* Co-location of wireless and eligible facilities requests are recognized as an efficient method for providing wireless facilities and are encouraged due to their minimization of adverse visual impacts and the opportunity for an expedited and effective administrative review.

1. Applications for co-location of wireless facilities shall include two (2) copies of a site plan prepared by a registered professional engineer or a professional land surveyor as provided in Section 21-52 including items in Section 21-56 (6)(e)5 and Section 21-60(3)a.1.i.,

2. Consideration of eligible facilities requests pursuant to this subsection shall comply with all standards prescribed below, otherwise the request may be deemed a substantial modification and subject to the provisions of Section 21-60 (3)(a):

- i. Not increase the existing vertical height of the structure by the greater of (a) more than ten percent (10%) or (b) the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet (20') regardless of height limitations prescribed in Section 21-60(3)b.
- ii. Not add an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure the greater of (a) more than 20 feet or (b) more than the width of the wireless support structure at the level of the appurtenance. A statutory exception (ref. NCGS 153A-349.51(7a)b) to this standard allows for sheltering the antenna from inclement weather or to connect the antenna to the tower via cable.
- iii. Not increase the square footage of the existing equipment compound by more than 2,500 square feet.
- iv. Provide information from Section 21-56 (6) (e) 4, and 5; and Section 21-60(3)(a) 1.i. and 21-60(3)(c)
- e. Use of alternative tower structures (SIC 48 part). The county acknowledges the merits of alternative tower structures for their innovative use as a means to provide current and future wireless telecommunications coverage and are encouraged as a secondary option to co-location and eligible facilities requests. Wireless facilities applications for placement on or within alternative tower structures may be evaluated in all zoning districts and approved administratively, provided the following SR are met:
 1. The addition of an antenna shall not add more than twenty (20) feet in height.
 2. The associated wireless facilities shall comply with the setbacks for the underlying zoning district, screened according to section 21-215(1)b.1.--3. and be constructed of similar materials/color as the host structure.
 3. The existing host structure may not be externally altered, except to accommodate the addition of the antenna.
 4. Two (2) copies of a site plan as provided in section 21-52 and photograph documentation as required in Section 21-60(3)a. 4 and 5.
 5. Certification from a North Carolina registered professional engineer that any and all structures have sufficient structural integrity to accommodate the addition of an antenna with a design minimum of TIA/EIA-222F (as amended).
 6. Failure to comply with any of the criteria in items 1. through 5. shall require the application to be reviewed as a new wireless support structure.
- f. Public Safety Tower. The deployment of wireless infrastructure for use by local, state and federal government agencies is critical to ensuring the public safety and general welfare of the County's citizens at all times. The provision of reliable and uniform radio and telecommunications coverage by these agencies can only be secured through construction, operation and maintenance of its own infrastructure. Applications for a public safety tower shall include:
 1. Two (2) copies of a site plan prepared by a registered professional engineer or a professional land surveyor as provided in section 21-52 including items in Section 21-60(3)a.1.i.
 2. Documentation substantiating the owner and applicant for the public safety tower is either a local, state or federal agency.
 3. Fall zone certification from an NC Registered Professional Engineer in compliance

with Section 21-60(3)(c).

4. No Hazard to Air Navigation determination from the Federal Aviation Administration (FAA) and No Adverse Effect determination from the NC State Historic Preservation Office (NCSHPO). Both determinations must be dated within twelve (12) months of the public safety tower application submittal.
5. A public safety tower is not subject to the height and location standards of Section 21-60(3)(b).
6. Co-locations of commercial wireless facilities on a public safety tower may be considered under the provisions of Section 21-56(6)(d).

(7) *Additional standards applicable to specific uses listed as SR in the retail sales group*

a. *Automotive dealers and gasoline service stations (SIC 55).*

1. *Display area.* The outdoor display area for automotive sales shall not exceed five thousand (5,000) square feet.
2. *Reserved.*

(8) *Additional standards applicable to specific uses listed as SR in the services group.*

a. *Educational services (SIC 82) that include overnight boarding or lodging.*

1. Proof of accreditation by a recognized board, or provide proposed articles of incorporation and by-laws that provide specific criteria for a board of directors including membership makeup and general responsibilities for oversight of the facility.
2. Projected school enrollment and number of boarders.
3. Description of curriculum.
4. Traffic study.
5. Overnight staffing.

b. *Recreation facilities, membership and nonmembership.*

1. *Required licenses and permits.* The applicant shall provide a copy of all required licenses and permits prior to issuance of a zoning permit.
2. Recreational facilities located within a major subdivision used exclusively by resident members and their guests in the RA, RR, and RS districts are exempt from the locational requirements of Section 21-55 (2).

c. *Automotive repair and services (SIC 75).*

1. *Screening required.* Junked motor vehicles and motor vehicle parts shall be screened from adjacent property by a six-foot high opaque screening. Vegetative screening, if used, shall be opaque during all seasons of the year and planted and maintained in accordance with article IX.
2. *Storage of junked motor vehicles.* The junked motor vehicles shall not be stored in the front yard of the property or in the required front yard setback.
3. *Setbacks for stored junked motor vehicles.* The junked motor vehicles shall be a minimum of fifteen (15) feet off the side and rear property line or side street right-of-way and twenty (20) feet off the right-of-way existing at the effective date of this chapter or fifty (50) feet off the centerline of the road if the right-of-way is not

established.

4. *Stacking of junked motor vehicles.* The junked motor vehicles shall not be stacked higher than the screening.

(9) *Additional standards applicable to specific uses listed as SR in the unclassified uses group.*

a. *Multitenant developments.*

1. *Application.* An application shall be provided with:
 - i. Site plan as provided in section 21-52; and
 - ii. Development name, name(s) and address(es) of owners and park designers.
2. *Board of commissioners review of the development proposal.* The board of commissioners shall review the site plan and other pertinent information to ensure that the general health, safety and public welfare have been adequately protected.
3. *Uses allowed.* Uses are limited to those provided in the district the multitenant development is located. Uses requiring conditional use permits shall obtain the required approval prior to issuance of a building permit.

b. *Winery, Wine Tasting Room*

1. *Setbacks.* The facility shall meet the setback requirements of Section 21-84. (Table of dimensional requirements)
2. *Screening.* The facility shall meet the screening requirements of Article IX. (Screening and Buffering)
3. *Licenses and permits.* All required licenses and permits (i.e. Environmental Health, ABC, etc) shall be obtained prior to operation of the facility.

(10) *Residential storage facilities.*

- a. The parcel shall be in fee simple ownership.
- b. Minimum lot size shall be the same as for a single-family residence.
- c. The structure shall not exceed the lesser of three (3) percent of the lot size or three thousand (3,000) square feet.
- d. Setbacks shall be at a minimum the same as single family dwellings.
- c. No outdoor storage is allowed except as specifically provided otherwise.
- d. Storage of vehicles shall not be in the front yard.
- e. Outside lighting shall be designed to prevent direct glare on adjoining residences.

Requests for residential storage facilities that exceed three (3) percent of the lot size referenced in subsection (c) but do not exceed three thousand (3,000) sq.ft. may be considered as a conditional use subject to the process outline in sections 21-57 through 21-59 if all other standards in this subsection are met.

(Ord. of 1-19-98, § IV; Ord. of 2-1-99(1), §§ 6, 7; Ord. of 10-18-99(1); Ord. of 4-21-03; Amend. of 2-20-06(1); Amend. of 4-21-08; Amend. of 11-2-09; Amend. of 9-6-11; Amend. of 3-5-12; Amend. of 3-4-13; Amend. of 8-19-13; Amend. of 12-2-13; Amend. of 4-21-14; Amend. of 9-6-16; Amend. of 10.15.18)

Sec. 21-57. Review and approval of conditional uses.

- (a) The classification of conditional use is established to provide for the location of those uses which are generally compatible with other land uses permitted in the zoning district in which the conditional use is located but which, because of their unique characteristics or potential impacts on the surrounding areas or the county as a whole, require individual consideration of their location, design, configuration and/or operation at the particular location proposed. Such individual consideration may also call for the imposition of individualized conditions in order to ensure that the use is appropriate at a particular location.
- (b) Any use designated in article V as a conditional use shall be reviewed by the planning director. The planning director shall consult with other appropriate agencies when evaluating conditional use permits and shall prepare an evaluation report. At a minimum, the staff report shall address the general criteria outlined in section 21-60 of this article.

(Ord. of 1-19-98, § IV; Ord. of 10-18-04; Amend. of 3-7-05; Amend. of 11-2-09)

Sec. 21-58. Review procedures.

- (a) *Submission.* Applications for conditional use permits shall be submitted to the county planning department accompanied by a nonrefundable fee set by the county board of commissioners. Once received, the Planning Director shall review the request and, if deemed complete, submit a recommendation to the Board of Commissioners to schedule a public hearing regarding the request. Incomplete applications will be returned to the applicant with the deficiencies noted.
- (b) *Conditional use review.* Planning staff shall prepare and present a report on the application to the board(s) reviewing the application. The board shall evaluate the application with reference to applicable conditions contained in this section as well as general criteria contained in this chapter. When deciding conditional use permits, the board of commissioners shall follow quasi-judicial procedures. The board of commissioners may impose reasonable and appropriate conditions upon the conditional use permit that support the findings found in this article.
- (c) *Site plan required.* Application for conditional use permit review shall require a site plan as provided in section 21-52 of this article. The planning director may also require additional information reasonably required to review the development proposal.
- (d) *Oath.* All evidence presented at the public hearing with regard to applications for conditional use permits shall be under oath.
- (e) *Required findings.* All decisions regarding a conditional use permit application shall not be approved or denied unless each of the following findings has been made:
 - (1) The development of the property in accordance with the proposed conditions will not materially endanger the public health or safety;
 - (2) That the development of the property in accordance with the proposed conditions will not substantially injure the value of adjoining or abutting property, or that the development is a public necessity; and
 - (3) That the location and character of the development in accordance with the proposed conditions will be in general harmony with the area in which it is located and in general conformity with any adopted county plans.
- (f) *Amendments of conditional use permits.* Amendments to approved conditional use permits may be made as follows:
 - (1) *Minor changes.* Conditional use permits are considered through a quasi-judicial process and the county recognizes slight deviations in site-specific development proposals may

arise, warranting changes to the plans and therefore offers a provision for administrative approval of a minor change. The applicant may submit a written request to the planning director that includes supporting documentation (e.g. federal / state permits, survey / engineering information) substantiating the need for the minor change. After reviewing the record of proceedings, the planning director may consider minor changes that are substantially similar to that approved by the Board of Commissioners subject to the following criteria:

- (a) Relocation of operational area improvements that do not project into the required setback;
- (b) One time expansions that do not exceed the lesser of ten (10) percent of the approved structure or one thousand (1,000) square feet for nonresidential uses;
- (c) One time expansions that do not exceed the lesser of ten (10) percent of the development or five (5) units;
- (d) Structural alterations that do not significantly effect the basic style, ornamentation, and / or character of the building; or
- (e) Change in detail which does not affect the basic relationship of the use to the required standards of the applicable ordinances or condition(s) of approval.

Regardless of Sec. 21-58(f)(1)(a-e), the planning director may forward the requested change to the Board of Commissioners for consideration in the same procedure as required for the original issuance of the conditional use permit as per Sec. 21-58(a). All other changes shall be reviewed by the Board of Commissioners as per Sec. 21-58(a). Modifications requesting reduction of the minimum standards within the zoning ordinance shall be treated as a variance request and not considered herein.

- (2) *Timing of amendment proposal.* Requests for a minor change may be submitted to the planning director at any time, although proposals to change or amend any approved conditional use permit shall not be considered by the Board of Commissioners within one (1) year after date of original authorization of such permit or within one (1) year after hearing of any previous proposal to amend or change any such permit unless deemed appropriate by the planning director. The applicant may appeal the decision of the planning director to the planning board. The planning board will make a recommendation for the board of commissioner's consideration. Failure of the Board of Commissioners to set a public hearing regarding an amendment shall constitute denial of the request and conditions of the original permit shall remain in effect.

- (g) *Action.* Following the required review, the board shall take final action on each conditional use permit request. After the required public hearing is closed, the board shall take one (1) of the following actions:

- (1) Approve the issuance of the permit as requested;
- (2) Approve the issuance of the permit, with additional conditions;
- (3) Continue the request; or
- (4) Deny the request for the permit.

In accordance with section 21-11, an approved conditional use permit secures a vested right to undertake a project for two (2) years unless a longer duration is requested by the applicant and approved by the Board of Commissioners. See section 21-315 for additional procedures.

- (h) *Notification of decision.* Notifications shall be delivered in accordance with section 21-315.

- (i) *Notice and public hearing.* Notice and public hearings shall be as provided in section 21-315.
- (j) *Revocation.* The Board of Commissioners may consider revocation of an approved conditional use permit through the same procedure as the original permit. Following the hearing, the Board of Commissioners may elect to revoke the permit if it is factually determined that one or more instances listed below have occurred:
 - (1) The vested rights time period from Sec. 21-11 lapsed;
 - (2) The permit was obtained by fraud;
 - (3) Non-compliance with the approved site plan and / or conditions of approval;
 - (4) Repeated zoning code violations or criminal activity; or
 - (5) Eminent threat to public health or safety.

Failure to validate at least one of these instances shall allow the conditional use permit to remain valid. Petitioners may appeal this decision to superior court.

(Ord. of 1-19-98, § IV; Ord. of 10-18-04; Amend. of 3-7-05; Amend. of 2-20-06(1); Amend. of 11-2-09; Amend. of 10-4-10; Amend. of 3-5-12; Amend. of 4-21-14; Amend. of 9-6-16)

Sec. 21-59. Evaluation criteria.

In addition to meeting special standards for a particular use, the applicant must illustrate that he/she can comply with the following criteria when any conditional use is proposed.

- (1) Adequate transportation access to the site exists;
- (2) The use will not significantly detract from the character of the surrounding area;
- (3) Hazardous safety conditions will not result;
- (4) The use will not generate significant noise, odor, glare, or dust;
- (5) Excessive traffic or parking problems will not result; and
- (6) Use will not create significant visual impacts for adjoining properties or passersby.

(Ord. of 1-19-98, § IV)

Sec. 21-60. Conditional use requirements for specific uses.

The following criteria shall be used in evaluating specific conditional use permit applications. If no specific requirements are listed for a specific use, then only the general criteria will be used in evaluating the application.

- (1) *Mining group: Metal mining (SIC 10), mining and quarrying of non-metallic minerals (SIC 14) except common sand mining.*
 - a. *New Facilities.* Facilities regulated under this section are considered to be those operations where no mining or quarrying activity has ever occurred; or operations have been abandoned or discontinued for a period of three hundred sixty (360) consecutive days; or its NC Department of Environmental Quality authorized mining permit has expired.
 - 1. *Site plan.* A site plan showing the existing lot, all existing and proposed buildings, quarries, pits, stock piles and other relevant features of the quarry operation.
 - 2. *Access.* Access shall be gained from a principal arterial or major collector. All access roads shall be fifty (50) feet from any property line and maintained in a dust free

manner.

3. *Setbacks.* All land disturbing activities shall be located at least three hundred (300) feet from any zone lot line, except uses listed as SIC 1459 "Clay, Ceramic and Refractory Minerals, Not Elsewhere Classified" may reduce the setback to one hundred (100) feet as provided below:
 - i. There is no residence within five hundred (500) feet of the property line.
 - ii. A fifty-foot wide solid vegetative buffer separates the properties which contains, at a minimum, a row of trees, forty (40) percent of which are large maturing trees and which are not less than ten (10) feet high at the time of planting and are spaced not more than six (6) feet apart.
 - iii. The buffer may be used for drainage, erosion control or similar uses but shall not contain areas from which material extraction occurs.
4. *Noise.* Noise shall not exceed levels prescribed in Section 21-241 of this Chapter.

b. *Existing Facilities.* Facilities regulated under this section are those mining or quarrying operations that existed prior to enactment of this chapter [February 16, 1998] and have continuously operated and maintained an active mining permit with NC Department of Environmental Quality. Said facilities seeking conforming use status or expansions to their operational areas are subject to these standards.

1. *Site plan.* A site plan showing the existing lot, all existing and proposed buildings, quarries, pits, stock piles and other relevant features of the quarry operation.
2. *Access.* Current and proposed 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.
3. *Setbacks.* All operational areas not in common ownership of the facility entity shall be setback a minimum of fifty feet (50') from adjoining property lines.
4. *Noise.* Noise shall not exceed the levels prescribed in Section 21-241 of this Chapter.
5. *Blasting.* All activities and operations involving blasting that are discernable beyond the external property line shall only be conducted during daylight hours.

(2) *Manufacturing group: Pulp mills (SIC 261); paper mills (SIC 262); chemicals and allied products (SIC 28); petroleum refining and related products (SIC 29); leather and finishing (SIC 3111); hydraulic cement (SIC 324); structural clay products (SIC 325); concrete, gypsum and plaster products (SIC 327); abrasives, asbestos, non-metallic mineral products (SIC 329); primary metal industries (SIC 33); ammunition except for small arms (SIC 3483), ordinance and accessories (SIC 3489); power, distribution and specialty transformers (SIC 3612); and wholesale trade group: chemical and allied products (SIC 516) and petroleum and petroleum related products (SIC 517).*

a. *Minimum lot size.*

1. Five (5) acres for manufacturing group uses regulated under this subsection.
2. Ten (10) acres for wholesale trade group uses regulated under this subsection.

b. *Location of structures, storage of materials.* The location of principal structures and storage of flammable or hazardous materials shall be two (2) times the required buffer area in article IX. However, parking, storage of nonflammable and nonhazardous

- materials, etc. may be placed up to the required additional buffer.
- c. *Site location.* Site shall have primary access to arterial or major collector street. This requirement is not applicable to expansions of facilities regulated under this subsection, which are contiguous to facilities existing prior to August 16, 2004.
 - d. *Security restrictions.* Access shall be controlled through the use of gates, fences, etc. to prevent entrance to the operational area by unauthorized persons. Fencing standards shall be as specified in section 21-215(2)(b)2.
 - e. *Dust, odor, glare.* Dust, odor, and glare shall not be noticeable at adjacent residential property lines.
 - f. *Removal and reclamation.* Applications for new facilities classified in SIC 28, 29, 3612, 516 & 517 & temporary use permits for facilities classified as SIC 2951 & 3241 seeking approval pursuant to section 21-281(2) of this chapter may be required to provide written documentation substantiating that the applicant or operator has and will maintain a surety bond payable to Rowan County sufficient to disassemble and remove any outdoor equipment, stockpiles, etc. or reclaim any excavated areas once the facility ceases production for a period of three hundred sixty (360) days. The bond amount shall be based on an estimate provided by a registered professional engineer or architect having professional credentials, recognized expertise or specialization in construction and removal of similar facilities. Renewable bonds are expected to provide updated estimates and reflect increases due to labor costs, demolition practices, addition of equipment, etc. The requirements of this item are not applicable to expansions of facilities regulated under this subsection, which are contiguous to the facilities that existed prior to August 16, 2004.
 - g. *Screening.* Screening standards for new facilities and expansions to existing facilities regulated under this subsection shall be as follows:
 1. *New facilities.* When a new facility shares a common property line(s) with a more restrictive zoning district, Type B screening requirements established in section 21-215(2)(b)1.--3. of this chapter are applicable to the portion of the facility's operational area bordering that property line(s). New facilities sharing a common property line with an identical zoning district are subject to the screening requirements based on the land use relationships established in section 21-216. However, Type B screening may be necessary in some instances to provide visual separation from the side and rear property lines when characteristics of the site such as topography, vegetation, line of sight with adjacent developed properties, etc. prevent effective screening when employing the standards of section 21-216. Type A screening requirements established in section 21-215(1)(b)1.--4. are applicable to the front yard of the operational area of the facility. Notwithstanding the screening requirements of this section, the preservation of existing vegetation as outlined in section 21-218 shall be depicted of the site plan as appropriate. Applicability of screening and buffering standards of this section are not preempted when adjacent tracts are in common ownership or a tract is subdivided in an attempt to circumvent these requirements.
 2. *Expansions to existing facilities.* Contiguous expansions of facilities regulated under this subsection, which existed prior to August 16, 2004, are subject to the land use relationships established in section 21-216.
 - h. *Separation.* The facility shall be no closer than one-half (1/2) mile from a church, licensed daycare, public or private school, health care facility, public park or existing inhabited dwelling. The distance shall be measured from any portion of the property dedicated or utilized for the function of the church, licensed daycare, public or private school, health

care facility, public park or existing inhabited dwelling including but not limited to buildings, recreation and parking areas, etc. and the nearest point of the operational area of the proposed facility. The standards of this item are not applicable to expansions of facilities regulated under this subsection, which are contiguous to the facilities that existed prior to August 16, 2004.

(3) *Transportation, communications, electric, gas and sanitary services group: Communications and Wireless support structures (SIC 48(part)).*

a. *New wireless support structures.* For all new wireless support structures, the county encourages the applicant to investigate preferred sites and those locations that minimize the impact to the North Carolina Scenic Byway corridor. In the event the new wireless support structure cannot be located at a preferred site, evidence that the applicant has investigated the possibilities for co-location on an existing wireless support structure shall be presented with its application. At a minimum the evidence should contain:

1. Copies and responses of certified letters sent to owners/operators of all existing towers and structures with telecommunications facilities within the search ring of the proposed site, requesting the following information:
 - i. Height above ground and sea level.
 - ii. Existing tenants, including any telecommunication service providers and planned tower use.
 - iii. Whether the existing site could accommodate the addition of their wireless facilities.
 - iv. If the addition of their wireless facilities cannot be accommodated, an assessment of whether the existing site could be upgraded and a general description of the means and projected costs of shared use of the tower.
2. Inventory of all preferred sites, and alternative tower structures considered within the search ring, including specific analysis of each preferred site and alternative tower structure outlining positive and negative aspects for utilizing.
3. A completed application for a new wireless support structure shall include:
 - i. Two copies of a site plan registered professional engineer or a professional land surveyor as provided in section 21-52.
 - ii. Topography information for the equipment compound and fall zone including base elevation of wireless support structure or alternative tower structure.
 - iii. Tower height and height of antenna location (if different).
 - iv. Setbacks including ingress and egress easements, fall zone, fencing and screening requirements found in section 21-215(1)b.1.--3.
 - v. Adjacent land uses and the separation distance from antenna facility to the nearest occupied residential dwelling.
4. Using the latitude and longitude of the proposed wireless support structure location as a fixed point, obtain actual photographs of the site that present a 0 degree (north); 90 degree (east); 180 degree (south); 270 degree (west) perspective toward the fixed point from the nearest North Carolina DOT maintained roads in relation to the site.
5. Utilizing each of the photographs from item 4. above, create a simulated photographic image of the proposed wireless support structure or antenna addition to an alternative tower structure from each of the perspectives referenced above depicting the tower at a scale relative to its surroundings with specific regard to height and width.
6. Engineering report certifying the tower is compatible for co-location with a minimum of

five (5) compatible users including the primary user and copy of co-location policy.

- b. *Tower heights and types.* To maintain the character of the rural areas of the county and allow for placement in the commercial and industrial areas of the county, new wireless support structures will be regulated in the following manner:
 1. Rural Agricultural (RA), Rural Residential and Neighborhood Business (NB) districts. Monopole not to exceed one hundred ninety-nine (199) feet based on five (5) co-located antenna arrays.
 2. Commercial, business, industrial (CBI), Industrial (IND), 85-ED-1, 85-ED-2, 85-ED-3, and 85-ED-4. Monopole or lattice tower not to exceed two hundred fifty (250) feet based on six (6) co-located antenna arrays.
 3. Requirements 1. and 2. of this subsection may be modified by the board of commissioners based upon:
 - i. Evidence presented by the applicant that demonstrates a height increase is in the interest of public safety or is necessary to provide the applicant's designed service.
 - ii. An alternative design would better blend into the surrounding environment regardless of zoning district.
- c. *Provisions for tower safety.* New towers must either be so designed as to land upon its own property or lease area in the event of a fall as certified by a North Carolina registered professional engineer or have a minimum lot size or lease area no less than ten thousand (10,000) square feet and have an accompanying fall zone easement equal to the tower height plus ten (10) feet. New composite tower shall, at a minimum, fully loaded, comply with TIA/EIA-222F.
- d. *Retention of consultant.* The county may elect to retain a consultant or professional services to review the application and make determinations and recommendations on relevant issues including, but not limited to, verification of the applicant's due diligence, analysis of alternatives and compliance with state and federal rules and regulations. The applicant shall pay any expense for consulting or professional services in excess of the application fee. The county shall require any consultants to disclose any potential conflicts of interest and to hold confidential any proprietary information supplied by the applicant. At the request of the applicant, the zoning administrator shall arrange an informal consultation with the applicant to review the consultant's report prior to any public hearing on the application. All determination costs not excluded by NCGS 153A-349.52(f) are reimbursable by applicant.
- e. *Obstruction lighting and marking.* Wireless support structures located within the county's airport zone overlay may exhibit obstruction lighting and marking in accordance with the Federal Aviation Administration standards. All other towers shall be of galvanized finish, or painted with a rust protective paint of an appropriate color to harmonize with the surroundings as approved by the board of commissioners. Requirements of this subsection may be modified by the board of commissioners based upon an increase in tower height or location in another jurisdiction's regulated air space or in the interest of public safety.
- f. *FCC license required.* The applicant for a new wireless telecommunication facility must be currently licensed by the FCC to provide fixed or mobile wireless communication services, or if the applicant is not such an FCC licensee, must demonstrate that it has binding commitments from one (1) or more FCC licensees to utilize the wireless telecommunication site once constructed.

(4) *Electric, Gas, and Sanitary Services.*

- a. *Electric, gas and water services (SIC 491, all except Solar Energy Systems, 492, 493, 494) sewerage systems (SIC 495), dumps, sanitary land fills, rubbish collection and disposals (SIC 4953 pt.).*
 1. *Setbacks.* All improved areas, including disposal areas, shall be at least two hundred (200) feet from a zone lot line.
 2. *Separation.* Improved areas shall be at least three hundred (300) feet from any residence, church, or school.
 3. *Dust, odor, glare.* All access roads and storage areas shall be at least twenty (20) feet from any property line constructed with a paved, gravel, or crushed stone surface; and maintained in a dust-free manner.
 4. *Operation.* An information sign shall be posted and maintained at the entrance(s) which lists the name and phone number of the operator, types of material accepted, and hours of operation.
 5. *Security restrictions.* Access shall be controlled through the use of gates, fences, etc. to prevent unregulated dumping of materials.
 6. *Other special conditions.* Proof of a permit issued by the state in accordance with applicable provisions of the General Statutes.
- b. *Ground mounted solar energy systems over 6,000 sq.ft. (SIC 491 pt.)*
 1. *Setbacks.* Solar collectors shall be located a minimum of fifty (50) feet from adjoining property lines.
 2. *AZO.* Systems proposed within the portion of the approach surface contained by the horizontal surface of the AZO shall provide an approved FAA form 7460-1.

(5) *Wholesale trade group.*

- a. *Motor vehicle parts, used in the IND district.*
 1. *Setbacks.* No material shall be stored closer than one hundred (100) feet to a public right-of-way.
 2. *Security fencing.* Security fencing, a minimum of six (6) feet in height, shall be provided and maintained to preclude unauthorized access.
- b. *Motor vehicle parts, used in the RA district.*
 1. *Front yard setback.* The facility shall be one hundred (100) feet from the edge of the right-of-way.
 2. *Separation from certain uses.* The facility shall be a minimum of one thousand (1,000) feet from a school, residence, church or place of public assembly. The separation shall be measured from the closest point of the structure containing the school, residence, church or place of public assembly and the nearest point of the operational area of the automobile salvage yard. This requirement shall not apply to residences owned by the operator of the facility.
 3. *Side and rear yard buffering and screening.* The facility shall be completely surrounded by type B buffer and screening, as provided in article IX.
 4. *Operational area.* No operations shall occur in the required buffer.
- c. *Livestock yard.*

1. *Setbacks.* One hundred (100) feet between improvements such as buildings, animal enclosures, and storage areas and any zone lot line.
 2. *Dust, odor, glare.* All access roads and storage areas shall be maintained in a dust-free manner.
 - d. *Chemical and allied products (SIC 516) and petroleum and petroleum related products (SIC 517).* This item was repealed effective August 16, 2004. Refer to section 21-60(2) for requirements regulating these uses.
- (6) *Retail trade group: Drinking Places (alcoholic beverages – SIC 5813).*
- a. *Separation.* No drinking place shall be located within one thousand (1,000) feet of a church, public or private school, licensed day care, public park, or another drinking place. This distance shall be measured between the nearest point of operational areas for both the above uses and the proposed drinking place. This separation standard does not apply to non-conforming drinking places seeking approval under this subsection to expand within the existing operational area but does apply to drinking places deemed abandoned or discontinued per Sec. 21-137.
- (7) *Services group.*
- a. *Shooting ranges, skeet ranges, trapshooting facilities and similar establishments including turkey shoots.* The requirements for all facilities requiring a conditional use permit are as follows. Turkey shoots operated by churches, civic groups or similar nonprofit organizations are exempt from these requirements.
 1. *Shot containment.* Shooting range facilities shall be designed to contain all the bullets, shot, or arrows or any other debris on the range facility.
 2. *Noise mitigation.* Noise levels measured at the property line where the facility is maintained or, in the case of leased land at the property line of any leased parcel shall not exceed the limits as provided in the county noise ordinance.
 3. *Setbacks.* Notwithstanding the performance standards above, all shooting stations on a range facility shall be located a minimum of three hundred (300) feet from any zone lot line.
 4. *Warning signs.* Warning signs meeting NRA guidelines for shooting ranges shall be posted at one-hundred-foot intervals along the entire perimeter of the shooting range facility.
 5. *Hours of operation.* Shooting ranges shall be allowed to operate between sunrise and sunset, except that the hours may be extended for other purposes as follows:
 - i. When a permit allowing such activity is issued in advance by the administrator;
 - ii. For operation of the shotgun shooting range; or
 - iii. For purposes of subdued-lighting certification of law enforcement officers; and
 - iv. On Sundays, shooting shall not commence before 12:30 p.m.
 6. *Additional site plan information.* Complete layout of each range, including shooting stations or firing lines, target areas, shotfall zones or safety fans, backstops, berms and baffles, projected noise contours, and existing and proposed structures, occupied dwellings within one-fourth mile, roads, streets, or other access areas, buffer areas, and parking areas for the range facility.
 7. *Additional requirements for pistol/rifle shooting ranges.* Projectiles from pistol/rifle shooting areas shall be contained by an earthen berm a minimum of fifteen (15) feet in height.

8. *Exceptions.* Operational hours may be increased under the following conditions:
 - i. A permit allowing such activity is issued in advance by the administrator; or
 - ii. The hours of operation may be increased no more than six (6) times a year for an official shooting tournament involving thirty (30) or more participants, without requiring a permit from the administrator.
- b. *Cabins (SIC 7011), Campgrounds and recreational vehicle parks (SIC 7033).*
 1. *Minimum lot size.* The minimum lot size is two (2) acres.
 2. *Setbacks.*

Front	50 feet
Side street	30 feet
Side	20 feet
Rear	20 feet
 3. *Density.* The minimum size of spaces shall be determined by the county health department.
 4. *Interior drives.* Interior drives shall be a minimum of eighteen (18) feet compacted gravel six (6) inches thick.
 5. *Parking.* No parking will be allowed on public streets. Off-street parking and loading space shall be provided in sufficient quantity to accommodate all parking and loading on-site. At a minimum, one (1) parking space per space or unit shall be provided.
 6. *Screening and buffering.* Land uses in this category shall be considered a group 2 use and shall be screened accordingly.
- c. *Zoological garden.*
 1. *Site plan.* A site plan shall be provided showing all fencing, exhibit and storage areas, with types of animals specified.
 2. *Minimum lot size.* The minimum lot size is twenty (20) acres.
 3. *Smoke, odors, dust.* Operations shall not create any smoke, odors, or dust at a level which creates a nuisance to any person or normal sensitivities at the property lines.
 4. *Setbacks.* All animal waste storage areas shall be a minimum of two hundred (200) feet from any zone lot line.
 5. *Security restrictions.* Access shall be controlled through the use of gates, fences, etc. to prevent entrance by unauthorized persons. Containment of animals shall be sufficient to ensure the safety of the surrounding area and the county.
- d. *Nonprofit athletic fields (SIC 7997 part).*
 1. *Site plan.* A site plan shall be required as provided in article III, section 21-52.
 2. *Buffering.* All parking areas shall be screened by a type A buffer from residentially zoned area.
 3. *Nonprofit status.* The organization shall be non profit.
 4. *Lighting.* Lighting shall be located and designed to prevent light from directly shining on adjacent residential property.
- e. *Archery ranges (SIC 7999 pt.).*

1. *Arrow containment.* The range shall be so constructed as to contain all arrows on the site. This shall be accomplished via berms or natural topography.
 2. *Setbacks.* All targets shall be a minimum of fifty (50) feet from zone lot line and all shooting stations shall be a minimum of two hundred (200) feet from the zone lot line.
 3. *Warning signs.* Warning signs shall be posted at one hundred-foot intervals along the entire perimeter of the site. The signs shall be constructed of highly visible materials and colors.
 4. *Site plan.* In addition to general site plan criteria the site plan shall include shooting stations and firing lines, target areas existing and proposed structures.
 5. *Trail marking.* All trails shall be clearly marked to the shooting stations and shooting station signs shall be clearly visible.
 6. *Nonprofit status.* The organization shall be nonprofit. For profit archery ranges shall meet the same standards as shooting ranges.
 7. *Lighting.* Lighting shall be located and designed to prevent light from directly shining on adjacent residential property.
 8. *Licenses and permits.* All required and permits shall be obtained prior to operation of the facility.
 9. *Insurance.* The organization shall obtain minimum of one million (1,000,000.00) dollars general premises liability insurance for accident or damage suffered by persons on or near the site.
 10. *Lot size.* Minimum lot size shall be ten (10) acres.
 11. *Zoning district.* The facility shall be located in the RA zoning district.
- f. *Civic, service and social fraternities (SIC 8641).*
1. *Location.* The facility will be located on and be accessed via a collector minor or major thoroughfare.
 2. *Buffers.* All buildings off street parking and service areas will be separated by a type A buffer from an abutting property in a residential zoning district or abutting a residential use.
 3. *Site plan.* A site plan is required.
 4. *Lot size.* The minimum zone lot size shall be two (2) acres.
 5. *Setbacks.* Structures shall have fifty (50) feet side and rear yard setbacks.
 6. *Provision of food and refreshments.* Provision for food, refreshment and entertainment for club members and their guests may be allowed in conjunction with this use if the board of commissioners determines that said provisions will not constitute a nuisance.
- g. *Model automobile racing.* Use of these vehicles on a personal basis shall not be regulated in this section.
1. *Minimum lot size.* The minimum lot size shall be three (3) acres.
 2. *Setbacks.* A fifty-foot separation from operational area to adjacent properties and road rights-of-way.
 3. *Screening.* Type A screen is required around operational area.

4. *Noise.* The operation shall not exceed the maximum allowable noise levels as provided in section 21-241.
 5. *Facility.* Track operation must be outdoors. Indoor operations must be located in the NB, CBI, or IND zoning districts. The zoning administrator shall determine elements that constitute indoor.
- h. *Rodeos, horse shows and similar uses (SIC 7999 (part)).*
1. *Smoke, odors, dust.* Operations shall not create any smoke odors or dust at a level which creates a nuisance to any person or normal sensitivities at the property line.
 2. *Setbacks.* All animals and animal storage areas shall be a minimum of one hundred (100) feet from any zone lot line.
 3. *Parking.* Adequate off-street parking shall be provided for participants and spectators.
 4. *Noise.* Noise shall not exceed the level allowed in the county noise ordinance for residential districts.

(8) *Unclassified uses: Adult uses.*

- a. *Spacing.* No adult use shall be located within one thousand three hundred twenty (1,320) feet from any church, public or private school, day care, public park, single-family or multifamily residence, any hotel, motel, inn, tourist camp, or similar place designed for overnight accommodation, or another adult use. This distance shall be measured from any portion of the property dedicated or utilized for the function of the above uses and the nearest point of the operational area for the proposed adult use.
- b. *Treatment of windows, doors, etc.* All windows, doors, openings, etc. for all adult uses shall be so located, covered, screened or otherwise treated so that views into the interior of the establishment are not possible.
- c. No adult use shall include within the establishment any quarters designed for more than one person to view any adult materials while in the same immediate vicinity, other than the primary sales area of said adult establishment.
- d. No adult use shall include within the establishment any private viewing areas designed for use by more than one person at any given time, nor shall any adult use permit more than one person at a time to occupy any private viewing area.
- e. No adult use shall include within the establishment any means of adjoining connections between private viewing areas designed to allow more than one person any access to a single private viewing area at a time. "Adjoining connections" includes, but is not limited to, any doors, windows, access panels, opening of any size whatsoever, in walls that separate individual viewing areas.

An adult use operating as a conforming use shall not be made nonconforming by the subsequent location of a church, public or private school, day care, public park, single-family or multifamily residence, any hotel, motel, inn, tourist camp, or similar place designed for overnight accommodation, or another adult use within one thousand three hundred twenty (1,320) feet of the adult use.

- f. If approved for a conditional use permit, an application and a nonrefundable fee must be presented to the zoning administrator to obtain an adult use license. At a minimum, the application shall include the following:
 1. Sufficient evidence to determine compliance with applicable portions of subsection 21-60(8).

2. Sufficient evidence to determine compliance with any conditions of approval imposed by the board of commissioners.
3. Acknowledgement that a supervisor will be present during hours of operation to enforce all applicable standards of approval.
4. Acknowledgement that the business shall permit staff from appropriate county, state, or federal governments to inspect site for compliance with all applicable regulations any time during hours of operation.
5. License fee as required by the board of commissioners.
6. Acknowledgement that, if approved, license must be renewed annually to continue operation of business. Applicants must promptly reapply thirty (30) days before the expiration date to ensure a timely response.

The zoning administrator will approve or deny the license request within thirty (30) days of receiving the request. A license may not be issued if one of the following findings has been made:

1. License fee has not been received.
2. Application is not complete or contains false information.
3. Site is currently in violation of zoning ordinance or condition of approval.

No adult use business may operate until the zoning administrator has approved the license request. The license shall expire one year from the date of approval and may only be renewed by a subsequent application.

Inspections. The zoning administrator shall suspend an adult use license for thirty (30) days if one of the following determinations has been made:

1. Refuse inspection by officials permitted by this ordinance during hours of operation.
2. Provided false or misleading information during the conditional use or licensing process.
3. Site is not in compliance with zoning ordinance or conditions of approval.

The adult use license will be revoked if, after the suspension period, the zoning administrator has determined that one of the above findings is still accurate.

(9) *Racetracks (SIC 7948 (part)).*

- a. *Lot size.* The minimum lot size shall be twenty (20) acres for a go-kart track and shall be fifty (50) acres for drag strips and motor speedways.
- b. *Location.* The racetrack facility shall be located on a lot which has direct access to; or is contained in a commercial or industrial park which has direct access to a major thoroughfare, major collector, minor thoroughfare, minor collector, principle arterial, interstate, or service road.
- c. *Lighting.* No lights shine on abutting residential property.
- d. *Setbacks.* Go-kart tracks and stands shall be set back three hundred (300) feet from the property line. All other operations including parking shall be set back one hundred (100) feet from the property line. Drag strip and motor speedway operations, including parking, shall be set back three hundred (300) feet from side and rear property lines and one hundred (100) feet from all front and side street property lines.
- e. *Security fencing.* A secure fence shall be provided to restrict entry when the facility is not

open.

- f. *Buffer.* Notwithstanding other provisions of this chapter, a type B buffer shall be provided along all side and rear property lines unless the facility abuts a similar operation.
- g. *Hours of operation.* Hours of operation shall not exceed 7:00 a.m. to 11:00 p.m.
- h. *Muffled race vehicles.* All vehicles shall be equipped with mufflers.
- i. *Noise standards.* The operation of the track will not exceed the maximum allowable noise levels as provided in this chapter or the county noise ordinance.

(10) Reserved.

(11) *Manufactured home parks.*

a. *Application.* An application shall be provided with:

- 1. Site plan as provided in section 21-52; and
- 2. Manufactured home park name, name(s) and address(es) of owners and park designers.

b. *Board of commissioners review of the development proposal.* The board of commissioners shall review the site plan and other pertinent information to ensure that the general health, safety and public welfare have been adequately protected. In approving the plan, the following criteria must be met:

- 1. Adequate transportation access to the site exists;
- 2. The use will not significantly detract from the character of the surrounding area;
- 3. Hazardous safety conditions will not result;
- 4. The use will not generate significant noise, odor, glare, or dust;
- 5. Excessive traffic or parking problems will not result; and
- 6. The use will not create significant visual impacts for adjoining properties or passersby.

c. *Setbacks from external property lines.* Setbacks for manufactured homes from adjacent property lines and rights-of-ways are fifty (50) feet.

d. *Setbacks within park.* Setbacks for spaces within park, measured from edge of applicable street or property line:

Front	20 feet
Side	15 feet
Rear	20 feet

e. *Proximity to a livestock facility.* No manufactured homes within a manufactured home park shall be located within three hundred (300) feet of any livestock facility.

f. *Parking.* Each manufactured home space shall have four hundred (400) square feet of parking with four (4) inches of compacted stone on a well compacted subgrade.

g. *Public road frontage.* The park is required to have thirty-five (35) feet of frontage on a publicly maintained road.

h. *Internal street standards.*

1. *Generally.* All lots shall be served by an internal street. No access directly to an existing state road is allowed for individual lots. Internal streets shall be paved a minimum of sixteen (16) feet wide. The base course shall be six-inch ABC or three-inch BCBC. The pavement surface shall consist of BST or one and one-half inch BST or I-2. All materials shall meet the standards set forth in the latest edition of the North Carolina Standard Specifications for Roads and Structures. The subgrade, base course, and pavement surface shall be inspected and approved by the county planning and development department before a certificate of occupancy is issued. The owner of the park shall be responsible for coordinating inspection of each phase of street construction with county planning and development department. The owner of the manufactured home park shall be responsible for arranging required internal street inspections with the planning department a minimum of twenty-four (24) hours in advance. Drainage shall be reviewed prior to issuing a certificate of occupancy for the manufactured home park. All storm drainage shall be adequate so that the road may be maintained without excessive cost and will not cause flooding. In areas where ditch grades or qualities of flow deem it impractical to maintain and establish vegetation, an erosive resistant lining, such as paving or rock riprap may be required. Subsurface drainage shall be adequate to maintain a stable subgrade.

Note: Subgrade. No base course shall be placed on muck, pipe clay, organic matter or other unsuitable material. The zoning administrator may require a subgrade soil test, if needed, to determine the soils classification type.

2. Abbreviations.

ABC: Aggregate Base Course, No. 7 Stone.

BCBC: Bituminous Concrete Base Course, Type HB (Black Base).

BST: Bituminous Surface Treatment.

I-2: Bituminous Concrete Surface Course, Type I-2 (Note: I-1 may be used in lieu of I-2).

SA: Bituminous Concrete Surface Course, Type F-1 (Sand Asphalt).

- i. *Street names.* Permanent street names shall be assigned to all internal streets.
- j. *Signs.* Signs shall be provided as follows:
 1. Street name signs shall be provided;
 2. One (1) identification sign is required at each entrance to the manufactured home park.
- k. *Space numbering.* Each space shall have a site number, a minimum of four (4) inches in height clearly visible from the internal street serving the space.
- l. *Lighting.* Street light at all intersections, internal and with public roads. Street lights at intervals no greater than five hundred (500) feet for parks with ten (10) or more spaces.
- m. *Trash removal.* The owner of the park shall provide one (1) of the following methods:
 1. Provision of centralized trash dumpsters; or
 2. Provision of individual covered trash containers, picked up at least once a week.
- n. Density shall be calculated per gross acre as follows:

1. Individual well and septic tank: Twenty thousand (20,000) square feet per unit.
2. Public water or public sewer: Fifteen thousand (15,000) square feet per unit.
3. Public water and public sewer: Ten thousand (10,000) square feet per unit.

(12) *Broadcast towers: SIC 4832 radio and SIC 4833 television broadcasting.*

- a. *Co-location.* In order to limit visual impacts in the RA district, co-location of radio and broadcast antennas on existing broadcast towers should be the primary method for providing new or expanded radio and television coverage. Inasmuch as co-location is the preferred method for providing new or expanded radio and television coverage, co-locations may be approved administratively provided the following criteria accompanies the request:
 1. Two (2) copies of a site plan prepared by a registered professional engineer or professional land surveyor as provided in section 21-52.
 2. Height above ground and sea level of broadcast tower and height of antenna for proposed co-location.
 3. Existing tenants on the broadcast tower and their heights above ground and sea level.
- b. *Analysis of existing broadcast towers.* In the event the broadcast antennas cannot be co-located on an existing broadcast tower, evidence that the applicant has explored co-location opportunities with all broadcast towers in Rowan County shall accompany an application for a new broadcast tower. At a minimum, evidence of their due diligence should include:
 1. Inquires and responses to existing broadcast tower owners/operators within Rowan County requesting the following information:
 - i. Tower height and height available for co-location.
 - ii. Assessment of whether tower could be upgraded to accommodate their co-location, i.e. structural and/or increase in height.
 2. Using each of the broadcast towers inventoried above, provide a station coverage map depicting the anticipated signal contours for city grade vs. market grade based on height available for co-location. Areas of signal overlap and interference with other broadcast stations (as applicable) should be distinguished as well or provided on a separate map. The map(s) should depict principal arterial roads, municipal and county boundaries.
- c. *New broadcast towers.* All applications for new broadcast towers should contain the following:
 1. Two (2) copies of a site plan prepared by a registered professional engineer or professional land surveyor as provided in section 21-52.
 2. Topography information for site; base elevations of tower site; tower height and antenna location.
 3. Setbacks including access easements, fall zone, fencing and screening requirements found in section 21-215(1)b.1.--3.
 4. Using the latitude and longitude of the proposed tower location as a fixed point, obtain actual photographs of the site that present a 0 degree (north); 90 degree (east); 180 degree (south); 270 degree (west) perspective toward the fixed point

from the nearest North Carolina DOT maintained roads in relation to the site.

5. Create photo simulations from each of the perspectives referenced above depicting the tower at a scale relative to its surroundings with specific regard to height and width.
 6. Certification from registered professional engineer that channel, frequency and power of transmitter are operating within FCC licensing limits.
 7. Provide a station coverage map depicting the anticipated signal contours for city grade vs. market grade. The map should depict principal arterial roads, municipal and county boundaries.
 8. Indicate the total population and number of persons located within the coverage area based on most recent decennial census; specifically indication the same for Rowan County.
 9. If the broadcast tower application is a site move or city of licensure change, provide the total population based on most recent decennial census and population based on most recent decennial census that will no longer receive coverage.
- d. *Tower viewshed.* New broadcast tower locations should limit visual impacts to the North Carolina Scenic Byway, National Register of Historical Properties and those on the statewide study list for inclusion in the National Register program. In an effort to portray the visual impacts the tower has on the surrounding area, the applicant shall provide terrain profile maps prepared in the following manner:
1. Using the latitude and longitude of the proposed tower location as a fixed point, prepare terrain profile maps portraying line-of-site from the highest point on tower to limits of its visibility.
 2. Maps should be from the perspective that present 0 degree (north); 90 degree (east); 180 degree (south); 270 degree (west) perspective from the fixed point to its limit of visibility.
 3. For reference each map should graphically portray the location of the North Carolina DOT maintained road nearest the limits of visibility.
- e. *Provisions for tower safety.* New broadcast towers must either be so designed as to land upon its own property or lease area in the event of a failure as certified by a North Carolina registered professional engineer. In the event tower failure is expected to occur beyond the property boundaries or lease area, a fall zone easement equal to the tower height plus ten (10) feet must be obtained.
- f. *Retention of consultant.* The county may elect to retain a consultant or professional services to review the application and make determinations and recommendations on relevant issues including, but not limited to, verification of the applicant's due diligence, analysis of alternatives and compliance with state and federal rules and regulations. The applicant shall pay any expense for consulting of professional services in excess of the application fee. The county shall require any consultants to disclose any potential conflicts of interest and to hold confidential any proprietary information supplied by the applicant. At the request of the applicant, the zoning administrator shall arrange an informal consultation with the applicant to review the consultant's report prior to any hearing on the application. All determination costs are reimbursable by applicant.
- g. *Removal.* The applicant shall provide a surety bond substantiating that the applicant

or tower owner has and will sustain the financial ability to disassemble and remove the tower, once no longer in operation. Notice shall be provided to the zoning administrator when any broadcast tower is not operational for a continuous period of three hundred sixty (360) days. Upon receipt of notification, the owner shall remove the tower within one hundred twenty (120) days.

- h. *Obstruction lighting and marking.* The broadcast tower shall be of a galvanized finish, or painted with a rust protective paint of an appropriate color to harmonize with the surroundings as approved by the board of commissioners. Lighting of the tower shall be as required by the FAA.
- i. *FCC license required.* The applicant for a new broadcast tower must be currently licensed by the FCC to provide AM, FM or television broadcast services within an area of licensure that includes Rowan County.

(13) *Specific conditional use criteria for off-premises signs.*

- a. Separation of off-premises signs shall be one thousand (1,000) feet per road side as measured parallel to the road travelway. The road side is considered to consist of one (1) side of the road. Only one (1) sign per one thousand (1,000) feet shall be allowed per roadside. This standard shall apply to all roads, except signs exempted in section 21-181.
- b. Location of off-premises signs, excluding those exempted in sections 21-135(g) and 181, shall be limited to the CBI and IND zoning districts. In addition the property shall meet the following standards.
 - 1. On property (tax parcel) which has one (1) or more permanent structures devoted to commercial or commercial activity or otherwise on which commercial or industrial activity is conducted extending outward five hundred (500) feet beyond the edge of the activity. The building shall be within six hundred sixty (660) feet of nearest edge of right-of-way.
 - 2. Said activity shall have been on the site three (3) months or more.
 - 3. Site shall have all required local state and federal privilege licenses as required by law.
 - 4. The activity shall be serviced by approved utilities.
 - 5. The activity shall have direct or indirect vehicular access and be a generation of traffic volume.
 - 6. Employees shall be on site during usual normal and customary hours for that activity.
 - 7. The activity shall be visible and recognizable as commercial or industrial.
- c. For the purpose of this section none of the following activities shall be commercial or industrial:
 - 1. Outdoor advertising structures or activity or any other business or industrial activity carried on in connection with an outdoor advertising activity.
 - 2. Agricultural uses.
 - 3. Transient or temporary activities including seasonal activities.
 - 4. Activities conducted in a building principally used as a residence.
 - 5. Railroad tracks or sidings.

- 6. Sign face area per side shall not exceed four hundred fifty (450) square feet on I-85 or three hundred (300) feet on all other roads. "Double-decker" signs are prohibited as are tandem signs.
- 7. Height shall not exceed fifty (50) feet over roadway.
- 8. The signs shall have a one thousand-foot separation from residences to limit detrimental effects on the residential property.

(14) *Winery, Wine Tasting Room*

- a. *Setbacks.* The facility shall meet the setback requirements of Section 21-84. (Table of dimensional requirements)
- b. *Screening.* The facility shall meet the screening requirements of Article IX. (Screening and Buffering)
- c. *Licenses and permits.* All required licenses and permits (i.e. Environmental Health, ABC, etc) shall be obtained prior to operation of the facility.

(15) *Residential clustering.*

- a. *Purpose.* The purpose is to encourage innovative development by allowing variations from normal regulations pertaining to dimensional criteria provided in article IV. In addition to the requirements of this subsection, approval of cluster subdivisions shall require approval as required by the subdivision ordinance.
- b. *Development standards.* Proposed residential clustering shall contain a minimum of four (4) dwelling units on a total area of two (2) or more acres.
- c. *Setbacks from exterior lot lines.*
 - Front, from rights-of-way 75 feet
 - Side 40 feet
 - Side street, from rights-of-way 50 feet
 - Rear 40 feet
- d. *Internal setbacks.*
 - Front, from edge of roadway 20 feet
 - Side 0 or 10 feet
 - Rear 0 or 10 feet
- e. *Buffers.* As required for MFR districts.
- f. *Density.* To determine the total number of dwellings allowed for gross acreage excluding rights of way on public roads shall be divided by the minimum lot size allowed in the zoning district the subject property is in.
- g. *Common areas.* Maintenance of the common areas shall be the responsibility of a homeowner's association, unless a written agreement is made or the area has been deeded or accepted by the county or a local municipality. If required, the homeowners association shall be responsible for the maintenance, payment of taxes, and shall control the open space area subject to restrictive covenants.

(16) *Multi-family developments.*

- a. *Application.* An application shall be provided with:

1. Site plan as provided in section 21-52; and
 2. Development name and name(s) and address(es) of owners and designers.
- b. *Density*. The maximum number of units allowed is as follows:
- Public water and sewer: Twelve (12).
- Public or community water or public sewer or approved package treatment plant: Eight (8).
- Individual or multi connection well & individual septic tank: Three (3).
- c. *Modification of dimensional requirements*. Notwithstanding other provisions of this chapter, the Board of Commissioners may approve a site plan as provided herein which modifies the dimensional criteria from Article IV. Additionally, the subdivision of lots may be allowed as provided by chapter 22 section 58 of the Subdivision Ordinance for a planned unit development (PUD).

(Ord. of 1-19-98, § IV; Ord. of 7-12-99; Ord. of 10-18-99(2), § 2; Ord. of 1-15-01; Ord. of 7-9-01; Ord. of 3-18-02(2); Ord. of 8-19-02(2); Ord. of 5-19-03; Ord. of 8-16-04; Ord. of 9-20-04; Ord. of 11-15-04; Amend. of 3-7-05; Amend. 7-1-05; Amend. of 8-20-07; Amend. of 4-21-08; Amend. of 11-2-09; Amend. of 10-4-10; Amend. of 9-6-11; Amend. of 3-5-12; Amend. of 3-5-12; Amend. of 1-22-13; Amend. of 3-4-13; Amend. of 8-19-13; Amend. of 12-2-13; Amend. of 4-21-14; Amend. of 1-5-15; Amend. of 9-6-16; Amend. of 10-17-16; Amend. of 10-15-18)

Sec. 21-61. Conditional districts.

(a) *Purpose*. There are instances where certain uses may have significant impacts on the surrounding area and the county which cannot be predetermined and controlled by general district standards. As a result, a general zoning district designation is clearly inappropriate for a property, but a specific use or uses permitted as a conditional district subject to development requirements to address the anticipated impacts would be consistent with the spirit and intent of this chapter. 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.

<i>General Zoning Districts</i>	<i>Conditional Districts</i>
RS	RS (CD)
RR	RR (CD)
RA	RA (CD)
MHP	MHP (CD)
MFR	MFR (CD)
CBI	CBI (CD)
85-ED-1	85-ED-1 (CD)
85-ED-2	85-ED-2 (CD)
85-ED-3	85-ED-3 (CD)
85-ED-4	85-ED-4 (CD)
IND	IND (CD)
NB	NB (CD)
INST	INST (CD)

(b) *Applications.* Applications for conditional districts shall be on forms provided by the county planning and development department. Only property owners or their authorized agents shall apply for rezoning to an appropriate conditional district (amended 6-19-00). In addition to the general information required in section 21-52 and other applicable sections of this chapter, the petitioner may propose additional limitations or restrictions to ensure compatibility between the development and the surrounding area. Only uses listed in section 21-113 as permitted by right may be considered within a conditional district.

(c) *Permitted uses and development requirements.* Upon approval of a conditional district, only the use or uses identified in the conditional district are allowed subject to any associated conditions or limitations therein. All use requirements of the underlying general use district shall apply as well as all other requirements of the ordinance. In no situation shall approval of a conditional district reduce required standards of this ordinance unless otherwise provided herein.

(d) *Review Procedures.* Conditional district requests shall follow review procedures referenced in Sec. 21-362.

(e) *Conditional District Approval.* The board of commissioners may approve a reclassification of a property to a conditional district only upon determining that the proposed use or uses will meet all standards and regulations in this chapter that are applicable. Specific conditions applicable to the districts may be proposed by the petitioner or the board of commissioners, but only those conditions mutually approved by the board and the petitioner may be incorporated into the zoning regulations. Conditions and site-specific standards imposed in a conditional district shall be limited to those that address the conformance of the development and use of the site to applicable ordinances and an officially adopted comprehensive or other plan and those that address the impacts reasonably expected to be generated by the development or use of the site. The approval of the district and any requested conditions shall be included on an approval form provided by the county. If the approval and any attached conditions are acceptable to the petitioner, then this acceptance shall be indicated by the petitioner signing the approval form.

(Ord. of 1-19-98, § IV; Ord. of 6-17-02; Amend. of 3-7-05; Amend. of 2-20-06(1); Amend. of 6-16-08; Amend. of 6-19-10; Amend. of 3-5-12; Amend. of 9-6-16)

Sec. 21-62. Effect of approval for conditional districts.

- (a) *Conditions attached to approval.* Approval of a conditional district and the attached conditions are binding on the property as an amendment to the zoning maps. All subsequent development and use of the property shall be in accordance with the standards for the approved conditional district, the approved rezoning request, and all conditions attached to the approval. In accordance with Sec. 21-11, an approved conditional district secures a vested right to undertake a project for two (2) years unless a longer duration is requested by the applicant and approved by the Board of Commissioners.
- (b) *Uses allowed.* Only uses and structures indicated on the approved site plan shall be allowed on the subject property. All uses and structures in a conditional district shall also comply with all standards and requirements for development in the underlying zoning district.
- (c) *Effect on zoning maps.* Following approval of the rezoning request for a conditional district, the subject property shall be identified on the zoning map by the appropriate district designation as listed in section 21-61 (a). All parallel conditional use districts approved prior to September 6, 2016 shall hereby be replaced by a comparable conditional district. For example, a pre-existing CBI-CUD designation will be changed to a CBI-CD designation. Associated applications, site plans, conditions, and limitations placed on the conditional use

district are incorporated without change into the standards and conditions for the new conditional district. Changes to a pre-existing conditional use district are subject to the conditional district process identified in subsection (d). Nothing in the section shall be interpreted to invalidate a pre-existing conditional use district.

(d) *Alterations to approval.* Alterations to an approved plan for a conditional district shall be as provided in this subsection.

(1) Except as provided in subsection (2) below, changes to the approved conditional district and maps shall be treated as amendments to this chapter and the zoning maps.

(2) Minor changes.

a. The county recognizes slight deviations in site-specific development proposals may arise, warranting changes to the plans and therefore offers a provision for administrative approval of a minor change. The applicant may submit a written request to the planning director that includes supporting documentation (e.g. federal / state permits, survey / engineering information) substantiating the need for the minor change. After reviewing the record of proceedings, the planning director may consider minor changes that are substantially similar to that approved by the Board of Commissioners subject to the following criteria:

1. Relocation of operational area improvements that do not project into the required setback;
2. One time expansions that do not exceed the lesser of ten (10) percent of the approved structure or one thousand (1,000) square feet for nonresidential uses;
3. One time expansions that do not exceed the lesser of ten (10) percent of the development or five (5) units;
4. Structural alterations that do not significantly effect the basic style, ornamentation, and / or character of the building; or
5. Change in detail which does not affect the basic relationship of the use to the required standards of the applicable ordinances or condition(s) of approval.

b. Regardless of Sec. 21-62(d)(2)(a)(1-5), the planning director may forward the requested change to the Board of Commissioners for consideration in the same procedure as required for the original issuance of the conditional district as per Sec. 21-61(b). All other changes shall be reviewed by the Board of Commissioners as per Sec. 21-61(b). Modifications requesting reduction of the minimum standards within the zoning ordinance shall be treated as a variance request and not considered herein.

c. Requests for a minor change may be submitted to the planning director at any time, although proposals to change or amend any approved conditional district shall not be considered by the Board of Commissioners within one (1) year after date of original authorization of such permit or within one (1) year after hearing of any previous proposal to amend or change the district unless deemed appropriate by the planning director. The applicant may appeal the decision of the planning director to the Planning Board. The Planning Board will make a recommendation for the Board of Commissioners' consideration. Failure of the Board of Commissioners to set a public hearing regarding an amendment shall constitute denial of the request and conditions of the original district shall remain in effect.

d. The Board of Commissioners may consider revocation of an approved conditional district through the same procedure as the original permit. Following the hearing, the

Board of Commissioners may elect to revoke the district if it is factually determined that one or more instances listed below have occurred:

1. The vested rights time period from Sec. 21-11 lapsed;
2. The permit was obtained by fraud;
3. Non-compliance with the approved site plan and / or conditions of approval;
4. Repeated zoning code violations or criminal activity; or
5. Eminent threat to public health or safety.

Failure to validate at least one of these instances shall allow the conditional district to remain valid. Petitioners may appeal this decision to superior court. Should a conditional district be revoked, the Board of Commissioners will rezone the property back to a general zoning district.

(Ord. of 1-19-98, § IV; Ord. of 10-18-04; Amend. of 11-2-09; Amend. of 10-4-10; Amend. of 3-5-12; Amend. of 9-6-16)

Sec. 21-63. Application re-submittal for conditional use permits and conditional districts.

- (a) If conditionally approved, the applicant may submit a revised application within forty-five (45) days of having received the decision of the appropriate board. The revised application shall include provisions described in conditions placed on the application. If the conditionally approved application is not resubmitted within the prescribed time period the application shall be deemed to be disapproved.
- (b) If a conditional use permit or conditional district application is denied, the administrator shall not accept another application similar to the denied application for the same property or a portion of the same property for a period of twelve (12) months from the date of the public hearing, unless the administrator determines that:
 - (1) There has been a significant zoning district reclassification of an adjacent property;
 - (2) A new or updated land use plan which changes public policy regarding the property is adopted by the county; or
 - (3) Public facilities such as roads, waterlines, sewer lines, or other infrastructure are constructed or expand to serve the property and enable the proposed development to be accommodated.

(Ord. of 1-19-98, § IV; Amend. of 9-6-16)

Sec. 21-64. Reserved.

Editor's note: An amendment of July 1, 2005 renumbered § 21-64 as § 21-60(12). Former § 21-64 pertained to specific conditional use criteria for off-premises signs and derived from Ord. of 11-19-01(1); Ord. of 12-3-01; and Ord. of 3-25-04.

Sec. 21-65. General criteria for uses listed SR in the NB District in section 21-113.

Uses listed as SR in the NB District in section 21-113, the table of uses, shall comply with the following criteria, as applicable:

- (1) *Site plan.* A site plan shall be provided showing the existing lot and all existing and proposed buildings. As well as all criteria required herein.

- (2) *Lighting.* The lighting shall be shielded to prevent light and glare spillover to adjacent residentially developed properties.
- (3) *Minimum zone lot size.* The minimum zone lot size shall be two (2) acres. The Board of Commissioners may reduce this if the lot is a lot of record existing at the effective date of this ordinance and the property owner does not own contiguous property which may be included in the proposal.
- (4) *Building size.* The maximum building size per parcel shall not exceed ten (10) percent of the total zone lot area up to a ten thousand (10,000) square foot building size. Multiple buildings may be used in calculating the maximum allowable building size.
- (5) *Impervious surface.* The maximum impervious surface shall not exceed sixty-five (65) percent of the lot.
- (6) *Hours of operation.* Hours of operation shall not exceed 6:00 a.m. to 11:00 p.m.
- (7) *Parking.* Parking shall be as prescribed in article VII, Parking, for that use.
- (8) *Signage.* Shall be as prescribed in article VIII, Signs, for the underlying district.
- (9) *Noise.* Noise shall not exceed the levels prescribed in the county noise ordinance for residential districts.
- (10) *Outdoor storage.* All outside storage areas including dumpsters shall be:
 - a. Sited to the rear of the building;
 - b. Not within the required setbacks.
 - c. Notwithstanding other requirements of this subsection, outdoor storage shall be completely screened from adjacent residentially zoned property
- (11) *Smoke, odors and dust.* The use will not create any smoke, odors, or dust at a level discernible at any of its lot lines.
- (12) *Required licenses and permits.* The applicant shall provide a copy of all required licenses and permits prior to issuance of a zoning permit.
- (13) *Handling waste and other by-products.* A description shall be provided of the method of collecting, handling, disposal and storage of all wastes, by-products, scraps, etc. which meets all applicable federal, state and local regulations and all other requirements of this ordinance.
- (14) *Screening and buffering.* Screening as required by Sec. 21-216.
- (15) *Outdoor display.* Outdoor display shall be limited to two thousand five hundred (2,500) square feet.

(Ord. of 6-17-02; Amend. of 5-7-07; Amend. of 9-6-11)

Secs. 21-66--21-80. Reserved.

ARTICLE IV. DIMENSIONAL CRITERIA

Sec. 21-81. Dimensional requirements; general.

Requirements for lot area, width, depth, and frontage, front, side and rear yard shall be

provided in section 21-84, unless modified by the Board of Commissioners through residential clustering, multi-family developments subject to section 21-60 (16), Planned Development Subdivisions subject to chapter 22 section 58 of the Subdivision Ordinance, or as otherwise provided.

(Ord. of 1-19-98 § V; Amend. of 10-4-10; Amend. of 4-21-14)

Sec. 21-82. Measurement of setback or building line.

Setbacks or front or side street building lines and other applicable elements of this chapter shall be measured from the street or road rights-of-way. If no recorded rights-of-way exists, the assumed rights-of-way shall be thirty (30) feet from the centerline of the road.

(Ord. of 1-19-98, § V)

Sec. 21-83. Rear yard triangular lot.

A triangular shaped lot where the side lot lines intersect at the rear of the lot, shall provide a rear yard as required for that district. The rear yard shall be determined by locating a point on each side lot line measured from the intersection of the side yards toward the front of the lot, and connecting these two (2) lines.

(Ord. of 1-19-98, § V)

Sec. 21-84. Table of dimensional requirements.

DISTRICTS	RA	RR	RS	MHP	MFR	CBI	NB	INST	IND
Minimum zone lot size⁽¹⁾⁽³⁾									
Septic tank and individual or multi-connection well	20,000 sq ft	20,000 sq ft	20,000 sq ft	6 acres	2 acre with 3 du/acre ⁽²⁾	N/A ⁽²⁾	20,000 sq ft	N/A	N/A
Minimum zone lot size⁽¹⁾⁽³⁾									
Public water or community water or Public sewer or approved package treatment plant	15,000 sq ft	15,000 sq ft	15,000 sq ft	6 acres	2 acre with 8 du/acre ⁽²⁾	N/A ⁽²⁾	15,000 sq ft	N/A	N/A
Minimum zone lot size⁽¹⁾⁽³⁾									
Public water and sewer	10,000 sq ft	10,000 sq ft	10,000 sq ft	6 acres	2 acre with 12 du/acre ⁽²⁾	N/A ⁽²⁾	10,000 sq ft	N/A	N/A
Minimum lot width at right-of-way	35 ft	35 ft	35 ft	35 ft	35 ft ⁽⁶⁾	35 ft	35 ft	35 ft	35 ft
Minimum lot width at Building setback line	70 ft	70 ft	70 ft	70 ft	70 ft ⁽⁶⁾	70 ft	50 ft	70 ft	70 ft
Minimum lot depth									
Without public water & sewer	150 ft	150 ft	150 ft	150 ft	150 ft ⁽⁶⁾	100 ft ⁽²⁾	100 ft ⁽²⁾	150 ft	150 ft
Public water and sewer	125 ft	125 ft	125 ft	125 ft	125 ft ⁽⁶⁾	100 ft	100 ft	125 ft	150 ft
Principal structure setback									
Front Yard ⁽⁴⁾	30 ft	30 ft	50 ft	50 ft	50 ft ⁽⁶⁾	50 ft ⁽²⁾	30 ft	30 ft	50 ft
Side street	20 ft	20 ft	25 ft	50 ft	50 ft ⁽⁶⁾	30 ft ⁽²⁾	20 ft	20 ft	30 ft
Side yard ⁽⁴⁾	10 ft	10 ft	10 ft	50 ft	50 ft ⁽⁶⁾	10 ft or 0 ft ⁽²⁾	10 ft or 0 ft ⁽⁷⁾	10 ft	10 ft or 0 ft
Rear yard ⁽⁴⁾	10 ft	10 ft	20 ft	50 ft	50 ft ⁽⁶⁾	10 ft or 0 ft ⁽²⁾	10 ft or 0 ft ⁽²⁾⁽⁷⁾	10 ft	10 ft or 0 ft
Accessory structure setback⁽⁸⁾									
Front	30 ft	30 ft	50 ft	50 ft ⁽⁵⁾	50 ft ⁽⁶⁾	10 ft	10 ft	10 ft	10 ft
Any right-of-way	10 ft	10 ft	10 ft	30 ft ⁽⁵⁾	50 ft ⁽⁶⁾	10 ft	10 ft	10 ft	10 ft
Side and rear yard	10 ft	10 ft	10 ft	10 ft ⁽⁵⁾	10 ft ⁽⁶⁾	10 ft	10 ft	10 ft	10 ft

(1) May be increased based on location in regulated watershed.

(2) For single family use standards for RA district.

(3) For individual lot size/space standards in an MHP district refer to section 21-60(11)n.

(4) For individual space setbacks in an MHP district refer to section 21-60(11)d.

(5) From exterior property lines.

(6) Requirements may be modified or exempted as provided by section 21-60(16). Dimensional criteria for subdivided lots shall be as provided for in the RA district, excluding external boundaries of the development.

(7) See "special requirements" for NB district for setbacks from residential zoning districts.

(8) Refer to section 21-285 for additional standards.

(Ord. of 1-19-98, § V; Ord. of 2-1-99(1), § 12; Ord. of 10-18-99(1); Ord. of 6-17-02; Amend. of 3-7-05; Amend. of 11-2-09; Amend. of 3-5-12; Amend. of 1-22-13; Amend. of 4-21-14)

Secs. 21-85--21-110. Reserved.

ARTICLE V. PERMITTED AND CONDITIONAL USES

Sec. 21-111. Generally.

The range of uses permitted as of right and under prescribed conditions established in this article is summarized in section 21-113. In the event of a conflict between section 21-113 and the text of this chapter, the text shall control.

(Ord. of 1-19-98, § VI)

Sec. 21-112. Relation to Standard Industrial Classification (SIC) Manual, 1987; executive office of the president, office of management and budget.

Section 21-113, Table of uses, and section 21-166, Parking requirements, are based on the SIC Manual. Specific uses listed under headings in that manual shall be subject to the guidelines prescribed for general use categories as listed in these tables. Where specific uses are not listed, the administrator may apply the standards set forth in this chapter for similar uses.

(Ord. of 1-19-98, § VI)

Sec. 21-113. Table of uses.

P- Permitted by Right P(A) - Permitted as Accessory Use SR - Permitted with Special Requirements C- Conditional Use		Zoning Districts								
		Residential					Nonresidential			
		RA	RR	RS	MHP	MFR	CBI	NB	INST	IND
Use										
Residential										
SIC	Single family dwelling, site built	P	P	P	P	P	P	P		
	Single family dwelling, modular	P	P	P	P	P	P	P		
	Manufactured home	P Type I (1)	P Type I (1)		P Type I, II, III	P Type I (1)	P Type I (1)			
(1) Refer to section 21-284 for exception to this criteria, section 21-137 for replacement of nonconforming manufactured homes and section 21-281 for temporary uses										
	Temporary family health care structure	P (A)	P (A)	P (A)	P (A)	P (A)	P (A)	P (A)		
	Duplex, individual	P	SR			P	P			
	Duplexes, triplexes, quadraplexes, other multi-family developments					C				
	Home occupations	P	P	P	P	P	P	P		
	Home occupations, rural	P	P				P	P		
	Residential clustering	C	C	C		C	C	C		
	Family care homes	SR	SR	SR	SR	SR	SR	SR	SR	
	Manufactured home park				C					
	Manufactured home park, family	SR	SR		SR	SR				
	Major Subdivisions for residential use	P	P	P	P	P				
Agriculture, forestry and fishing										
01	Agricultural Production - Crops	P	P	P	P	P	P	P	P	P
02	Agricultural production livestock and animal specialties, <i>all except</i>	P	P	P	P	P	P	P	P	P
0213	Hog lots									
07	Agricultural services, <i>all except</i>	P	P	P	P	P	P	P		P
074	Veterinary services	SR					P	P		P
0751 (pt)	Slaughtering, custom						P	SR		P
0752 (pt)	Animal Shelters, Boarding Kennels, Dog Pounds, Dog grooming, showing pets, training pets, vaccinating pets	SR					P	P		P
0782	Lawn and garden services	SR					P	P		P
0783	Ornamental Shrub and Tree Services	SR					P	P		P
08	Forestry	P	P	P	P	P	P	P	P	P
09	Fishing, hunting and trapping	P	P	P	P	P	P	P	P	P
	Greenhouses	P	P				P	P		

P- Permitted by Right P(A) - Permitted as Accessory Use SR - Permitted with Special Requirements C- Conditional Use		Zoning Districts								
		Residential				Nonresidential				
		RA	RR	RS	MHP	MFR	CBI	NB	INST	IND
Use										
Mining										
10	Metal mining									C
14	Mining and quarrying of non-metallic minerals except fuels, <i>all except</i>									C
1442	Common sand mining	SR								P
Construction										
15	Building construction- general contractors and operative builders	SR					P	SR		P
16	Heavy construction other than building construction – contractors	SR					P			P
17	Construction – special trade	SR					P	SR		P
Manufacturing										
20	Food and kindred products, <i>all except</i>	SR					P			P
201	Meat products	SR					P			P
205	Bakery products						P	SR		P
207	Fats and oils									P
21	Tobacco products	SR					P			P
22	Textile mill products, <i>all except</i>						P			P
226	Dying and finishing textile									P
23	Apparel & other finished products made from fabrics & similar material	SR					P	SR		P
24	Lumber and wood products, except furniture, <i>all except</i>	SR								P
241	Logging	P	P	P	P	P	P			P
242	Sawmills	SR								P
25	Furniture and fixtures	SR					P	SR		P
26	Paper and allied products, <i>all except</i>						P			P
261	Pulp mills									C
262	Paper mills									C
27	Printing, publishing, allied industries	SR					P			P
28	Chemicals and allied products									C
29	Petroleum refining, related products									C
30	Rubber and miscellaneous products	SR					P			P
31	Leather & leather products, <i>all except</i>	SR					P	SR		P
311	Leather and finishing									C
32	Stone, clay, glass and concrete products, <i>all except</i>	SR					P	SR		P
324	Hydraulic cement									C
325	Structural clay products									C
327	Concrete, gypsum, plaster products									C
329	Abrasives, asbestos, Non-metallic mineral products									C
33	Primary metal industries									C
34	Fabricated Metal products, except machinery and transportation equipment, <i>all except</i>	SR					P	SR		P
3483	Ammunition except for small arms									C
3489	Ordnance and accessories									C
35	Industrial and commercial machinery and computer equipment	SR					P			P
36	Electronic and other electrical equipment and components, except computer equipment, <i>all except</i>	SR					P	SR		P
3612	Power distribution and specialty transformers									C
37	Transportation equipment	SR					P	SR		P
38	Measuring, analyzing and controlling instruments	SR					P			P
39	Miscellaneous manufacturing industries	SR					P			P

P- Permitted by Right P(A) - Permitted as Accessory Use SR - Permitted with Special Requirements C- Conditional Use		Zoning Districts								
		Residential				Nonresidential				
		RA	RR	RS	MHP	MFR	CBI	NB	INST	IND
Transportation, communications, electric, gas and sanitary services										
40	Railroad transportation									P
41	Local & suburban transit, interurban highway passenger transportation						P			P
42	Motor freight transportation and warehousing, <i>all except</i>						P			P
421	Trucking	SR	SR				P	SR		P
	Mini-warehouse warehousing	SR					P	SR		P
	Dead storage of manufactured homes	SR	SR		SR	SR	SR			SR
43	U.S. Postal Service	P	P				P			P
44	Water transportation						P			P
45	Transportation by air						P			P
46	Pipelines, except natural gas	C	C	C	C	C	C			C
47	Transportation services						P			P
48	Communications, <i>all except</i>						P			P
	Transmission tower & Wireless support structures	C	C				C	C		C
	Co-location of wireless facilities	SR	SR	SR	SR	SR	SR	SR	SR	SR
	Eligible facilities request	SR	SR	SR	SR	SR	SR	SR	SR	SR
	Alternative tower structures	SR	SR	SR	SR	SR	SR	SR	SR	SR
	Public safety tower	SR	SR	SR	SR	SR	SR	SR	SR	SR
4832	Radio broadcast towers	C								
4833	Television broadcast towers	C								
49										
	Electric, gas, water services (SIC 491,492,493,494), <i>all except</i>						C			C
	Electric and water distribution lines, natural gas pipelines	P	P	P	P	P	P	P	P	P
491 pt.	Ground Mounted Solar Energy Systems 6,000 sq.ft. or less	SR	SR	SR	SR	SR	SR	SR	SR	SR
491 pt.	Ground Mounted Solar Energy Systems over 6,000 sq.ft.	C	C				C	C		C
495	Sanitary services									
4952	Sewerage systems	C								C
4953	Refuse systems, all prohibited <i>except</i>									
	Dumps: operation of	C								C
	Garbage: collect, destroy & process									C
	Landfills, sanitary: operation of	C								C
	Refuse systems									C
	Rubbish collection and disposal	C								C
	Sludge disposal sites	C								C
4959	Sanitary services, not elsewhere classified	C					P			P
496	Steam and air conditioning supply						P			P
Wholesale trade										
50	Wholesale trade, durable goods, <i>all except</i>	SR					P			P
5015	Motor vehicle parts, used	C								C
5032	Brick, stone & construction materials						P	SR		P
505	Metal & minerals, except petroleum						P			P
5093	Scrap and waste materials									C
51	Wholesale trade, nondurable goods, <i>all except</i>	SR					P			P
5154	Livestock (wholesale)									P
516	Chemical and allied products									C
517	Petroleum and petroleum products									C
5191	Farm supplies	SR	SR				P	SR		P
SIC 516 and 517 were removed as conditional uses in the CBI district as a result of Z-10-04 text amendments.										
Retail trade										
52	Building material, hardware, garden supplies and mobile	SR					P	SR		P
53	General merchandise stores	SR					P	SR		P
54	Food stores	SR					P	SR		P

P - Permitted by Right P(A) - Permitted as Accessory Use SR - Permitted with Special Requirements C - Conditional Use		Zoning Districts								
		Residential				Nonresidential				
		RA	RR	RS	MHP	MFR	CBI	NB	INST	IND
Use										
Retail trade cont.										
55	Auto dealers, gas service stations	SR					P	SR		
56	Apparel and accessory stores	SR					P	SR		
57	Home furniture, furnishings and equipment stores	SR					P	SR		
58	Eating and drinking places	SR					P	SR		P
5813	Drinking places (alcohol beverages)						C			P
59	Miscellaneous retail	SR					P	SR		P
Finance, insurance and real estate										
60	Depository institutions	SR					P	SR		P
61	Non-depository institutions	SR					P	SR		P
62	Security and commodity brokers	SR					P	SR		
63	Insurance carriers	SR					P	SR		
64	Insurance agents, brokers & service	SR					P	SR		
65	Real estate	SR					P	SR		
67	Holding and other investment offices	SR					P	SR		
Services										
70	Hotels, rooming houses, camps and other lodging places, <i>all except</i>	SR					P	SR		
7011	Cabins	C					P	C		
7033	Campgrounds and RV parks	C					P	C		
72	Personal services	SR					P	SR		P
73	Business services	SR					P	SR		P
75	Auto repair, services and parking	SR					P	SR		P
76	Misc repair services	SR					P	SR		P
78	Motion pictures	SR					P			
79	Amusement, recreational services, <i>all except</i>						P			
7948(pt)	Racetrack operations, including speedways, go-kart tracks and dragstrips						C			C
7992	Public golf courses	C					P			
7997	Nonprofit athletic fields	C					P			
7999	Archery ranges	C					P			
	Shooting ranges	C					P			
	Skeet shooting facilities	C					P			
	Riding stables	C					P			
	Trapshooting facilities	C					P			
	Public parks	P	P	P	P	P	P		P	
	Recreational facilities, membership & non-membership	SR	SR	SR			P	SR		
80	Health services	SR					P	SR	P	P
8059(pt)	Convalescent homes for psychiatric patients						C		C	C
8063	Psychiatric hospitals						C		C	C
	Alcohol and drug rehab facilities						C		C	C
8063(pt)	Drug addition, Alcohol rehab hospitals						C		C	C
81	Legal services	SR					P	SR		P
82	Educational services, <i>all except</i>	P	P	P			P	P	P	P
	Facility providing overnight habitation								SR	
83	Social services, <i>all except</i>	SR					P	SR	P	P
8322	Individual and family social services						P		C	C
8351 (pt)	Family child care home	P	P	P	P	P	P	P		
8351 (pt)	Child care center in residence	P	P				P	P		
8351 (pt)	Child care center	SR					P	SR	P	
8361	Residential care						C		C	C
84	Museums, art galleries and botanical gardens, <i>all except</i>	SR					P	SR	P	
	Zoological parks	C					C		C	
86	Membership organizations, <i>all except</i>	SR					P		P	
	Churches	P	P	P	P	P	P	P	P	
8641	Civic, service and social fraternities	C					P			

P- Permitted by Right P(A) - Permitted as Accessory Use SR - Permitted with Special Requirements C- Conditional Use		Zoning Districts								
		Residential				Nonresidential				
Use		RA	RR	RS	MHP	MFR	CBI	NB	INST	IND
Services cont.										
87	Engineering, accounting, res. management and related services	SR					P	SR		P
88	Private households	P	P	P	P	P	P	P	P	
89	Miscellaneous services	SR					P			
Public administration										
91	Executive, legislative and general government, except finance						P		P	P
92	Justice, public order, safety, <i>all except</i>						P		P	P
9221	Police protection	P	P	P	P	P	P	P	P	P
9224	Fire protection	P	P	P	P	P	P	P	P	P
	Ambulance stations	P	P	P	P	P	P	P	P	P
	Rescue squads	P	P	P	P	P	P	P	P	P
93	Public finances, taxation and monetary policy						P		P	P
94	Administration of human resource programs						P		P	P
95	Administration of environmental quality and housing programs						P		P	P
96	Administration of economic programs						P		P	P
97	National security and international affairs						P		P	P
	Solid Waste and Recycling Convenience Center	P	P	P	P	P	P	P	P	P
Unclassified										
	Adult uses						C			
	Construction and demolition landfill									C
	Major subdivisions for commercial use						P	P	P	P
	Model automobile racing	C					P	SR		P
	Multi-tenant developments						SR	SR		
	Residential storage facility	SR or C	SR or C	SR or C			P	P		
	Winery, Wine Tasting Room	SR,C	C							
SEE ARTICLE III. FOR SPECIAL REQUIREMENTS AND CONDITIOANL USE CRITERIA FOR SPECIFIC USES.										

(Ord. of 1-19-98, § VI; Ord. of 4-20-98; Ord. of 2-1-99(1), § 13; Ord. of 10-18-99(2), § 3; Ord. of 7-9-01; Ord. of 3-18-02(2); Ord. of 3-18-02(3); Ord. of 6-17-02; Ord. of 8-19-02(2); Ord. of 4-21-03; Ord. of 5-19-03; Ord. of 8-16-04; Amend. of 3-7-05; Amend. of 7-1-05; Amend. of 2-20-06(1); Amend. of 4-21-08; Amend. of 6-16-08; Amend. of 10-4-10; Amend. of 9-6-11; Amend. of 3-5-12; Amend. of 3-4-13; Amend. of 8-19-13; Amend. of 12-2-13; Amend. of 4-21-14; Amend. of 9-6-16; Amend. of 10-17-16; Amend. of 1-16-18; Amend. of 5-21-18, Amend. of 10-15-18)

Secs. 21-114--21-130. Reserved.

ARTICLE VI. NONCONFORMING SITUATIONS*

Sec. 21-131. Purpose and intent.

It is the intent of these provisions to regulate and limit nonconforming situations established prior to the effective date of this article, or subsequent amendments, to prescribe guidelines for their continuance which will strive to achieve the desired character of the county and preserve the integrity of this article. Any nonconforming situation may be continued, maintained, or expanded in accordance with the terms of this section. It is also the intent of this section to provide relief mechanisms which may allow the use of nonconforming lots under certain conditions.

(Ord. of 11-19-01(2))

***Editor's note:** An ordinance adopted Nov. 19, 2001, amended art. VI in its entirety, in effect repealing and reenacting said article to read as herein set out. The former art. VI, §§ 21-131--21-139, pertained to similar subject matter and derived from § VII of an ordinance adopted Jan. 19, 1998.

Sec. 21-132. General provisions.

(a) A nonconforming situation occurs when, on the effective date of this article or subsequent amendment, an existing lot or structure or use of an existing lot or structure does not conform to one (1) or more of the regulations applicable to the district in which the lot or structure is located. Among other possibilities, a nonconforming situation may arise because a lot does not meet minimum acreage requirements, because structures exceed maximum height limitations, because the relationship between existing buildings and the land (in such matter as density and setback requirement) is not in conformity with this article, because signs do not meet the requirements of this article, or because land or buildings are used for purposes made unlawful by this article.

(b) Unless otherwise specifically provided for in this article and subject to the restrictions and qualifications set forth in the remaining sections of this article, nonconforming situations that were otherwise lawful on the effective date of this article may be continued. Whenever this section refers to the effective date of this article, the reference shall be deemed to include as originally adopted, creates a nonconforming situation.

(1) *Single lot of record with lot area and/or lot width nonconformity.*

a. When an undeveloped lot has an area or width which does not conform to the dimensional requirements of the district where located, but such lot was approved and lot of record at the time of adoption of this article or any subsequent amendment which renders such lot nonconforming, then such lot may be used for a use permitted in the district where located, provided that the setback dimensions and other requirements, except area or width, are complied with. Notwithstanding the above standards, setbacks for nonconforming lots of record may be reduced as provided by section 21-332 of this chapter.

b. In the RS, RR and RA residential zones, only a single-family dwelling or a manufactured home shall be permitted on the nonconforming lot, if allowed as a permitted use in that district.

(2) *Lots with contiguous frontage in one (1) ownership.* When two (2) or more adjoining and vacant lots of record are in one (1) ownership and said lots individually have a lot area or lot width which does not conform to the dimensional requirements of the district where located, such lots shall be combined to create one (1) or more lots that meet the standards of the district where located prior to issuance of a zoning permit.

(3) *Other standards for lot sizes.* Nothing contained herein exempts the contiguous lots considered as a single buildable lot or lots from meeting the applicable provisions of the county board of health regulations or other applicable state standards.

(Ord. of 11-19-01(2); Amend. of 4-21-14)

Sec. 21-133. Continuation of nonconforming use of land.

Any nonconforming situation legally existing at the time of adoption or amendment of this article may be continued so long as it remains otherwise lawful subject to conditions provided in this section.

(Ord. of 11-19-01(2))

Sec. 21-134. Conditions for continuance for a change in nonconforming situation.

Such nonconforming use of land shall be subject to the following conditions:

- (1) No nonconforming situation shall be changed to another nonconforming situation unless such use is determined to be of equal or less intensity. In determining whether a proposed nonconforming situation is of equal or less intensity, the board of commissioners shall consider the following and determine findings of fact relevant to their determination:
 - a. Probable traffic impacts of each use.
 - b. Parking requirements of each use.
 - c. Probable number of persons on the premises of each use at a time of peak demand.
 - d. Off-site impacts of each use, such as noise, glare, dust, vibration or smoke and other impacts on surrounding properties or the public health or safety.
- (2) The number of dwelling units in a nonconforming residential use shall not be increased.

(Ord. of 11-19-01(2))

Sec. 21-135. Extension, enlargement or replacement of a nonconforming use.

- (a) Except as provided for in subsections (b) through (g), no nonconforming use shall be extended, enlarged, or replaced.
- (b) Any single-family residential nonconforming use (which may be a manufactured home) or accessory structure associated with a residential use may be enlarged or replaced with a similar structure of the same size or of a larger size, so long as the enlargement or replacement does not create new nonconformities or project further into the required setback. Accessory structures permitted in accordance with Sec. 21-54 or as rural home occupations may only be extended, enlarged, or replaced subject to subsections (c) through (f).
- (c) Any other nonconforming use may be extended, enlarged, or replaced only upon the issuance of a special use permit if the county board of commissioners finds that, in completing the extension, enlargement, or replacement work:
 - (1) There is no increase in the operational area existing on the effective date of this ordinance;
 - (2) There is no greater nonconformity with respect to dimensional restrictions such as setback requirements, height limitations, or density requirements or other requirements such as parking, loading and landscaping requirements; and
 - (3) There is no significant adverse impact on surrounding properties or the public health or safety including but not limited to no increase in the level of noise, dust, odor, glare or other nuisances.

In issuing a special use permit, the board of commissioners may affix other reasonable and appropriate conditions such as, but not limited to, landscaping and buffering to separate dissimilar uses or to screen parking and loading areas. The board may also establish a vesting period from two (2) to five (5) years subject to section 21-11.

- (d) A nonconforming situation may be extended throughout any portion of a completed building that, when the use therein was made nonconforming by this article, was manifestly

designed or arranged to accommodate such use. However, a nonconforming situation may not be extended to additional buildings or to land outside the original building unless specifically authorized in accordance with subsection (c). In addition, the level of noise, dirt, odor, glare or other nuisance shall not increase.

- (e) A nonconforming use of open land may not be extended to cover more land than was occupied by that use when it became nonconforming, except that a use that involves the removal of natural materials from the lot (e.g., a sand pit) may be expanded to the limits of the site plan upon which the mining permit was granted if such permit was obtained in compliance with all applicable laws and ordinances in effect at the time of approval.
- (f) The volume, intensity, or frequency of use of property where a nonconforming use exists may be increased and the equipment or processes used at a location where a nonconforming use exists may be changed if these or similar changes amount only to changes in the degree of activity rather than changes in kind or use and no violations of other sections of this article occur.
- (g) The replacement or repair of any off-premise sign for which there is in effect a valid permit issued by NCDOT shall not be subject to the standards of this ordinance so long as the square footage of its advertising surface area is not increased as specified in G.S. 136-131.2. As used in this section, reconstruction includes the changing of an existing multi-pole sign structure to a new monopole structure.

(Ord. of 11-19-01(2); Amend. of 9-6-11; Amend. of 4-21-14)

Sec. 21-136. Repairing damaged nonconforming structures.

- (a) *Conditions for repair of damaged nonconforming uses.* Repair or rebuilding such nonconforming structures shall be subject to the following conditions:
 - (1) In the event of damage by fire or other causes to the extent less than seventy-five (75) percent of its tax value prior to such damage as determined by the county director of Building Inspections, reconstruction of a nonconforming structure shall be permitted for the same use subject to the following conditions:
 - a. There is no greater nonconformity with respect to dimensional restrictions such as setback requirements, height limitations, or density requirements or other requirements such as parking, loading and landscaping requirements.
 - b. In the same manner in which it originally existed.
 - (2) In the event of damage by fire or other causes to the extent exceeding seventy-five (75) percent of its tax value prior to such damage as established by the county director of Building Inspections, reconstruction of a nonconforming structure shall be permitted provided it is constructed:
 - a. In the same manner in which it originally existed subject to compliance with the requirements of the state building code; or
 - b. Relocated in compliance with dimensional and use requirements of the district in which the unit is relocated.
 - (3) No nonconforming structure shall be moved or relocated unless it is made to comply with the dimensional and use requirements of the district in which it is relocated and with the requirements of the state building code.
 - (4) Off-premise signs may be repaired or replaced subject to section 21-135 (g) or this subsection.
- (b) *Preservation of safe or lawful conditions.* Nothing in this article shall prevent the strengthening or restoration to a safe or lawful condition any building declared unsafe or

unlawful by the county building inspector or other duly authorized official.

(Ord. of 11-19-01(2); Amend. of 9-6-11; Amend. of 4-21-14; Amend. of 9-6-16)

Sec. 21-137. Abandonment and discontinuance.

- (a) *Nonconforming use.* A nonconforming manufactured home space, vacated for one hundred eighty (180) days, or left vacated for one hundred eighty (180) days after the effective date of this article shall only be used for a conforming use. A manufactured home space in a MHP zoning district meeting the applicable standards of section 21-283, which contain one or more non-conforming situations from section 21-60(11), left unoccupied for more than one hundred eighty (180) days shall not be considered abandoned, discontinued, or vacated unless all of the spaces within the MHP district are unoccupied for said time period. Other nonconforming uses left vacant, abandoned or discontinued for a period of three hundred sixty (360) days shall only be re-established as a conforming use.
- (b) *Determination of nonconformity.* For purposes of determining whether a right to continue a nonconforming situation is lost pursuant to this section, all of the buildings, activities, and operations maintained on the zone lot are generally to be considered as a whole. If a nonconforming use is maintained in conjunction with a conforming use, discontinuance of a nonconforming use for the required period as provided in subsection (a) shall terminate the right to maintain it thereafter.
- (c) *Existing nonconforming manufactured homes.* Existing nonconforming manufactured homes may be replaced with a newer manufactured home; however, the new manufactured home shall meet current building codes for manufactured housing as set forth by the department of housing and urban development, unless expressly provided otherwise in this article. The new manufactured home shall be as large or larger that the replaced manufactured home. If the space is left vacant for more than one hundred eighty (180) days, the space shall only be used for a conforming use. If the manufactured home is not replaced within one hundred eighty (180) days it can only be replaced with a conforming use.

(Ord. of 11-19-01(2); Amend. of 9-6-16)

Sec. 21-138. Miscellaneous nonconforming situations.

- (a) *Nonconforming situation resulting from governmental acquisition.* Any lot reduced in size by municipal, county or state condemnation or purchase of land shall obtain nonconforming lot or building status to the extent that said condemnation or purchase causes noncompliance with any provisions of this article.
- (b) *Nonconforming parking created by change of use.* Whenever a change of use that does not involve the enlargement of an existing structure is proposed for a lot on which the parking requirements of this article for the proposed new use cannot be met due to insufficient lot area, the proposed change of use shall not be regarded as an impermissible extension or enlargement of a nonconforming situation. However, the permit-issuing authority shall require that the parking requirements be satisfied to the extent possible utilizing the lot area that is available.

(Ord. of 11-19-01(2))

Sec. 21-139. Nonconforming signs.

Nonconforming signs shall be treated as any other nonconforming use.

(Ord. of 11-19-01(2))

Sec. 21-140. Projections into required setbacks.

- (a) *Projection of porches into yards.* Porches, terraces, steps and similar features with a floor level of not more than five (5) feet above the highest adjacent grade, may project eight (8) feet into the required setback but in no case shall be closer than five (5) feet to the adjacent side or rear property line or ten (10) feet to the right-of-way.
- (b) *Projection of cornices, eaves, chimneys, flues, etc.* Cornices, eaves, chimneys, flues, heating and air conditioning units and other similar features may project four (4) feet into any required yard. However, in no case shall such units be closer than five (5) feet to the adjacent property lines or rights-of-way.

(Ord. of 11-19-01(2); Amend. of 10-4-10)

Sec. 21-141. Nonconforming family businesses in the RA District.

Businesses created required to comply with the provisions of section 21-55(2)c. shall be classified as a legal nonconforming use if a change in the owners family occurs resulting in noncompliance with the requirement of that subsection.

(Ord. of 6-29-99)

Secs. 21-142--21-160. Reserved.

ARTICLE VII. PARKING

Sec. 21-161. Purpose.

This section is intended to ensure an adequate amount of properly designed parking areas to prevent traffic congestion and to minimize any detrimental effects on adjacent properties.

(Ord. of 1-19-98, § VIII)

Sec. 21-162. General design requirements.

All off-street parking areas shall meet the requirements of this article and shall be properly maintained to ensure continued compliance with this article.

(Ord. of 1-19-98, § VIII)

Sec. 21-163. Parking areas.

Parking areas shall conform to the general criteria listed below unless expressly provided otherwise in this chapter.

- (1) *Location.* Off-street parking areas shall be provided on the same zone lot as the principal use or on a nearby lot a reasonable walking distance away. Such areas shall not be located within any rights-of-way and shall be set back five (5) feet from any zone lot line.
- (2) *Safety.* All parking areas shall be designed so that emergency vehicles may safely enter, maneuver in, and exit such areas without backing onto a street or road.
- (3) *Surfacing.* Notwithstanding the other requirements of this chapter, required parking areas shall be properly graded and improved with an all-weather surface, which may be gravel.
- (4) *Lighting.* Parking areas shall be adequately lighted during business hours. Such lighting

shall be designed to minimize adverse effects upon adjoining properties and rights-of-way.

(Ord. of 1-19-98, § VIII; Amend. of 9-6-11)

Sec. 21-164. Parking space requirements.

(a) *Calculation of minimum spaces required.* The number of standard off-street parking spaces required by this section shall be determined in accordance with section 21-166. Any fraction resulting from the calculation of required parking spaces shall be rounded up to the nearest whole number.

(b) *Minimum space dimensions.*

- (1) *Standard spaces.* Each standard parking space shall be twenty (20) feet long and nine (9) feet wide. Parallel parking spaces shall be at least twenty-two (22) feet long and nine (9) feet wide.
- (2) *Handicapped spaces.* Handicapped spaces shall be as required by the North Carolina Building Code and the Americans With Disabilities Act.

(Ord. of 1-19-98, § VIII)

Sec. 21-165. Flexibility of administration.

The presumptive standards set forth in the parking requirements table cannot cover every possible use or situation, nor can the table be considered exact. Therefore, the administrator is given flexibility to administer this section as follows:

- (1) *Similar use.* Parking space requirements for a use not identified in the table shall be based on a similar, listed use.
- (2) *Other use.* In the case of unique land uses or those that have unusually high parking requirements, the landowner shall demonstrate to the administrator that sufficient off-street parking can be provided.
- (3) *Numerical standard.* Deviations from the number of spaces are permitted when the administrator determines that the requirements for a particular situation are unreasonable. The reasons for allowing the deviation or requirement shall be noted in writing by the administrator.

(Ord. of 1-19-98, § VIII)

Sec. 21-166. Table of parking requirements.

SIC	MINIMUM PARKING SPACES	DU = Dwelling Unit	SF = Square Feet	ELS = Employee on Largest Shift
Residential				
	Single family dwelling, site built			N/A
	Single family dwelling, modular			N/A
	Manufactured home, individual lot			N/A
	Manufactured home, MHP			2 spaces/MHP space
	Duplex, individual			2 space/DU
	Duplexes, triplexes, quadruplexes, other multi-family developments			2 spaces/DU
	Home occupations			N/A
	Home occupations, rural			N/A
Agriculture, forestry and fishing				
	All uses			1 space/400 SF + 1 space/vehicle
Mining				
	All uses			1 space/ELS + 1 space/vehicle
Construction				
	All uses			1 space/ELS + 1 space/vehicle
Manufacturing				
	All uses			1 space/ELS + 1 space/vehicle
Transportation, communications, electric, gas and sanitary services				
40	Railroad transportation			1 space/ELS + 1 space/vehicle
41	Local and suburban transit and interurban highway passenger transportation			1 space/ELS + 1 space for every 100 SF of Waiting Area
42	Motor freight transportation and warehousing			1 space/ELS + 1 space/vehicle
43	U.S. Postal Service			1 space/ELS + 1 space/400 SF
45	Transportation by air			1 space/ELS + 1 space/4 planes
46	Pipelines, except natural gas			1 space/ELS + 1 space/ELS
47	Transportation services			1 space/ELS + 1 space/ELS
48	Communications			1 space/ELS + 1 space/ELS
49	Electric, gas and sanitary services			1 space/ELS + 1 space/vehicle
Wholesale trade				
	All uses			1 space/ELS + 1 space/vehicle
Retail trade				
	All uses			1 space/ELS + 1 space/400 SF + 1 space/vehicle
Finance, insurance and real estate				
	All uses			1 space/ELS + 1 space/400 SF
Services				
70	Hotels, rooming houses, camps & other lodging places, <i>all except</i>			1 space/room + 1 space/ELS + 1 space/200 SF of meeting area
7032	Sporting and recreational camps			1 space/campsite + 1 space/ ELS + 1 space/200 SF of meeting area
7011 & 7033	Cabins, Campgrounds, and RV Parks			1 space/campsite + 1 space/ ELS + 1 space/200 SF of meeting area
72	Personal services			1 space/ELS + 1 space/400 SF
73	Business services			1 space/ELS + 1 space/400 SF
75	Auto repair, services, and parking			1 space/service bay + 1 space/ELS
76	Miscellaneous repair services			1 space/ELS + 1 space/400 SF
78	Motion pictures			1 space/ ELS + 1 space/4 seats
79	Amusement and recreational services, <i>all except</i>			1 space/400 SF
7948	Racing, including track operations			1 space/4 seats
7992	Public golf courses			10 spaces/hole
	Shooting ranges, skeet shooting & trapshooting facilities, similar			1 space/ELS + 1 space/station
	Riding stables			1 space/ELS + 1 space/4 stables
80	Health services			1 space / 200 SF
81	Legal services			1 space / 400 SF
82	Educational services			1 space/ELS + 1 space/400 SF
83	Social services			1 space / 400 SF
84	Museums, art galleries, and botanical and zoological gardens			
86	Membership organizations, <i>all except</i>			1 space/400 SF
	Churches			1 space/5 persons seating capacity
87	Engineering, accounting, res. Management and related services			1 space/400 SF
88	Private households			N/A
89	Miscellaneous services			1 space/400 SF
Public administration				
	All uses			1 space/ELS + 1 space/400 SF

Note: The term 'vehicle' includes any and all vehicles used in the normal operation of the business or facility. The term 'station' includes but is not limited to any and all uses as a seat in a barber/beauty shop, or a shooting station in a shooting facility.

(Ord. of 1-19-98, § VIII; Amend. of 3-5-12; Amend. of 4-21-14; Amend. of 10-17-16)

Secs. 21-167--21-180. Reserved.

ARTICLE VIII. SIGNS*

***Editor's note:** An ordinance adopted Dec. 3, 2001, amended art. VIII in its entirety, in effect repealing and reenacting said article to read as herein set out. The former art. VIII, §§ 21-181--21-183, pertained to similar subject matter and derived from § IX of an ordinance adopted Jan. 19, 1998.

Sec. 21-181. Applicability.

All on premises signs of any size and off-premises signs one hundred (100) square feet and smaller, are exempt from the regulations in this article, unless expressly provided otherwise.

(Ord. of 12-3-01; Amend. of 10-4-10; Amend. of 4-21-14)

Sec. 21-182. Lighting of signs.

No signs may have lighting which:

- (1) Causes glare to shine on adjacent residentially developed property.
- (2) Obstruct views, imitate traffic lights or otherwise confuse or potentially endanger motorists.

(Ord. of 12-3-01)

Sec. 21-183. Off-premises signs.

Off-premises signs, larger than one hundred (100) square feet, are only allowed as conditional uses on the CBI and IND zoning districts. In addition to general evaluation criteria provided for all conditional uses specific criteria are provided in section 21-60(13).

(Ord. of 12-3-01; Amend. of 1-22-13)

Sec. 21-184. Prohibited signs.

Reserved.

(Amend. of 8-20-07; Amend. of 9-6-16)

Secs. 21-185--21-210. Reserved.

ARTICLE IX. SCREENING AND BUFFERING

Sec. 21-211. Purpose.

Certain land uses, because of their character and intensity, may create an adverse impact when developed adjacent to other less intensive land uses. The general purpose of this article is to establish guidelines to preserve the value and appearance of property in the county and to recognize that the transition between certain uses requires attention to protect less intensive land uses. The goal is to identify land use relationships that may be incompatible and to specify an appropriate buffer or screen in order to minimize adverse impacts.

(Ord. of 1-19-98, § X)

Sec. 21-212. Applicability.

Unless expressly stated in this chapter, the requirements of this article shall not apply to uses listed as "SR" in the RA (Rural Agricultural) district, but do apply to uses listed as SR in other districts. The buffering and screening shall be adequate to meet the intent of section 21-211, but shall not exceed one hundred twenty-five (125) percent of the length of the development activity required to install the buffer and screening, unless required on a site plan approved by the board of commissioners. The requirements of this article shall apply to the side and rear yard of the operational area except driveways, sediment ponds, and detention areas unless otherwise indicated herein.

(Ord. of 1-19-98, § X; Amend. of 9-6-11)

Sec. 21-213. Buffer requirements.

- (a) *Generally.* Buffers shall be required in accordance with the table in section 21-216 when any use is being developed abutting an existing developed lot, however less intensive uses locating next to more intensive uses shall not be required to comply with the screening portion of the requirements of this article. Where a conflict exists between the buffer requirements for a use and setback requirements for a zoning district, the use requirements shall control. The required buffer may not be used for loading, storage, or similar operational area needs that are either part of or accessory to the proposed use unless otherwise indicated herein.
- (b) *Modification of buffer requirements.* Buffer requirements may be modified in accordance with the provisions of section 21-217.
- (c) *Responsibility for requirements.* One hundred (100) percent of the applicable buffer requirements shall be the responsibility of the developing land use, unless expressly provided otherwise.
- (d) *Standards for trees and shrubs.* Required trees and shrubs shall meet the following standards:
 - (1) All required large maturing trees shall have a minimum caliper of one and one-half (1 1/2) inches measured six (6) inches above the proper planting level;
 - (2) Shrubs shall be one (1) foot tall or taller when planted; and
 - (3) All specifications for the measurement, quality, and installation of trees and shrubs shall be in accordance with the American Standards for Nursery Stock published by the American Association of Nurserymen, free of disease, and in otherwise sound and healthy condition.
- (e) *Modification of planting types.* If it is demonstrated that existing vegetation meets the intent of this section, the zoning administrator may waive the requirements for the plant material.
- (f) *Maintenance of buffer.* The owner of the property where the buffer or screening is shall be responsible for maintaining the buffer and all required plantings in good condition.
- (g) *Buffering of expanded uses.* Expansion of a use existing prior to the effective date of this chapter shall require the expanded portion of the facility to come into conformance with these requirements.
- (h) *Watershed buffer areas required.* A minimum 30-foot vegetative buffer for development activities is required along all perennial waters indicated on the most recent versions of

U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps.

(i) *Development in required watershed overlay buffer areas.* Development in the buffer area shall be limited to the following exceptions in conjunction with minimizing built-upon surface area, directing runoff away from surface waters and maximizing the utilization of stormwater best management practices:

- (1) Artificial streambank or shoreline stabilization;
- (2) Water dependent structures such as piers, docks, etc.;
- (3) Other structures such as flag poles, signs, and security lights which result in only minimal increases in impervious area;
- (4) Public projects such as road crossings and greenways where no practical alternative exists.

(Ord. of 1-19-98, § X; Ord. of 4-20-98; Amend. of 11-2-09; Amend. of 9-6-11; Amend. of 4-21-14)

Sec. 21-214. Letter of compliance.

When it is impractical to plant required screening during optimal planting seasons, the owner of the property upon which the required screening is to be located may submit a letter of compliance to the zoning administrator. The letter will acknowledge that the owner of the subject property is aware of the applicable screening and buffering requirements and will meet these requirements within a specific date, but in no case more than one (1) year. Failure to comply with the provisions of this article by the time stated in the letter of compliance shall constitute a violation of the zoning ordinance.

(Ord. of 1-19-98, § X)

Sec. 21-215. Required screening type.

Screening shall be required along the side and rear property boundaries of the zoning lot.

(1) *Type A.*

- a. Buffer: Twenty (20) feet.
- b. Screening shall be one (1) of the following:
 1. A row of evergreen conifers or broadleaf evergreens placed not more than five (5) feet apart which would grow to form a continuous hedge of at least six (6) feet in height within two (2) years of planting; or
 2. A masonry wall located within the required buffer; such wall shall be a minimum height of six (6) feet (above finished grade;) and, if a block wall, it shall be painted on all sides; or an opaque fence six (6) feet in height; or
 3. A berm and planting combination, with the berm an average height of three (3) feet and dense plantings which will, when combined with the berm, achieve a minimum height of six (6) feet and seventy-five (75) percent opacity within two (2) years.
 4. Lawn, low-growing evergreen shrubs, evergreen ground cover, or rock mulch covering the balance of the buffer.

(2) *Type B.*

- a. Buffer: Eighty (80) feet.

b. Screening shall consist of:

1. A row of trees, forty (40) percent of which are large maturing trees and which are not less than ten (10) feet high at the time of planting and are spaced not more than six (6) feet apart;
2. An opaque fence located within the required buffer; such fence shall be a minimum height of six (6) feet; and
3. Lawn, low-growing evergreen shrubs or broadleaf evergreens, evergreen ground cover, or rock mulch covering the balance of the buffer.

(Ord. of 1-19-98, § X)

Sec. 21-216. Screening and buffering.

(a) *Land use relationships.* The following land use relationships shall be used to determine required screening and buffering as provided in section 21-215.

Screening and Buffering

	Group1	Group 2	Group 3	Group 4
Group 1	None	Type A	Type A	Type B
Group 2	Type A	None	Type A	Type B
Group 3	Type A	Type A	None	None
Group 4	Type B	Type B	None	None

(b) *Group 1 (Least intensive):*

- (1) Single-family dwellings.
- (2) Modular homes.
- (3) Manufactured housing on individual lots.
- (4) Duplexes on individual lots.

(c) *Group 2:*

- (1) Manufactured home parks.
- (2) Institutional uses (SIC 80, 82, 83, 86 and public administration group [Division J]).
- (3) Multi-family development.
- (4) Residential clustering.

(d) *Group 3:*

- (1) Veterinary services (074).
- (2) Farm supplies.
- (3) Building construction, general contractors (15).
- (4) Heavy construction other than building contractors (16).
- (5) Construction special trades (17).
- (6) Food and kindred products (20).
- (7) Tobacco products (21).

- (8) Textile mill products (22).
 - (9) Apparel (23).
 - (10) Lumber and wood products (24) except logging and sawmills.
 - (11) Furniture and fixtures (25).
 - (12) Paper and allied products (26) except pulp and paper mills.
 - (13) Printing, publishing and allied industries (27).
 - (14) Rubber and miscellaneous products (30).
 - (15) Leather and leather products (31) except leather tanning and finishing.
 - (16) Stone, clay, glass and concrete products (32) except hydraulic cement, structural clay products, concrete, gypsum and plaster products.
 - (17) Abrasives, asbestos, nonmetallic mineral products, fabricated metal products (34) except ammunition, except for small arms; ordnance and accessories.
 - (18) Industrial and computer machinery and equipment (35).
 - (19) Electronic and other electrical equipment (36).
 - (20) Transportation equipment (37).
 - (21) Measuring, analyzing and controlling instruments (38).
 - (22) Miscellaneous manufacturing (39).
 - (23) Transportation and utilities (Division F), all except sanitary services, sewerage systems, refuse systems, dumps, sanitary land fills, rubbish collection and disposal, and solar energy systems.
 - (24) Wholesale trade (50 and 51) all except motor vehicle parts, used; brick, stone, and related construction materials, metal and minerals, except petroleum, scrap and waste materials, livestock (wholesale); chemical and allied products, petroleum and petroleum products.
 - (25) All retail trade (Division G).
 - (26) All finance, insurance, and real estate (Division H).
 - (27) All services (Division I), except shooting ranges, skeet shooting facilities, trap shooting facilities, and institutional uses listed in Group 2.
- (e) *Group 4 (most intensive)*:
- (1) Metal mining (10).
 - (2) Mining and quarrying of non-metallic minerals (14).
 - (3) Sawmills (242).
 - (4) Pulp mills (261).
 - (5) Paper mills (262).
 - (6) Chemicals and allied products (28).
 - (7) Petroleum refining and related products (29).
 - (8) Leather tanning and finishing (3111).

- (9) Hydraulic cement (324).
 - (10) Structural clay products (325).
 - (11) Concrete, gypsum and plaster products (327).
 - (12) Abrasives, asbestos, non-metallic mineral products (329).
 - (13) Primary metal industries (33).
 - (14) Ammunition, except for small arms (3483).
 - (15) Ordnance and accessories (3489).
 - (16) Permitted refuse systems (4953).
 - (17) Motor vehicle parts, used; brick, stone, and related construction materials, metal and minerals, except petroleum, scrap and waste materials, livestock (wholesale); chemical and allied products, petroleum and petroleum products.
- (Ord. of 1-19-98, § X; Ord. of 4-21-03; Amend. of 11-2-09; Amend. of 3-4-13)

Sec. 21-217. Alternative buffers and screening.

In lieu of compliance with the above buffer and screening requirement, an applicant may submit to the zoning administrator for his review and approval a detailed plan and specifications for landscaping and screening. The zoning administrator may approve the alternative buffering and screening, in writing, upon finding that the proposal will afford a degree of buffering and screening, in terms of height, opacity and separation, equivalent to or exceeding that provided by the above requirements.

(Ord. of 1-19-98, § X)

Sec. 21-218. Existing vegetation.

The retention of existing vegetation shall be maximized to the extent practical, wherever such vegetation contributes to required buffering and screening or to the preservation of significant trees.

(Ord. of 1-19-98, § X)

Sec. 21-219. Applicability of screening and buffering requirements.

The requirements of this article shall not apply if an existing adjacent principal or accessory structure and the proposed structure or operational area requiring provision of screening and buffering are separated by a distance of two hundred (200) feet or more. The distance shall be measured from the closest point of each structure.

(Ord. of 1-19-98, § X; Ord. of 6-29-99; Amend. of 9-6-11).

Secs. 21-220--21-240. Reserved.

ARTICLE X. NUISANCES

Sec. 21-241. Noise.

- (a) *Intent.* The intent of this section is to recognize the right of mining operations and manufacturing industries to maintain operations of current facilities during typical first and

second shift hours, while promoting an environment free from noise that jeopardizes the aesthetic quality of life for the general public.

- (b) *Applicability.* Regardless of zoning district, all existing uses in the mining and manufacturing division of the Standard Industrial Classification (SIC) and those seeking conditional use approval in the transportation, communications, electric, gas, sanitary services and Services divisions of section 21-113, the table of uses, shall be subject to the decibel based standards of this section.
- (c) *Sound level measurement.* The sound level meter used in the enforcement of this section shall be comply with ANSI S1.4-1983 requirements or the latest approved version thereof, with calibration and measurement procedures as specified in the "Technical Documentation Manual for the 2237 Controller, Integrating Sound Level Meter" using the A-weighting scale set on slow response for a preset period of eight (8) minutes.
- (d) *Maximum permitted sound levels.* The maximum permitted sound levels for the uses prescribed in subsection (b), shall be obtained at the apparent property line of the noise producer/source and not be in excess of the following decibels during the given time periods:
 - (1) 7:00 a.m.--11:00 p.m. not to exceed seventy (70) decibels.
 - (2) 11:00 p.m.--7:00 a.m. not to exceed sixty-five (65) decibels.

(Ord. of 1-19-98, § XI; Ord. of 5-21-01(1))

Sec. 21-242. Fumes and odors.

No use shall emit fumes, gasses, or odors in concentrations or amounts that cause injury or create a nuisance to any person of ordinary sensitivities on another property.

(Ord. of 1-19-98, § XI)

Sec. 21-243. Vibration.

No use shall be operated so as to generate inherent or recurring ground vibrations detectable at the property line which create a nuisance to any person of ordinary sensitivities on another property.

(Ord. of 1-19-98, § XI)

Sec. 21-244. Junked motor vehicles.

Unless otherwise provided, junked motor vehicles in the RA, RR, and RS districts on private property not associated with a business, shall conform to the following requirements as of the effective date of this chapter.

- (1) *General requirements.*
 - a. The junked motor vehicles shall not be stored or located within thirty (30) feet of any adjoining property line or side street right-of-way; within eighty (80) feet of a centerline of a public road or private road of fifty (50) feet from the edge of the rights-of-way existing on February 16, 1998, whichever is greater.
 - b. The junked motor vehicles are not a health or safety nuisance as defined in section 21-4. No motor vehicle parts are visible from adjoining properties, nor

shall the area constitute a health or safety nuisance as defined in section 21-4.

- c. The junked motor vehicles shall be entirely concealed during all seasons of the year from public view from a public street and from adjoining properties. The vehicles may be concealed by an automobile cover or tarpaulin, with the covering adequately secured to prevent removal by wind. The automobile cover or tarpaulin must remain in good repair and not be allowed to deteriorate.
- d. The junked motor vehicles shall not be in the front yard of the primary building of the lot.
- e. Only five (5) junked motor vehicles shall be permitted outside any enclosed building unless otherwise specified by this chapter.

(2) *Exceptions for junked motor vehicles.*

- a. In addition to the five (5) junked motor vehicles allowed outside any enclosed building in subsection (1)e, five (5) additional classic motor vehicles which meet the definition of a junked motor vehicle, shall be allowed in the RA district. Storage of these vehicles shall meet all other requirements of this chapter.
- b. The repair of no more than one (1) motor vehicle per household for personal use is exempt from the location, screening, concealment and setback requirements of this chapter. The vehicle shall not constitute a health or safety nuisance as defined in section 21-4.

(Ord. of 1-19-98, § XI; Amend. of 11-2-09)

Sec. 21-245. Standards for junked motor vehicles stored at nonconforming automobile repair facilities.

Automobile repair facilities may store no more than ten (10) junked vehicles outside an automobile salvage yard or enclosed building unless otherwise specified by this chapter. The junked motor vehicle shall comply with the requirements below on February 16, 1998.

- (1) The junked motor vehicles and motor vehicle parts shall be screened from adjacent property by a six-foot high opaque screening. Vegetative screening, if used, shall be opaque during all seasons of the year and planted and maintained in accordance with article IX;
- (2) The junked motor vehicles shall not be stored in the front yard of the property or in the required front yard setback;
- (3) The junked motor vehicles shall be a minimum of fifteen (15) feet off the side and rear property line or side street right-of-way and a minimum of twenty (20) feet off the right-of-way existing at the effective date of this chapter or fifty (50) feet off the centerline of the road if the right-of-way is not established; and
- (4) The junked motor vehicles shall not be stacked higher than the screening.

(Ord. of 1-19-98, § XI)

Sec. 21-246. Standards for automobile salvage yards.

- (a) The standards in this section shall apply to automobile salvage yards created after November 27, 1995, in accordance with the provisions of the "Ordinance to Regulate Automobile Salvage yards as Junked or Abandoned Motor Vehicles" (hereafter referred to as the salvage yard ordinance) and prior to February 16, 1998.
- (b) New automobile salvage yards and expansions of existing salvage yards approved under the provisions of the salvage yard ordinance shall comply with the following provisions:
 - (1) Shall be subject to any conditions of approval placed on the application by the board of commissioners;
 - (2) Shall be located a minimum of one hundred thirty (130) feet of any centerline or one hundred (100) feet from the edge of the right-of-way of any public or private road whichever is greater;
 - (3) Shall be located a minimum of one thousand (1,000) feet from a school, residence, church or place of public assembly existing at the date of submittal of a complete application. The one-thousand-foot required separation shall be measured from the closest point of the operational area of the automobile salvage yard. This prohibition shall not apply to the residence of the owner of the junkyard or automobile graveyard;
 - (4) Shall be entirely surrounded by an opaque screening at least six (6) feet high. Such screening shall surround the minimum area necessary for the automobile salvage yard to be maintained at its proposed size and that will also allow for a reasonable amount of maneuverability within;
 - (5) All operations, equipment, junk and/or inoperable motor vehicles shall be kept within the confines of the fence at all times unless in motion by transportation to and from the site;
 - (6) A setback shall be provided so that all equipment, junk and/or inoperable motor vehicles shall not be stored or located within fifty (50) feet of any adjoining property lot line;
 - (7) A six-foot high fence designed to reasonably secure the area from unauthorized entry shall surround the entire operational area; and
 - (8) Cars shall not be stacked higher than the fence.

(Ord. of 1-19-98, § XI)

Sec. 21-247. Nonconforming salvage yards existing on February 16, 1998.

Automobile salvage yards or automotive repair facilities existing on February 16, 1998, registered in accordance with the county automobile salvage yard and junked motor vehicle ordinance, shall conform to the standards of subsection (1) or (2) below:

- (1) *Standards without a fence.*
 - a. The automobile salvage yard or automotive repair facility shall be screened from view from adjacent developed lots and the road during all seasons of the year; and
 - b. The screen shall be a minimum of six (6) feet in height; and
 - c. A setback of fifteen (15) feet shall be provided on all side and rear property lines; and
 - d. A setback of eighty (80) feet from the road centerline or fifty (50) feet from the edge of the right-of-way existing at the effective date of the ordinance of any public or private road shall be provided, whichever is greater; and

- e. The operational area existing on February 16, 1998, shall not be expanded, except in conformance with the provisions of this chapter; and
- f. Storage of motor vehicles or motor vehicle parts is not allowed in the setback; and
- g. Junked motor vehicles shall not be stacked higher than the required screening.

(2) *Standards with an opaque fence.*

- a. The automobile salvage yard or automotive repair facility shall be screened from view from adjacent developed lots and the road during all seasons of the year; and
- b. The automobile salvage yard or automotive repair facility shall be separated from adjacent lots by a fence a minimum of six (6) feet in height; and
- c. A setback of five (5) feet shall be provided on all side and rear property lines; and
- d. A setback of thirty-five (35) feet from the road centerline or five (5) feet from the edge of the right-of-way existing at the effective date of the ordinance of any public or private road shall be provided, whichever is greater; and
- e. The operational area existing on February 16, 1998, shall not be expanded, except in conformance with the provisions of this chapter. Storage of motor vehicles or motor vehicle parts is not allowed in the setback; and
- f. Junked motor vehicles shall not be stacked higher than the required screening.

(Ord. of 1-19-98, § XI; Amend. of 3-7-05)

Sec. 21-248. Removal of junked or abandoned vehicles.

The county may require the removal of junked or abandoned motor vehicles from public grounds, including but not limited to public or private road rights-of-way or private property upon a finding that such removal is necessary and desirable to promote or enhance community, neighborhood, or area appearance or to abate public health or safety nuisances.

(Ord. of 1-19-98, § XI)

Sec. 21-249. Order to remove, disposal by county.

Removal and disposal of vehicles as provided by this article shall be in accordance with G.S. Ch. 20, Art. 7A, as amended.

(Ord. of 1-19-98, § XI)

Secs. 21-250--21-270. Reserved.

ARTICLE XI. GENERAL DEVELOPMENT STANDARDS, EXCEPTIONS AND MODIFICATIONS

Sec. 21-271. Generally.

- (a) The types of development approval governed by this article include uses permitted as of right, uses permitted with special requirements, and conditional uses.
- (b) Uses permitted as of right and uses permitted with special requirements shall require a zoning permit, a building permit and a certificate of occupancy.

- (c) In addition to the requirements listed in subsection (b) above, special uses and conditional uses shall require approval as described in article III.
- (d) Variances from these regulations, appeals of administrative decisions rendered under this chapter, shall be governed by article XIII.
- (e) Amendments to the text of this chapter and to the zoning maps, including the reclassification of property to a conditional zoning district shall be governed by article XIV.

(Ord. of 1-19-98, § XII; Amend. of 9-6-16)

Sec. 21-272. Issuance of building permits.

It is illegal for any person to begin construction, reconstruction, or to make any structural repairs, alterations, or additions to any structure without obtaining required building permits from the Building Inspections Department. The Director of Building Inspections will not issue a building permit for structures located within the zoning jurisdiction of the county unless the plans, specifications, and intended use of the structure conforms to the requirements of these regulations. The application for a building permit shall be accompanied by a zoning permit or other evidence of compliance with this chapter.

(Ord. of 1-19-98, § XII; Amend. of 10-4-10; Amend. of 9-6-16)

Sec. 21-273. Type and number of uses permitted in all zones.

The number of uses per zone lot shall be governed as follows:

- (1) *Multiple uses per zone lot.* In all districts, combination uses may be placed on the same zone lots, however, the applicable requirements of subsections (2) and (3) below must be met. This includes subsequent permitted development on property that may have received approval of a conditional use permit, not including conditional districts, unless otherwise indicated.
- (2) *Secondary dwelling units.* Detached secondary units excluding two or more manufactured homes are permitted provided the entire zone lot contains adequate area to meet the zone lot size requirements for each dwelling and all other requirements of this section are met.
- (3) *Subdivision requirements.* Issuance of a zoning permit for multiple single-family dwellings or duplexes in a zoning district where multifamily development is not a permitted use on an individual lot shall meet the minimum requirements of a minor subdivision to allow the parcel to be subdivided into conforming individual lots for each dwelling, while not requiring an approved and recorded subdivision plat.

(Ord. of 1-19-98, § XII; Ord. of 10-18-99(2); Amend. of 3-7-05; Amend. of 10-4-10; Amend. of 3-5-12; Amend. of 3-5-12; Amend. of 4-21-14; Amend. of 9-6-16)

Sec. 21-274. Visibility at intersections.

Nothing may be erected, placed, planted or allowed to grow in such a manner as to materially impede vision at intersections. The area required to be kept free is known as the sight-distance triangle. The sight-distance triangle must be kept free between a height of two and one-half (2 1/2) and ten (10) feet above the centerline grades of the intersecting streets. All roads proposed to be publicly maintained shall comply with applicable NCDOT regulations.

(Ord. of 1-19-98, § XII)

Sec. 21-275. Antennae.

Antennae for private, non-commercial use are subject to the same placement requirements as accessory uses within each zoning district as provided by this chapter. However, when placement based on accessory setback requirements precludes development of a viable reception window, the zoning administrator may authorize placement otherwise if warranted by significantly improved reception.

Antennae and their associated supporting towers subject to the placement criteria in this section only, include: radio and television reception, private citizen's bands, amateur (HAM) radio and any others determined as similar by the Zoning Administrator on a case-by-case basis.

(Ord. of 1-19-98, § XII; Amend. of 12-2-13)

Sec. 21-276. Skirting of manufactured homes.

(a) *Generally.* All manufactured housing for which building permits are obtained after the effective date of this chapter shall be skirted. Manufactured homes requiring brick or finished masonry skirting as provided in subsection (c) below, issued building permits within one (1) year of the effective date of this chapter, shall complete the required masonry skirting within ninety (90) days of issuance of the certificate of occupancy by the building inspections department. Manufactured homes requiring brick or finished masonry underpinning, issued a building permit more than one (1) year after the effective date of this chapter shall complete the required underpinning prior to issuance of a certificate of occupancy. All skirting required by subsection (b) below shall be completed prior to issuance of a certificate of occupancy.

(b) *Skirting of manufactured homes in the MHP district or a family manufactured home park.*

- (1) Skirting shall be of material acceptable for exterior construction that will not support combustion.
- (2) Skirting material shall be durable and suitable for exterior exposures.
- (3) Any wood framing used to support this skirting shall be approved moisture resistant treated wood.
- (4) Skirting shall be continuous and unpierced except for ventilation.
- (5) Skirting manufactured specifically for underpinning shall be installed in accordance with the manufacturer's specifications.
- (6) Notwithstanding other provisions of this section, manufactured homes in a MHP district may install masonry skirting as provided in this section.

(c) *Skirting of manufactured homes outside the MHP district or a family manufactured home park.*

- (1) Skirting shall consist of brick or finished masonry.
- (2) Skirting shall be continuous and unpierced except for ventilation.
- (3) Regular unfinished block may not be used for required skirting. However, split-face block may be used.

(Ord. of 1-19-98, § XII; Ord. of 4-20-98; Amend. of 4-21-14)

Sec. 21-277. Exceptions and modifications.

(a) *Minor structures and improvements.* Except where otherwise expressly addressed, the

following minor, accessory structures and improvements on individual lots or parcels are not intended to be regulated by this chapter:

- (1) Flagpoles and mailboxes;
 - (2) Landscaping features such as fences, trees and shrubs, terraces, gazebos, and similar items;
 - (3) Piers, wharves, and bulkheads;
 - (4) Recreational improvements such as swing sets and playgrounds;
 - (5) Wells and pumphouses.
- (b) *Utilities.* Except where otherwise expressly addressed, the following utility structures and facilities are not intended to be regulated by this chapter:
- (1) Utility lines, pipes, cables, & associated minor equipment & structures, including transformers, pumping stations, "signal boosters", & maintenance buildings;
 - (2) Electronics cabinets for telephone switching and similar devices used by public service providers;
 - (3) Water towers or tanks;
 - (4) Water systems or sewage disposal systems as an exclusive accessory use for a development project; and
 - (5) Solar energy systems located on the roof or exterior wall of any building and systems located within a NCDOT right-of-way are not intended to be regulated herein unless located within the portion of the approach surface contained by the horizontal surface of the AZO and exceed 6,000 sq.ft. solar collector area. Systems that meet these standards must provide an approved FAA form 7460-1 prior to receiving a zoning permit.
- (c) *Exceptions to front setback requirements for dwellings.* Setback requirements for dwellings may be modified when the setbacks of contiguous existing buildings are less than required. These decreased setbacks are determined by computing the average setback on adjacent lots one hundred (100) feet on either side of the lot of the proposed dwelling. The modified setback may be equivalent to the average setback or ten (10) feet from the rights-of-way line, whichever is greater.
- (d) *Antennae for private or public safety use.* Antennae for private use or for use by "police protection" or "fire protection" are exempt from the requirements contained in Sections 21-56 (6)(d)(e) and (f). Private, non-commercial antennae exempted under this provision include: residential radio and television, private citizen's bands, amateur (HAM) radio and any others determined as similar by the Zoning Administrator on a case-by-case basis.

(Ord. of 1-19-98, § XII; Ord. of 2-1-99(1); Amend. of 3-4-13; Amend. of 12-2-13; Amend. of 9-6-16)

Sec. 21-278. Skirting in existing manufactured home parks.

All manufactured homes in manufactured home parks shall be skirted as provided in subsection 21-276(b) of this article within two (2) years of February 16, 1998.

(Ord. of 1-19-98, § XII)

Sec. 21-279. Exceptions for certain turkey shoots.

Turkey shoots operated by churches, civic group or similar nonprofit organizations are exempt from the conditional use requirements of this chapter for shooting ranges, skeet ranges, trapshooting facilities and similar establishments including turkey shoots in article III and in section 21-113, Table of uses.

(Ord. of 1-19-98, § XII)

Sec. 21-280. Construction trailers.

Construction trailers may be used in conjunction with construction projects provided:

- (1) The trailers are located on a building site where there is a valid building permit for a project on that site.
- (2) The trailer remains on the site for the duration of the building project.

(Ord. of 1-19-98, § XII)

Sec. 21-281. Temporary uses.

Temporary uses are allowed subject to the following requirements:

- (1) Certain uses of a temporary nature, defined as being less than forty-five (45) days in duration and held no more than five (5) times a year, including, otherwise not permitted in a particular district:
 - a. Christmas tree sales;
 - b. Religious activities;
 - c. Activities by civic organizations;
 - d. Yard sales;
 - e. Other similar uses.
- (2) Other temporary uses not listed may be granted by the board of commissioners. In considering approval of a temporary use the board may attach reasonable and appropriate conditions to ensure that the public health, safety and welfare are protected. The approval of a temporary use shall be in accordance with the following:
 - a. The proposed use will not endanger the public health, safety and welfare;
 - b. The proposed use will not have a substantial negative impact on the adjoining properties;
 - c. The use will be approved for a specific period of time, not to exceed two (2) years unless deemed necessary by the Board of Commissioners in accordance with Sec. 21-11. Extension of the temporary use beyond the approved time shall require approval of the board of commissioners in the same manner as the original.
- (3) Type I, II, and III manufactured homes with skirting as provided by section 21-276 may be approved for certain temporary use by the zoning administrator, contingent on a documented need. Temporary uses may be approved for:
 - a. A temporary residence during construction of a dwelling. Documentation shall be

provided that the construction of the dwelling will commence and be completed within a reasonable time. In no situation shall this temporary use be granted for more than twenty-four (24) months.

- b. As a temporary residence for a medical hardship. This use shall be allowed for the duration of the medical hardship.

When the situation resulting in the temporary use no longer is needed, or the time period allowed expires, the subject manufactured home shall be removed or made a conforming use.

- (4) Temporary family health care structures, as defined by this ordinance, may be permitted as an accessory use in accordance with section 21-113 subject to the following standards:
 - a. The structure must be used by a caregiver or a named legal guardian in providing care for a mentally or physically impaired person on property containing the caregiver or legal guardian's residence or on property owned by the caregiver;
 - b. Subject to principal structure setbacks listed in section 21-84;
 - c. Only one temporary family health care structure shall be allowed on a lot or parcel of land and may not contain a permanent foundation;
 - d. Application for a temporary family health care structure must include a doctor's certification identifying the mentally or physically impaired person's need. Subsequent annual certifications are necessary to maintain the structure's status as a qualified temporary family health care structure; and
 - e. The temporary health care structure shall be removed within sixty (60) days of the mentally or physically impaired person no longer receiving or is no longer in need of the assistance provided for in this section.

(Ord. of 1-19-98, § XII; Ord. of 2-1-99(1); Amend. of 3-7-05; Amend. of 9-6-11; Amend. of 4-21-14; Amend. of 9-6-16)

Sec. 21-282. Reserved.

Editor's note: Section 21-282 was automatically repealed 18 months from April 20, 1998. Said section has been deleted at the direction of the county.

Sec. 21-283. Maintenance of manufactured home parks.

Manufactured home park districts, as defined by this chapter, shall be maintained in a neat and orderly manner. This shall include but not be limited to maintenance of adequate roads and drainageways, yards, trees and shrubs. Specific standards are as provided below.

Manufactured home parks shall comply with the following criteria. Separate standards are established for manufactured home parks registered under the county manufactured home park ordinance as existing or otherwise zoned MHP in the initial adoption of county-wide zoning, manufactured home parks created or expanded under the county manufactured home park ordinance between December 15, 1989, and February 15, 1998, and manufactured home parks created or expansions of manufactured home parks as provided in this chapter. The following subsections prescribe manufactured home park standards for which compliance is required and the time allowed to come into compliance with a specific requirement. Time allowed to come into compliance with specific items varies and is provided with each requirement. A park will be in violation of this chapter if the individual specifications are not met within the required time. In

addition to enforcement procedures provided otherwise in this chapter, zoning permits will not be issued for manufactured home parks in violation of this section. All manufactured home parks will be inspected biannually to determine compliance with these standards.

- (1) Manufactured home parks existing prior to the adoption of the county manufactured park ordinance adopted on December 15, 1989, or which were otherwise zoned as manufactured home parks are subject to the following standards:
 - a. *Internal streets.* Internal streets must maintained in good condition either hard surfaced or graveled. Repairs are required to be of the same material as the existing internal street. If the street is gravel then all repairs shall be a minimum of six (6) inches of compacted gravel. If the street is paved the repair shall be a minimum of four (4) inches of compacted stone as base and paved. (Compliance required within one (1) year.) Roads shall be free of potholes, rough surfaces and ponding of water. (Compliance required within six (6) months.)
 - b. *Parking.* Each manufactured home space shall have a minimum four hundred (400) square feet of graveled or paved parking. On-street parking is allowed. (Compliance required within six (6) months.)
 - c. *Grounds.* Grounds shall be kept free of obnoxious weeds, trash litter or debris. This shall include but not be limited to appliances and furniture not designed for outdoor use. (Compliance required within six (6) months.)
 - d. *Drainage.* Property is required to have adequate drainage facilities which will keep their premises free from standing water and permit the natural flow of water across and off the site. Internal streets are to be equipped with adequate drainage. (Compliance required within one (1) year.)
 - e. *Trash disposal.* The owner of the park shall provide one (1) of the following methods:
 1. Provision of centralized trash dumpsters; or
 2. Provision of individual covered trash containers, picked up at least once a week. (Compliance required within six (6) months.)
 - f. *Street signs and addressing.* Park name and address sign shall be provided at the main entrance, which shall be clearly visible from the publicly maintained road. All numbering shall comply with the county addressing ordinance. (Compliance required within six (6) months.)
- (2) Manufactured home parks created or expansions of manufactured home parks approved as provided by the county manufactured park ordinance between December 15, 1989, and February 15, 1998, are subject to the following standards:
 - a. *Internal streets.* Internal streets shall be kept free of potholes, rough surfaces and ponding of water and are required to be maintained to one (1) of the following standards:
 1. The internal street must be an eighteen-foot wide gravel road with six-inch base; or
 2. Sixteen-foot wide paved road, four-inch base. (Compliance required within thirty (30) days.)
 - b. *Grounds.* Grounds shall be kept free of obnoxious weeds, trash litter or debris. This shall include but not be limited to appliances and furniture not designed for outdoor use. (Compliance required within thirty (30) days.)

- c. *Drainage.* Property is required to have adequate drainage facilities which will keep their premises free from standing water and permit the natural flow of water across and off the site. Internal streets are to be equipped with adequate drainage. (Compliance required within thirty (30) days.)
 - d. *Trash disposal.* The owner of the park shall provide one (1) of the following methods:
 - 1. Provision of centralized trash dumpsters; or
 - 2. Provision of individual covered trash containers, picked up at least once a week. (Compliance required within thirty (30) days.)
 - e. *Park identification sign.* A park identification sign is required. (Compliance required within thirty (30) days.)
 - f. *Street signs and addressing.* Park name and address sign shall be provided at the main entrance, which shall be clearly visible from the publicly maintained road. All numbering shall comply with the county addressing ordinance. (Compliance required within thirty (30) days.)
 - g. *Screening.* Required adjacent to all developed properties. For the purposes of this subsection, a developed property is one with at least one (1) principal structure located within three hundred (300) feet of the manufactured home park property line used for a residential, commercial, governmental, institutional, or industrial purpose. The required buffer is fifteen (15) feet wide, evergreen shrubs five (5) feet apart and six (6) feet high or equivalent as approved by the zoning administrator. (Compliance required within thirty (30) days.)
- (3) Manufactured home parks created or expansions of manufactured home parks approved as provided by the county zoning ordinance are subject to the following standards:
- a. *Maintenance of facility.* The manufactured home park or expansion approved as provided by this chapter shall maintain the development to the standards required as a condition of approval of the development. (Compliance required within thirty (30) days.)
 - b. *Grounds.* Grounds shall be kept free of obnoxious weeds, trash litter or debris. This shall include but not be limited to appliances and furniture not designed for outdoor use. (Compliance required within thirty (30) days.)
 - c. *Drainage.* Property is required to have adequate drainage facilities which will keep their premises free from standing water and permit the natural flow of water across and off the site. Internal streets are to be equipped with adequate drainage. (Compliance required within thirty (30) days.)

(Ord. of 2-1-99(1); Ord. of 8-20-01)

Sec. 21-284. Location of manufactured homes not provided in the table of uses.

This section provides specific exceptions for location of manufactured homes not otherwise provided by this chapter.

- (1) *Placement of manufactured homes on existing lots.* Notwithstanding other provisions of this chapter, including standards contained in the "table of uses", Type II and Type III manufactured homes may be placed on lots of record or in a subdivision for which the planning department has received a complete preliminary plat or final plat application as provided by the county subdivision ordinance, existing prior to June 8, 1999. All applicable requirements, such as skirting requirements, setbacks, etc of the underlying district and as provided otherwise shall apply. The types of manufactured homes allowed

in each district as provided by this section are as follows:

- a. RA District: Type II and Type III.
 - b. RR District: Type II.
 - c. CBI District: Type II and Type III.
 - d. MFR District: Type II and Type III.
- (2) *Placement of manufactured homes in family manufactured home parks.* Location of manufactured homes is allowed in family manufactured home parks as provided below:
- a. The proposed park is located on a lot or lots of record existing prior to June 8, 1999.
 - b. The proposed park meets the requirements of section 21-56.
 - c. The manufactured home type is in compliance with subsection (1) above.
- (3) *Placement of manufactured homes in family subdivisions.* Location of manufactured homes is allowed in family subdivisions as provided below:
- a. The family subdivision is defined and approved as provided in the county subdivision ordinance.
 - b. The intent of the family subdivision is for occupancy and/or purchase of the lots by members of the immediate family and not for the sale, rental or occupancy of the lots by persons not members of the immediate family of the property owner.
 - c. The manufactured home type is in compliance with subsection a. above.
- (4) *Temporary uses.* Location of manufactured homes is allowed for temporary uses as provided by this chapter.

(Ord. of 6-7-99; Amend. of 4-21-14)

Sec. 21-285. Accessory structures.

Accessory structures in the RA, RR, RS, MHP and MFR zoning districts shall conform to the following regulations, unless otherwise provided in this chapter:

- (1) Accessory structure footprints shall not exceed ten (10) percent of the size of the lot on which it is located.
- (2) Setbacks shall be based on building size as provided in the following table:

Building Square Footage	Setback, Side and Rear Yards
0-4,000	10 feet
4,001-8,000	40 feet
8,001 and over	80 feet

- (3) Accessory structures shall not be allowed in the required front setback.
- (4) These regulations shall not apply to fences, mailboxes, landscaping features, gazebos and similar structures.

(Ord. of 3-18-02(4); Amend. of 3-5-12)

Secs. 21-286--21-310. Reserved.

ARTICLE XII. ADMINISTRATION AND HEARING REQUIREMENTS

Sec. 21-311. Board of commissioners.

The board of commissioners shall have the following powers and duties to be carried out with this chapter which include, but are not limited to, the following:

- (1) Conducting hearings on certain conditional use permits as provided by this chapter;
- (2) Authorizing and approving land use plans which guide the implementation and modification of this chapter;
- (3) Initiating and making amendments to the text of these regulations and to zoning maps;
- (4) Hearing, reviewing and adopting or rejecting amendments to the text of these regulations and to zoning maps;
- (5) Appointing planning board and zoning board of adjustment members;
- (6) Establish rules and procedures for the enforcement and administration of this chapter;
- (7) Taking such other action not delegated to the planning board or zoning board of adjustment as the board of commissioners may deem desirable and necessary to implement the provisions of these regulations.

(Ord. of 1-19-98, § XIII)

Sec. 21-312. Planning board.

The planning board is an appointed, advisory body making recommendations to the board of commissioners as generally authorized by G.S. Ch. 153A, Art. 18. Powers and duties are as provided by the board of commissioners.

(Ord. of 1-19-98, § XIII)

Sec. 21-313. Zoning board of adjustment (ZBA).

- (a) *Authority.* As an appointed, quasijudicial body, the ZBA hears and decides appeals and variance requests as authorized by G.S. 153A-345 and zoning map interpretations subject to section 21-334.
- (b) *Duties and responsibilities.* The ZBA shall carry out duties expressly provided in article XIII or as directed by the board of commissioners.
- (c) *Composition.* The board of commissioners shall appoint members to the ZBA as provided by G.S. 153A-345.
- (d) *Meetings and procedure.* The ZBA shall adopt rules of procedure for the transaction of official business. All meetings shall be open to the public. The ZBA shall keep a written public record of member attendance, findings and decisions.

(Ord. of 1-19-98, § XIII; Amend. of 4-21-14)

Sec. 21-314. Planning department.

- (a) *Duties and responsibilities.* The planning department serves as the lead agency for the overall administration of this article and serves as the primary professional staff of the

planning and zoning board and board of adjustment.

(1) *Planning director*. The planning director performs the following duties:

- a. Supervises the various activities of the department;
- b. Develops and maintains the comprehensive plan, area plans, other specialized plans, policies, regulations for plan implementation;
- c. Serve as zoning administrator for the county and is hereby charged with the authority and duty to enforce this chapter. In this capacity the zoning administrator shall include staff authorized by the planning director to perform any function of this position.
- d. Provides recommendations to the planning board, zoning board of adjustment, board of county commissioners, and county manager;
- e. Provides administrative assistance to special boards, committees, and commissioners;
- f. Acts as executive secretary to the planning board;
- g. Performs other functions as may be necessary to effectively administer the county's overall planning program; and
- h. Maintains cumulative records for each watershed area eligible for SNIA development and detailed files for those projects approved as an SNIA outlining the location, acres, site plan and type of land use.

(2) *Zoning administrator*. The zoning administrator shall be responsible for the following duties:

- a. Administers and makes necessary interpretations of the zoning requirements;
- b. Acts as executive secretary to the zoning board of adjustment;
- c. Coordinates permitting procedures;
- d. Determines compliance and investigates suspected violations; and
- e. Performs other necessary functions to effectively administer this article.

(Ord. of 1-19-98, § XIII; Ord. of 4-20-98; Ord. of 5-21-01(2); Ord. of 10-18-04; Amend. of 11-2-09; Amend. of 4-21-14)

Sec. 21-315. Hearing procedures for zoning map and text amendments, conditional use permits, variances, appeals, and interpretations.

(1) *Public notice*. The following notice requirements shall apply to public, courtesy, and quasi-judicial hearings required by this chapter as indicated below except as provided in section 21-316 and otherwise indicated herein:

- a. *Newspaper*. In accordance with G.S. 153A-323, zoning map and text amendments shall be advertised in a newspaper of general circulation in the county once a week for two (2) consecutive calendar weeks, with the first advertisement appearing at least ten (10) days but not more than twenty-five (25) days prior to the public hearing date. In computing this advertising period, the date of publication shall not be included, but the day of the hearing shall be included.
- b. *Mailed notice*. In addition to the newspaper notice required above, the administrator shall provide mailed notice to the owner(s), applicant, of the subject property(s) and all property owners within one hundred (100) feet of the parcel(s) subject to the

proposed action for the above referenced requests except only mailed notice to the applicant of a text amendment. The notice must be deposited in the mail at least ten (10) days but not more than twenty-five (25) days prior to the hearing date. If, in the discretion of the administrator, the potential impact of the proposed action or the configuration of land parcels in the area warrants notification of additional property owners beyond this distance, such notice shall be provided.

- c. *Signs on property.* In addition to the newspaper and mailed notice requirements, signs notifying the public of a scheduled hearing shall be posted at least ten (10) days but not more than twenty-five (25) days prior to the hearing for the above referenced requests, except for text amendments and large scale rezoning as provided in section 21-316. The signs shall be prominently placed on or immediately adjacent to the subject property. When multiple contiguous parcels are included within a request, a posting on each individual parcel is not required, but the county shall post sufficient notices to provide reasonable notice to interested persons.

(2) *Conflict of interest.*

- a. *Zoning map and text amendments.* A member of the board of commissioners shall not vote on any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial and readily identifiable financial impact on the member. Members of appointed boards providing advice to the board of commissioners shall not vote on recommendations regarding any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial and readily identifiable financial impact on the member.
- b. *Quasi-judicial.* A member of the board of adjustment or any other body exercising quasi-judicial functions 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.

Vacant positions on the board of commissioners 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. The same is required of the board of adjustment hearings but only if there are no qualified alternates available to take the place of such members.

(3) *Conduct of hearing.* Quasi-judicial, public, and courtesy hearings shall be conducted in the following manner unless modified by the chairman of the respective board:

- a. Staff report;
- b. Applicant or petitioner comments;
- c. Public hearing opened;
- d. Public comment;
- e. Public hearing closed; and
- f. Action.

- (4) *Oath for quasi-judicial hearings.* The chairman, any member acting as chairman, or clerk to the board is authorized to administer oaths to witnesses in any matter before the board. Any person who, while under oath during a proceeding before the Board of Commissioners or ZBA, willingly swears falsely is guilty of a Class I misdemeanor.
- (5) *Subpoenas for quasi-judicial hearings.* The Board of Commissioners and the ZBA through the chairman or anyone acting as chairman, may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, persons with standing under G.S. 160A-393(d) may make a written request to the chairman explaining why it is necessary for certain witnesses or evidence to be compelled. The chairman shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The chairman shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chairman may be appealed to the full board. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the board or party seeking the subpoena may apply to Superior Court 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.
- (6) *Action.* Once a public / courtesy hearing is closed, the appropriate decision-making body shall take some form of action during the same meeting. Such action may include continuing the hearing to a later meeting. In cases where the planning board is authorized to make a recommendation, the board shall follow action procedures of Article XIV.

In quasi-judicial decisions, the board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing and reflect the board's determination of contested facts and their application to the applicable standards. The written decision shall be signed by the chair or other duly authorized member of the board and is effective upon filing with the clerk to the Board of Commissioners.

- (7) *Vote.* A majority vote, excluding vacant seats and disqualified members as indicated in subsection (2), shall be sufficient for the purpose of taking any official action except that variance requests require a four-fifths (4/5) vote of its members, excluding vacant seats and disqualified members indicated in subsection 21-315(2). Quasi-judicial decisions 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.

Each decision is subject to review by the superior court by proceedings in the nature of certiorari consistent with G.S. 160A-393. Any petition for review by superior court shall be filed within the clerk of superior court by the latter of thirty (30) days after the decision of the Board of Commissioners or ZBA is effective or after a written copy thereof is given. When first class mail is used to deliver notice, three (3) days shall be added to the time to file the petition.

- (8) *Omissions.* The unintentional failure to give written notice or the unintentional omission of the name of a property owner shall not invalidate the action of the planning board or board of commissioners.

(Ord. of 1-19-98, § XIII; Amend. of 2-20-06(1); Amend. of 11-2-09; Amend. of 10-4-10; Amend. of 3-5-12; Amend. of 4-21-14)

Sec. 21-316. Exceptions for mailed notice requirements for large-scale rezoning.

The first class mailed notice required in section 21-315 shall not be required if the zoning map amendment directly affects more than fifty (50) properties owned by a total of at least fifty (50) landowners, and the county elects to use the expanded published notice provided in this section. In this instance the county may, as an alternative to the mailed notice requirements elect to publish once a week for two (2) successive calendar weeks in a newspaper having general circulation in the area, an advertisement of the public hearing that shows the boundaries of the area affected by the proposed zoning map amendment. The advertisement shall also explain the nature of the proposed change. The advertisements shall meet the requirements of subsection 21-315(1)a. The advertisement shall be no less than one-half (1/2) a newspaper page in size. In addition to this requirement, affected property owners living outside the area of general circulation of the newspaper used shall be mailed a notice as provided in subsection 21-315(1)b. of this article.

(Ord. of 1-19-98, § XIII; Amend. of 2-20-06(1))

Secs. 21-317--21-330. Reserved.

ARTICLE XIII. APPEALS, VARIANCES AND INTERPRETATIONS

Sec. 21-331. Appeals.

Appeals of orders or decisions of the zoning administrator shall be conducted as follows:

- (1) *Notice of appeal.* Any person who has standing under G.S. 160A-393 (d) or the county may appeal any order or decision of any administrator of this chapter to the zoning board of adjustment (ZBA). An appeal is initiated by filing a written notice of appeal with the clerk to the Board of Commissioners, which specifies the grounds for the appeal. The clerk shall note the date and time of receipt of the appeal.
- (2) *Time to appeal.* The property owner or his authorized agent shall have thirty (30) days from receipt of the written notice to file an appeal. Any other person with standing to appeal shall have thirty (30) days from receipt from any source of actual or constructive notice of the decision to file an appeal. It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date a sign containing the words "Zoning Decision" or "Subdivision Decision" in letters at least six inches high and identifying the means to contact an official for information about the decision is prominently posted on the property that is the subject of the decision, provided the sign remains on the property for at least ten (10) days. Posting of signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner or applicant. Verification of the posting shall be provided to the official who made the decision.
- (3) *Stay of action.* An appeal stays all actions by the administrator seeking enforcement of or compliance with the order or decision, unless the administrator certifies to the ZBA that, because of the facts surrounding the situation, a stay would cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the ordinance. In that case, proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the ZBA shall meet to hear the appeal within fifteen (15) days after such a request is filed. The ZBA shall hear and decide all other appeals with a reasonable time. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise

affirming that a proposed use of property is consistent with the ordinance shall not stay the further review of an application for permits or permissions to use such property; in these situations the appellant may request and the ZBA may grant a stay of a final decision of permit applications or building permits affected by the issue being appealed.

- (4) *Procedures.* The administrator who made the decision shall transmit to the ZBA all documents and exhibits constituting the record upon which the action appealed from are taken. The administrator 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. The administrator shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the county would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the ZBA shall continue the hearing.

When hearing an appeal pursuant to G.S. 160A-400.9(e) or any other appeal in the nature of certiorari, the hearing shall be based on the standards of this ordinance and the scope of review shall be as provided in G.S. 160A-393(k).

- (5) *ZBA action.* ZBA decisions shall include a statement of the specific reasons or findings of fact that support the motion consistent with section 21-315 (7).

(Ord. of 1-19-98, § XIV; Amend. of 4-21-14)

Sec. 21-332. Variances.

Requests for a variance from the requirements of this chapter shall be in accordance with the following criteria:

- (1) *Application for variance.* An application for a variance shall be submitted to the ZBA by filing a copy of the application with the administrator in the planning department. Public hearings for such applications shall be in conformance with the applicable provisions of Article XII.
- (2) *Variance criteria.* A variance may be granted by the ZBA if it concludes that strict enforcement of this chapter would result in unnecessary hardships for the applicant. The ZBA, in granting a variance, shall ensure that the spirit of this chapter is maintained, public welfare and safety ensured, and substantial justice done. The board may reach these conclusions if it makes the following findings:
 - 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 and / or conditions common to the neighborhood or general public may not be the basis for granting a variance;
 - c. The hardship is not the result of the property owner or applicant's own actions. 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;
 - e. The variance will not result in a land use otherwise not permitted in the applicable zoning district nor authorize the extension of a nonconforming situation in violation of article VI, or other applicable provisions of this chapter; and

- f. If applicable, the setback reduction is no more than fifty (50) percent of that required and the resulting setback is no less than five (5) feet from any property line or right-of-way.
- (3) *Approval.* Prior to granting a variance, the ZBA must vote affirmatively on all of the required findings listed in subsection (2). Each motion to make an affirmative finding shall set forth the specific reasons or findings of fact supporting such motion.
- (4) *Denial.* A motion to deny a variance request may be made on the basis that one (1) or more of the criteria are not satisfied. Such a motion shall include a statement of the specific reasons or findings of fact that support it. A reapplication for a denied variance may not be made within one (1) year of the original decision, unless substantial changes have occurred in the facts, evidence or conditions of the application, or property in question.
- (5) *Conditions.* In granting variances, the ZBA may impose appropriate conditions, including a limitation on the duration of the variance, provided they are reasonably related to the variance. All such conditions are enforceable as any other applicable requirement of this article.

(Ord. of 1-19-98, § XIV; Amend. of 4-21-14)

Sec. 21-333. Recordation of variances and conditions.

The administrator shall keep a record of all variances from this chapter. The nature of the variance and any supplemental conditions shall be entered on the face of any zoning permit, or the zoning permit may note the issuance of the variance and refer to the written record of the variance for further information. In the case of the Water Supply Watershed (WS) Overlay provisions, this record shall be submitted to the supervisor of the classification and standards group, water quality section, division of environmental management on an annual basis and shall provide a description of each project receiving a variance and the reasons for granting the variance.

(Ord. of 1-19-98, § XIV; Amend. of 4-21-14)

Sec. 21-334. Interpretations.

Interpretations of the requirements of this chapter shall be in accordance with the following criteria:

- (1) *Map and line interpretations.* The ZBA is authorized to interpret the official zoning map(s) and to determine disputed questions of district boundary lines and similar questions. If such questions arise in the context of an appeal from a decision of the administrator, they shall be handled in accordance with section 21-331 of this article.
- (2) *Application.* An application for an interpretation shall be submitted to the ZBA by filing a copy of the application with the zoning administrator in the planning department. The application shall contain sufficient information to allow the board to make the necessary interpretation.
- (3) *Guidelines for interpretations.* Where uncertainty exists as to the boundaries of zoning districts as shown on official zoning maps, the following rules shall apply:
- Those boundaries indicated as generally following the centerlines of streets, highways, watercourses, or railroads shall be construed to follow such centerlines;
 - Boundaries indicated as approximately following parcel or lot lines, municipal limits, or

extraterritorial boundary lines shall be construed as following such lines, limits, or boundaries;

- c. Where a district boundary divides a lot or parcel, or where map distances are not indicated, the boundary shall be determined by measurement, using the zoning map scale; and
- d. When a street or road is officially vacated or abandoned, the zoning designation of each abutting parcel shall be extended to apply to that portion of such rights-of-way added to adjoining land.

(Ord. of 1-19-98, § XIV; Amend. of 4-21-14)

Sec. 21-335. Variance from watershed overlay.

The administrator shall review all variance requests from the Water Supply Watershed (WS) Overlay provisions to determine whether the request constitutes a minor or major variance. If conditions warrant, the administrator or the board of commissioners may require that a minor variance be reviewed as a major variance. In addition to the other provisions in this article, variance requests from the watershed overlay provisions shall be reviewed as follows:

- (1) *Notice to affected governments.* The administrator shall notify, in writing, and provide a description of the variance request to each local government having jurisdiction in the watershed and the entity using the watershed for consumption. Each local government receiving notification shall have ten (10) working days to respond, in writing, to the variance request. All responses shall become part of the record for the board of commissioners proceedings for the particular variance request. A record of all variances granted from the water supply watershed provisions shall also be submitted each calendar year to the division of water quality on or before January 1 of the following calendar year and shall provide a description of each project receiving a variance and the reasons for granting the variance.
- (2) *Transmittal of response.* The request, an accompanying staff recommendation, and responses from any other local government within the affected watershed will be forwarded to the board of commissioners for review & action, as stipulated in this article.
- (3) *Minor variance.* The board of commissioners' decision is final.
- (4) *Major variance.* Depending on the action by the board of adjustment, the following provisions shall apply:
 - a. *Denial.* The board of adjustment's decision is final.
 - b. *Approval.* If the board of commissioners recommends approval, a record of the variance request, meeting proceedings, and applicable conditions shall be forwarded to the state environmental management commission for final review and action. In cases where the environmental management commission denies the request, the decision is final and the administrator shall notify the applicant of the approval. In cases where the commission adds conditions which may affect the design of a development plan, the administrator shall forward the commission's decision to the board of commissioners for further review and action.

(Ord. of 1-19-98, § XIV; Amend. of 4-21-14)

Sec. 21-336. Judicial review of ZBA decisions.

Each decision of the ZBA is subject to review by the superior court by proceedings in the nature

of certiorari. Any petition for review by superior court shall be filed within thirty (30) days after the decision of the ZBA is filed with the clerk to the Board of Commissioners.

(Ord. of 2-1-99(1); Amend. of 3-5-12; Amend. of 4-21-14)

Secs. 21-337--21-360. Reserved.

ARTICLE XIV. TEXT AND MAP AMENDMENTS

Sec. 21-361. Text amendments.

- (a) *Generally.* The board of county commissioners may amend the terms of this chapter in accordance with this section. Proposals to amend, supplement, modify, or repeal the text of this chapter may be initiated by the board of commissioners, the planning board, or any person. If the review or approval of any state or federal agency is needed, appropriate measures shall be taken to ensure that such agency has an opportunity to provide comments on the proposed amendment prior to action by the board of county commissioners.
- (b) *Planning board action.* Any proposed text amendment shall be submitted to the planning department at least fifteen (15) working days prior to the next regular meeting of the planning board if to be considered at that time. The planning board may provide a recommendation to the board of commissioners on all such requests within thirty (30) days of first consideration unless the request is assigned to a planning board subcommittee for further review. Failure of the planning board to transmit its recommendation within thirty (30) days after first consideration of an amendment or a referral by the board of county commissioners may allow the board of commissioners to proceed in its consideration of the amendment without the planning board recommendation.

The planning board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the board of commissioners that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the board of commissioners.

- (c) *Board of commissioners action.* The board of commissioners shall hold a public hearing to consider any ordinance amendment and the planning board recommendation in accordance with Article XII. Prior to adopting or rejecting any zoning amendment, the board of commissioners shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and explaining why the board considers the action taken to be reasonable and in the public interest. That statement is not subject to judicial review.
- (d) *Record of amendments.* All approved text amendments shall be recorded in the county zoning ordinance. The administrator shall provide copies of all amendments to the Water Supply Watershed (WS) Overlay provisions upon adoption to the division of water quality.

(Ord. of 1-19-98, § XV; Amend. of 2-20-06(1); Amend. of 11-2-09; Amend. of 3-5-12)

Sec. 21-362. Map amendments (rezoning).

- (a) *Generally.* The board of county commissioners may amend the terms of this chapter in accordance with this section. If the review or approval of any state or federal agency is needed, appropriate measures shall be taken to ensure that such agency has an opportunity to provide comments on the proposed amendment prior to action by the board of county commissioners.
- (b) *Purpose and intent.* It is the purpose of this section to set forth the procedures whereby the board of commissioners may change the zoning district classification of land after consideration of such factors as changing conditions in the area where the property is located or changes in county plans or policies.
- (c) *Rezoning criteria.* When deciding whether to adopt a proposed rezoning, the primary issue before the planning board and board of commissioners is whether the proposed change advances the public health, safety, or welfare as well as the intent and spirit of the ordinance. Information related to other issues which do not directly affect the public health, safety, or welfare may be declared irrelevant by the chairman and excluded from presentation at the public hearing. In particular, when considering proposed map amendments:
 - (1) *Proposed uses.* The planning board and board of commissioners shall not consider any representations made by the petitioner that, if the change is granted, the rezoned property will be used for only one (1) of the possible range of uses allowed in the requested zoning district classification. Rather, the boards shall consider whether the entire range of permitted uses in the requested zoning district is more appropriate than the range of uses allowed in the existing district.
 - (2) *Impact of zoning map change.* The boards shall not regard as controlling any advantages or disadvantages to the individual requesting the change, but shall consider the impact of the proposed zoning change on the public at large.
- (d) *Initiation.* The rezoning of property may be initiated by the board of commissioners, the planning board, or by petition of the legal property owner(s) or designated representative.
- (e) *Filing of petition.* Except when initiated by the board of commissioners or the planning board, each petition to rezone a separate, noncontiguous property shall be submitted to the administrator on an approved application form and shall be accompanied by any nonrefundable, applicable fees as established by the board of commissioners.
- (f) *Deadline for submittal of application.* The completed application package shall be submitted to the planning department at least fifteen (15) working days prior to the next regular meeting of the planning board if to be scheduled for consideration at that time.
- (g) *Withdrawal of petition.* Any petitioner shall have the right to withdraw the rezoning petition, in writing, at any time prior to a final decision by the board of commissioners.
- (h) *Content of application package.* Each rezoning petition shall be accompanied by:
 - (1) Two (2) copies of a map, to scale, which clearly illustrates the subject property to be rezoned; or
 - (2) Written metes & bounds legal description for property(ies) proposed for rezoning;
 - (3) Any other pertinent information as may be required by this article;
 - (4) Requests for conditional zoning districts shall be accompanied by a site plan as specified in section 21-52.
- (i) *Staff review.* The administrator shall review the rezoning application package, ensure its completeness, and prepare a written staff recommendation concerning the proposed

rezoning request. The administrator may consult with other appropriate agencies, including, but not limited to, the NCDOT, the county board of education, and the environmental health division of the county health department, when evaluating rezoning requests. The staff report shall, at a minimum address the following:

- (1) Relationship and conformity with any adopted plans and policies;
 - (2) Consistency with this article and requested zoning district's purpose and intent;
 - (3) Compatibility of all uses within the proposed zoning district classification with other property and conditions in the vicinity; and
 - (4) Potential impact on facilities such as roads, utilities, and schools.
- (j) *Planning board action.* The planning board shall provide a recommendation to the board of commissioners on each rezoning request. The planning board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the board of commissioners that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the board of commissioners. Rezoning requests for conditional districts or other small-scale rezonings shall also include a statement of reasonableness analyzing the request as a recommendation for adoption by the board of commissioners. Failure of the planning board to transmit its recommendation within thirty (30) days after first consideration of a rezoning or a referral by the board of county commissioners may allow the board of commissioners to proceed in its consideration of the rezoning without the planning board recommendation. The planning board shall make one (1) of the recommendations as provided in this subsection:
- (1) Grant the rezoning as requested;
 - (2) Grant the rezoning with modifications, including a recommendation to rezone to a more restrictive district than requested; or
 - (3) Deny the rezoning request.
- (k) *Board of commissioners action.* The board of commissioners shall consider any rezoning petition and the planning board recommendation at an advertised public hearing. After the public hearing is closed, the board of commissioners shall take one (1) of the following actions:
- (1) Grant the rezoning as requested or modified;
 - (2) Continue the request;
 - (3) Refer the application, with modifications, back to the planning board for further study and consideration; or
 - (4) Deny the rezoning request.

Prior to adopting or rejecting any zoning amendment, the board of commissioners shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and explaining why the board considers the action taken to be reasonable and in the public interest. That statement is not subject to judicial review. Rezoning requests for conditional zoning districts or other small-scale rezonings shall also include adoption of a statement of reasonableness analyzing the request.

- (l) *Notification of decision.* Within five (5) working days of any action by the board of commissioners on a rezoning request, notice of such action shall be sent by first class mail to the rezoning petitioner and any other persons who have indicated to the zoning administrator, in writing, that they would like the decision mailed to them. Additionally, within fifteen (15) days after the effective date of a zoning change to commercial or industrial zones within six hundred sixty (660) feet of the rights-of-way of an interstate or primary highway, written notice by registered mail shall be sent to the Raleigh offices of the NCDOT in accordance with G.S. 136-136 and 136-153.
- (m) *Petition resubmitted.* If a rezoning request is denied by the board of commissioners, the zoning administrator may not accept a new rezoning petition within the one (1) year period unless the administrator determines that:
- (1) There has been a significant change in the zoning district classification of an adjacent property;
 - (2) A new or updated land use plan which changes public policy regarding the property is adopted by the county;
 - (3) Public facilities such as roads, water lines, sewer lines, or other infrastructure are constructed or expanded to serve the property and enable the proposed development to be accommodated; or
 - (4) There has been some other significant change, other than a change in ownership of the property, which might justify waiving the one-year restriction on submitting a new petition.
- (n) *Recording of zoning change.* All rezoning map amendments shall be recorded on official zoning maps which are a part of this chapter and are maintained for public inspection in the office of the county planning department.

(Ord. of 1-19-98, § XV; Ord. of 4-20-98; Amend. of 2-20-06(1); Amend. of 11-2-09; Amend. of 9-6-16)

Sec. 21-363. Hierarchy of districts.

The districts established in this chapter are classified from "most restrictive" to "least restrictive": RS (most restrictive), RR, RA, MFR, MHP, INST, NB, CBI, 85-ED-1, 85-ED-2, 85-ED-3, 85-ED-4, IND (least restrictive).

(Ord. of 1-19-98, § XV; Ord. of 6-17-02; Ord. of 4-21-03; Amend. of 3-7-05)